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Briefing on How To Use the Federal Register
For information on a briefing in Washington, DC, see announcement on the inside cover of this issue.

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THE FEDERAL REGISTER
WHAT IT IS AND HOW TO USE IT

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

WHO: The Office of the Federal Register.

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

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

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

WASHINGTON, DC

WHEN: February 23, 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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DEPARTMENT OF AGRICULTURE

Farmers Home Administration

7 CFR Part 1962

Servicing and Liquidation of Chattel Security

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations to refer to Form FmHA 1962–3 instead of Form FmHA 462–3, List of Farmers Home Administration Borrowers. This action is necessary to coincide with the renumbering of Form FmHA 462–3 to Form FmHA 1962–3. The intended effect of this change is to continue notifying purchasers of farm products in light of the Food Security Act of 1985 (Act), 7 U.S.C. 1631.

EFFECTIVE DATE: February 7, 1990.

FOR FURTHER INFORMATION CONTACT: Johnny R. Toles, Jr., Farmer Program Senior Loan Servicing Office, Farmer Programs, Farmers Home Administration, USDA, Room 5437, Washington, DC 20250, Telephone: (202) 475–4014.

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

This action will not create any significant record keeping or reporting burdens or substantially increase costs to the Government and the public.

Programs Affected

This program/activity is listed in the catalog of Federal Domestic Assistance under:

10.404—Emergency Loans
10.406—Farm Operating Loans
10.407—Farm Ownership Loans
10.416—Soil and Water Loans

Intergovernmental Consultation

For the reasons set forth in the final rule related to Notice 7 CFR 3015, subpart V (48 FR 29115, June 24, 1983) and FmHA Instruction 1940–J, "Intergovernmental Review of Farmers Home Administration Programs and Activities" (December 23, 1983), Emergency Loans, Farm Operating Loans, and Farm Ownership Loans are excluded with the exception of nonfarm enterprise activity from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials. The Soil and Water Loans Programs is subject to the provisions of Executive Order 12372 and FmHA Instruction 1940–J.

Environmental Impact Statement

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

List of Subjects in 7 CFR Part 1962

Agriculture, Construction management, Construction and repair, Energy conservation, Housing, Loan programs—Agriculture, Loan programs—Housing and community development, Low and moderate income housing.

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

PART 1962—PERSONAL PROPERTY

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

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

Subpart A—Servicing and Liquidation of Chattel Security

§ 1962.13 [Amended]

2. Section 1962.13(b) is amended by changing the number "462–3" to "1962–3" in the first sentence.

Dated: January 11, 1990.

Neal Sox Johnson,
Acting Administrator.

[FR Doc. 90–2803 Filed 2–6–90; 8:45 am]
BILLING CODE 3410–07–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 89–CE–25–AD; Amdt. 39–6501]

Airworthiness Directives; Commander (Gulfstream Aerospace) Models 112, 112B, 112TC, 112TCA, 114, and 114A Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is superseding AD 87–14–03 with a new AD applicable to Commander (Gulfstream Aerospace) 112 and 114 series airplanes that requires inspections and repair as necessary of the forward wing spar and replacement of the previous repair with a repair of a new design. The FAA has reevaluated the repairs specified in AD 87–14–03 and has determined that the existing repairs are insufficient. This condition, if not corrected, compromises the structural integrity of the airplane.

DATES: Effective March 9, 1990.

Compliance: As prescribed in the body of the AD.

ADDRESSES: Gulfstream Aerospace Service Bulletin (S/B) Nos. SB–112–71C and SB–114–22C, both dated November 1988, applicable to this AD may be obtained from the Commander Aircraft Company, 7200 NW 63rd Street, Hangar 8, Wiley Post Airport, Bethany, Oklahoma 73008. This information may

also be examined at the FAA, Central Region, Office of the Asst. Chief Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Tom Dragset, Airplane Certification Office, Southwest Region, FAA, Fort Worth, Texas 76193–0150; Telephone (817) 624–5155.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an AD requiring inspections and repair as necessary of the forward wing spar and replacement of the previous repair with a repair of a new design on Commander (Gulfstream Aerospace) 112 and 114 series airplanes was published in the **Federal Register** on October 20, 1989 (54 FR 43073).

The proposal was prompted by a Petition for Reconsideration received from the law firm of Mackey, Rozanski, and Friedland seeking to modify AD 87–14–03. The petitioner contends that the repair required by the AD is inadequate and is not a permanent fix. As a result, Gulfstream Aerospace reevaluated the repairs specified in AD 87–14–03.

The analysis of the forces acting on the side brace fitting, the resultant fitting and bolt forces acting on the spar, and stresses in the spar cap that result from these forces revealed that there are significant out-of-plane forces acting on the spar cap through the side brace fitting and its attaching bolts. These forces are due to two causes:

(1) The main landing gear side brace does not lie exactly in the wing spar plane and thus when loaded has force components out-of-plane; and

(2) The clevis center line of the side brace fitting is displaced from the spar. Because of this design, bending moments and attaching bolt tensile loads are produced whenever the clevis is loaded by either the actuator or side brace.

This member force analysis was done not only for the modified structure but for the original structure as well. A comparison of the results obtained, specifically the out-of-plane forces that tend to produce spar cap flange cracking of the sort observed in service, indicates that the existing modifications per AD 87–14–03 will not preclude this cracking.

Even though the ultimate strength of the original configuration was demonstrated by static tests, the FAA has determined that high spar cap flange bending stresses are produced locally by these out-of-plane forces. In the original configuration, the out-of-plane forces were sufficient to cause cracking at relatively short in-service times, and the modification per AD 87–14–03 cannot be expected to preclude such in-service cracking. Despite the modifications of AD 87–14–03, it has been reported that three airplanes have experienced deformation of the side brace support assembly tubes, deformation of the bolts, and fatigue cracks in the wing spars. Therefore, a new repair modification has been developed which involves a new type fitting. This design beams these out-of-plane forces directly to the spar cap horizontal flanges where the forces are transferred by shear connections. By preventing out-of-plane loadings of the upper spar cap vertical flange and spar web, the fore and aft bending of the cap vertical flange is eliminated and cracking is precluded. This design needs no auxiliary links or brackets to perform its function and is relatively simple to install.

Therefore, an AD was proposed to supersede AD 87–14–03 and require inspections and repair as necessary of the forward wing spar in accordance with Gulfstream Aerospace Service Bulletin Nos. SB–112–71C or SB–114–22C as applicable. Interested persons have been afforded an opportunity to participate in the making of this amendment. Two comments were received. One commenter recommended certain changes in the compliance times as follows:

(1) The time frame for inspection of cracks, set forth in paragraph (a) of the proposed AD, should provide for inspections to be accomplished within the next 100 hours' time-in-service (TIS) or at the next annual inspection, whichever occurs first, and every annual inspection thereafter until the modification is accomplished;

(2) The AD should also provide for an inspection to be accomplished if 100 hours' TIS has elapsed since the last inspection was accomplished under AD 87–14–03 prior to the next annual inspection becoming due; and

(3) The AD should require all aircraft in the fleet to be modified within 3 years after the effective date of the AD.

The second commenter concurs with comments (1) and (2) and encourages the FAA to adopt and implement these recommendations. The FAA disagrees. The subject of the proposed AD is related to airplane usage and not calendar time. In addition, current FAA policy does not permit the use of dual compliance times or annual inspections for compliance times. Accordingly, the proposal is adopted without change.

Therefore, the FAA is superseding AD 87–14–03, Amendment 39–5671 (52 FR 26472).

The FAA has determined there are approximately 1,064 airplanes affected by this proposal. The cost of the inspection portion of the AD would be $175 per airplane for a total estimated cost of $186,200. If cracks are found in either or both wings, repairs must be made at the owner's expense. The manufacturer has agreed to accomplish the modifications to the wings (the subject of this AD), the seats (AD 85–03–04R2) and vertical tail (AD 88–05–06), in accordance with the latest applicable service bulletins, for a total owner contribution of $2,000 per airplane. In addition, the owner will be reimbursed for reasonable costs of installing the earlier kit at the time the new repair is installed. The reimbursement amount per airplane will be based upon the retail price for the parts purchased and the documented reasonable labor rate paid by each owner for the installation. The FAA has determined that the cost of the modification required by this AD is approximately $3,000, if accomplished by someone other than the manufacturer. 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. Therefore, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) 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 final evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "**ADDRESSES.**"

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

Commander (Gulfstream Aerospace, Rockwell): Applies to Models 112 and 112B [Serial Numbers (S/N) 1 through 544, and 13000], 112TC and 112TCA (S/N's 13001 through 13309), and 114 and 114A (S/N's 14000 through 14540) airplanes certificated in any category.

Compliance: Required as indicated in the body of the AD unless already accomplished.

To prevent failure of the forward wing spar in the area of the main landing gear side brace fitting attachment, accomplish the following:

(a) Within the next 100 hours' time-in-service (TIS), after the effective date of this AD, inspect the left and right forward wing spars in the area of the main landing gear side brace fitting in accordance with the instructions specified in part I of Gulfstream Aerospace Service Bulletin (SB) Nos. SB-112-71C or SB-114-22C both dated November 1988 as applicable.

(1) If cracks are found in the left or right forward wing spar as noted in paragraph 8d, part I, of the above referenced service instructions, prior to further flight repair in accordance with part II of Gulfstream Aerospace SB Nos. SB-112-71C or SB-114-22C both dated November 1988, as applicable.

(2) If cracks are found in the left or right forward wing spar as noted in paragraph 8a, part I, of the above referenced service instructions, prior to further flight repair in accordance with Part IV of Gulfstream Aerospace SB Nos. SB-112.71C or SB-114-22C, both dated November 1988, as applicable.

(3) If cracks are found in the left or right forward wing spar as noted in paragraph 8b or 8e, part I of the above referenced service instructions, prior to further flight repair in accordance with part V of Gulfstream Aerospace SB Nos. SB-l12-71C or SB-114-22C, both dated November 1988, as applicable.

(4) If cracks are found in the left or right forward wing spar, as noted in paragraph 8c, part I of the above referenced service instructions, prior to further flight modify the airplane in accordance with instructions obtained from the Manager, Airplane Certification Office, FAA, at the address listed in paragraph (e) of this AD.

(5) If no cracks are found, reinspect the spars thereafter at intervals not to exceed 100 hours' TIS, and within the next 300 hours' TIS, modify the airplane in accordance with the instructions in part II of Gulfstream Aerospace SB-112-71C or SB-114-22C, both dated November 1988 as applicable. The repetitive inspection may be discontinued once the airplane is so modified.

(b) If the airplane has been modified either in accordance with part II of Gulfstream Aerospace SB No- SB-112-71, or part II of SB No. SB-112-71A or Part II or Part V of SB No. SB-112-71B, repeat the inspections specified in paragraph (a) of this AD at intervals not to exceed 100 hours' TIS after the initial inspection, and within the next 300 hours' TIS modify the airplane in accordance with the instructions in part III of Gulfstream Aerospace SB No. SB-112-71C. The repetitive inspection may be discontinued once the airplane is so modified.

(c) If the airplane has been modified either in accordance with part II of Gulfstream Aerospace SB-114-22, part II of SB-114-22A, or part II or Part V of SB-114-22B, repeat the inspection specified in paragraph (a) of this AD at intervals not to exceed 100 hours' TIS after the initial inspection and within the next 300 hours' TIS, modify the airplane in accordance with the instructions in part III of Gulfstream Aerospace SB No. SB-114-22C. The repetitive inspection may be discontinued once the airplane is so modified.

(d) Airplanes may be flown in accordance with FAR 21.197 to a location where the repair can be performed, provided the following conditions are met:

(1) Existing cracks have not propagated together (in the event there are cracks above each bracket attachment bolts) and the cracks have not propagated beyond the limits in the service bulletin (as noted in paragraph 8c, part I of Accomplishment Instructions of Gulfstream Aerospace Service Bulletin Nos. SB-112-71C or SB-114-22C both dated November 1988, as applicable).

(2) The landing gear side brace and bracket are firmly attached such that proper extension and retraction of the gear will occur.

(3) Pilot only on board.

(4) Day VFR only, avoiding all rough weather possible, and with no intentional abrupt maneuvers.

(e) An alternate method of compliance or adjustment of the initial or repetitive compliance times, which provides an equivalent level of safety, may be approved by the Manager, Airplane Certification Office, ASW-150, FAA Southwest Region, Fort Worth, Texas 76193-0150; Telephone (817) 624-5150.

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

All persons affected by this directive may obtain copies of the documents referred to herein upon request to the Commander Aircraft Company, 7200 NW., 63rd Street, Hangar 8, Wiley Post Airport, Bethany, Oklahoma 73008; or may examine these documents at the FAA, Office of the Assistant Chief Counsel, room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

This amendment supersedes AD 87-14-03, Amendment 39-5671 (52 FR 26472). This amendment becomes effective March 9, 1990.

Issued in Kansas City, Missouri, on January 22, 1990.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-2725 Filed 2-6-90; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 89-AWP-24]

Revision of Point Mugu, CA, Control Zone

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revises the description of the Point Mugu, CA, control zone. This action will eliminate the assumption by Point Mugu of the Oxnard, CA, control zone when Oxnard is not effective.

EFFECTIVE DATE: 0901 utc, May 3, 1990.

FOR FURTHER INFORMATION CONTACT: Jon L. Semanek, Airspace Specialist, System Management Branch, AWP-530, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone (213) 297-0433.

SUPPLEMENTARY INFORMATION:

History

On November 21, 1989, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to revise the description of the Point Mugu, CA, control zone. This action would eliminate the assumption by Point Mugu of the Oxnard, CA, control zone when Oxnard is not effective (54 FR 48113). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Section 71.171 of part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6F dated January 2, 1990.

The Rule

This amendment to part 71 of the Federal Aviation Regulations revises the description of the Point Mugu, CA, control zone. This action eliminates the assumption by Point Mugu, CA, of the Oxnard, CA, control zone when Oxnard is not effective.

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

traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Control zones.

Adoption of the Amendment

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

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

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

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

§ 71.171 [Amended]

2. § 71.171 is amended as follows:

Point Mugu, CA [Revised]

Within a 5-mile radius of NAS Point Mugu (lat. 34°07'05" N., long. 119°07'20" W.) and within the arc of a 12-mile radius circle centered on the Point Mugu TACAN, extending clockwise from the 200° radial to the 252° radial.

Issued in Los Angeles, California, on January 17, 1990.

Jacqueline L. Smith,

Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 90-2722 Filed 2-6-90; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Parts 71 and 75

[Airspace Docket No. 89-AGL-12]

Alteration of VOR Federal Airways, Compulsory Reporting Points, and Jet Routes; IN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: These amendments alter the descriptions of all VOR Federal airways, compulsory reporting points, and jet routes that have been affected by the name change of South Bend, IN, very high frequency omnidirectional radio range and tactical air navigational aid (VORTAC) to Giper, IN, VORTAC. The actual VORTAC site remains the same. This action will alleviate the confusion caused by the VORTAC having the same name identifier as the airport.

EFFECTIVE DATE: 0901 u.t.c., May 3, 1990.

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

The Rule

These amendments to parts 71 and 75 of the Federal Aviation Regulations alter the descriptions of all VOR Federal airways, compulsory reporting points, and jet routes that have been affected by the name change of South Bend, IN, VORTAC to Giper, IN, VORTAC. The location of the VORTAC remains the same. This action will alleviate confusion for pilots and air traffic control (ATC) due to the VORTAC having the same name and identifier as the airport. This action will also facilitate coordination and clearance delivery between and by ATC facilities, thereby reducing workload. Because this action is a VORTAC name change and does not alter the dimensions or operating requirements of the affected airspace and involves the matter in which the public would not be particularly interested, I find that notice and public procedure under 5 U.S.C. 553(b) are unnecesssary. Sections 71.123, 71.203, 71.207 and 75.100 of the Federal Aviation Regulations were republished in Handbook 7400.6F dated January 2, 1990.

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

List of Subjects in 14 CFR Parts 71 and 75

Aviation safety, Compulsory reporting points and Jet routes.

Adoption of the Amendments

Accordingly, pursuant to the authority delegated to me, parts 71 and 75 of the Federal Aviation Regulations (14 CFR parts 71 and 75) are amended, as follows:

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

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

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

§ 71.123 [Amended]

2. § 71.123 is amended as follows:

V-6, V-10, V-55, V-156, V-193, V-228 and V-526 [Amended]

Wherever the words "South Bend" appear, substitute the word "Giper".

§ 71.203 [Amended]

3. § 71.203 is amended as follows:

South Bend, IN [Removed]

Giper, IN [New]

§ 71.207 [Amended]

4. § 71.207 is amended as follows:

South Bend, IN [Removed]

Giper, IN [New]

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

5. The authority citation for part 75 continues to read as follows:

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

§ 75.100 [Amended]

6. § 75.100 is amended as follows:

J-146 and J-554 [Amended].

Wherever the words "South Bend" appear, substitute the word "Giper".

Issued in Washington, DC, on January 26, 1990.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 90-2724 Filed 2-6-90; 8:45 am]

BILLING CODE 4910-13-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[FRL-3720-5; KY-053]

Approval and Promulgation of Implementation Plans; Kentucky: PM_{10} SIP Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On July 7, 1988, the State of Kentucky submitted revisions to its State Implementation (SIP) for particulate matter. The revisions became State-effective on April 14, 1988. The revisions were adopted pursuant to the requirements of section 110 of the Clean Air Act to provide for the attainment of EPA's new particulate matter standards, known as "PM_{10}" standards.

EFFECTIVE DATES: This action will be effective April 9, 1990 unless notice is received on or before March 9, 1990, that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Written comments should be addressed to Richard A. Schutt, EPA Region IV's Air Programs Branch (see Region IV address below). Copies of the State's submittal are available for review during normal business hours at the following locations.

Public Information Reference Unit, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460

Environmental Protection Agency, Region IV, Air Programs Branch, 345 Courtland Street NE., Atlanta, Georgia 30365

Kentucky Natural Resources and Environmental Protection Cabinet, Department of Environmental Protection, Division for Air Quality, 315 St. Clair Mall, Frankfort, Kentucky 40601

FOR FURTHER INFORMATION CONTACT: Richard A. Schutt, Air Programs Branch, EPA Region IV, at the above address and telephone number (404) 347-2864 or FTS 257-3975.

SUPPLEMENTARY INFORMATION: Pursuant to the 1977 amendments to the Clean Air Act, EPA, on July 1, 1987 (52 FR 24634), promulgated revised primary and secondary National Ambient Air Quality Standards (NAAQS) for particulate matter by replacing the total suspended particulate matter standard with a standard that included only those particles with an aerodynamic diameter less than or equal to a nominal 10 micrometers. The particles are referred to as PM_{10}.

In order for states to regulate PM_{10} they must make certain changes in their rules and regulations and in the SIPs. The changes to the rules and the SIP must insure that the PM_{10} NAAQS are attained and maintained; that new and modified sources which emit PM_{10} are reviewed; that PM_{10} is one of the pollutants to trigger alert, warning, and emergency actions; and that the state's monitoring network be designed to include PM_{10} monitors. These changes must be made regardless of the existing levels of PM_{10} in any area of the state.

Because PM_{10} air quality data was lacking in most areas of the country, EPA could not arbitrarily designate areas as attainment or nonattainment. EPA then developed an analysis using historical ambient TSP data and any available PM_{10} data to classify all counties in the nation into one of three groups based upon the statistical probabilities of not attaining the new PM_{10} standards. EPA has classified the following: (1) Areas with a probability of not attaining the PM_{10} standard of at least 95 percent as "Group I", (2) areas with a probability of not attaining the PM_{10} standard of between 20 and 95 percent as "Group II", and (3) areas with a probability of not attaining the PM_{10} standard of less than 20 percent as "Group III". All areas are currently conducting ambient monitoring to determine whether actual ambient PM_{10} concentrations are above or below the PM_{10} NAAQS.

A control strategy is required to show how PM_{10} emissions will be reduced to provide for attainment and maintenance of the PM_{10} NAAQS for a group I area. For Group II areas, the states are required to commit to perform additional PM_{10} monitoring in that area and to prepare a control strategy if the data show with certainty that the standards are being exceeded. The commitments must be submitted in the form of a SIP revision and are termed a "committal" SIP. The regulations call for the PM_{10} SIPs to be submitted nine months after the federal PM_{10} regulations went into effect on July 31, 1987.

Historical TSP monitoring data and all available PM_{10} data in Kentucky indicate there are no areas where the PM_{10} standards are likely to be exceeded and only two areas where PM_{10} NAAQS might be exceeded. Based on available TSP data and limited PM_{10} data the areas bounded by the city limits of Ashland and Catlettsburg in Boyd County, Kentucky, as of February 17, 1988, are classified as Group II areas. This means that a committal SIP is required and PM_{10} monitoring will continue in accordance with the 40 CFR part 58 monitoring regulations.

Kentucky must also submit a current year annual inventory of actual and allowable PM and PM_{10} emission. Kentucky must identify the emission control measure it is relying upon to maintain the NAAQS. Control measures that have not been approved by EPA must be submitted for approval and incorporation into the SIP.

In addition to the provisions stated above, each SIP for PM_{10} must be revised to address the PM_{10} NAAQS in the following ways:

a. To include State ambient air quality standards for PM_{10} at least as stringent as the NAAQS,

b. To trigger preconstruction review for new or modified sources which would emit significant amounts of either PM or PM_{10} emissions,

c. To invoke the emergency episode plan to prevent PM_{10} concentrations from reaching the significant harm level of 600 ug/m^3,

d. To meet ambient PM_{10} monitoring requirements of 40 CFR part 58, and

e. To meet the requirements of 40 CFR 51.322 and 51.323 to report actual annual emissions of PM_{10} (beginning with emissions for 1988) for point sources emitting 100 tons per year or more.

The Kentucky submittal consists of two parts: The regulatory portion and the committal SIP. The regulatory portion consists of thirteen regulations which were amended to accommodate the new PM_{10} NAAQS. These regulations are applicable statewide, both in Group II and Group III areas, and fully implement the federal strategy for adoption and enforcement of the PM_{10} NAAQS in Kentucky. One regulation, 401 KAR 51:052, dealing with new source review, has been identified as deficient and EPA is not taking action on this regulation at this time. Kentucky is revising this regulation and will submit the revised regulation by the end of this year.

401 KAR 50:010, "Definitions and abbreviations", was revised to add or amend definitions relating to particulate emissions as promulgated by EPA. Specifically, the following terms and definitions are being added or amended: "Particulate matter", "Particulate matter emissions", "PM_{10}", "PM_{10} emissions", "Total suspended particulates", and "Referenced methods". Additionally, the definition of "State Implementation Plan" is being added, since this term is used in these amendments and in other regulations of the Division of Air Quality. Abbreviations for some of these

definitions and other terms which are used in the regulations of the Division of Air Quality have also been added in Section 2.

401 KAR 50:015, "Documents incorporated by reference", incorporates by reference the methods required for demonstrating compliance with the regulations of the Division for Air Quality. This regulation is being amended to add reference methods, ASTM methods, and a document from the American Petroleum Institute which are used to demonstrate compliance with regulations that Kentucky is proposing. Some of the reference methods relate to the revised ambient air quality standard for particulate matter, PM_{10}. Sources of particulate matter which measure their PM_{10} emissions will use these reference methods. Some of the ASTM methods are being added while others are just being amended to incorporate the most recent version of the method.

401 KAR 50:035, "Permits", provides for the issuance of permits and specifies under what conditions permits are issued to sources. It also identifies what sources are exempt from permitting requirements. This regulation is being amended in section 6 to specify that the requirements that applied in non-attainment areas shall continue to apply once the area is redesignated, unless a SIP which is approved by EPA allows for other requirements. Sources that would be affected would be those sources in non-attainment areas which were required to obtain permits. Such sources would be required to maintain their permits if the area is redesignated. New sources locating in unclassified or attainment areas which were previously non-attainment would be subject to the provisions which apply in attainment or unclassified areas.

The exemption from permitting requirements for small sawmills in section 6(10) is also being amended to exempt specified sawmills which have a rated capacity of 5,000 board feet. The previous minimum value of 1,500 board feet was based on the previous exemption in section 6(1) of two tons per year of any source emitting specified pollutants. That minimum value was recently amended to exempt sources whose uncontrolled emissions are less than twenty-five tons per year and whose potential to emit is less than or equal to five tons per year of specified pollutants. On January 23, 1989, Kentucky submitted calculations showing that a process rate of 5000 board feet/hr level yields potential emissions less than 5 tons per year. Therefore, the exemption in subsection (10) is being amended to have the same basis as the exemptions in subsection (11).

401 KAR 51:017, "Prevention of significant deterioration of air quality", provides for the prevention of significant deterioration (PSD) of ambient air quality. It applies to major stationary sources and major modifications constructing in areas that are designated as attainment or unclassified for the specified pollutants. It is being amended to incorporate the amendments to the federal PSD regulation relating to PM_{10}, as promulgated by EPA in the **Federal Register** of July 1, 1987 (52 FR 24634). These amendments would not affect any sources of particulate matter that were issued permits prior to July 31, 1987. Any new major stationary sources or major modifications of particulate matter locating in the Commonwealth after that date would be subject to this amended regulation.

401 KAR 53:005, "General provisions", provides for the establishment of general provisions, definitions, and time schedules as they pertain to title 401, chapter 53. In the **Federal Register** of July 1, 1987 (52 FR 24663), the EPA promulgated two reference methods which relate to the measurement of PM_{10} emissions. Kentucky is extending the definition of reference method to include all of the methods in 40 CFR part 50 in the definition of "reference method". Apendix H was promulgated February 8, 1979, and relates to the interpretation of the ambient air quality standards for ozone. 40 CFR part 50, Appendix I was reserved. In the future, should any source which emits particulate matter be required to monitor the ambient air, then it could be required to use the reference methods outlined in the two appendices which relate to PM_{10} emissions. Simply incorporating these appendices into this definition does not affect any sources or other entities in Kentucky.

401 KAR 53:010, "Ambient air quality standards", fixes the ambient air quality standards necessary for the protection of the public health, the general welfare, and the property and people in Kentucky. It is being amended to add the new primary and secondary PM_{10} standards; to delete the old particulate standards for TSP; and to clarify that the ambient air quality standards for particulate matter are measured as PM_{10}, as promulgated by EPA in the **Federal Register** of July 1, 1987 (52 FR 24663). All sources in Kentucky which emit particulate matter will now be subject to the new primary and secondary PM_{10} standards specified in Appendix A to this regulation.

401 KAR 55:005, "Significant harm criteria", defines those levels of pollutant concentration which must be prevented in order to avoid significant harm to the health of persons. It is being amended to revise the significant harm criteria of particulate matter from 1,000 $\mu g/m^3$ (measured as TSP) to 600 $\mu g/m^3$ (measured as PM_{10}) and to delete the combined significant harm criteria for sulfur dioxide and particulate matter, as promulgated by EPA in the **Federal Register** of July 1, 1987 (52 FR 24667). All sources in Kentucky which emit particulate matter will now be subject to the new significant harm criteria relating to PM_{10}.

401 KAR 55:010, "Episode criteria", defines those levels of pollutant concentrations, or episode criteria, which justify the proclamation of an air pollution alert, air pollution warning, and air pollution emergency. It is being amended to revise the episode criteria of particulate matter (measured as PM_{10}) as follows: alert status is changed from 375 $\mu g/m^3$ to 350 $\mu g/m^3$; warning status is changed from 625 $\mu g/m^3$ to 420 $\mu g/m^3$; emergency status is changed from 875 $\mu g/m^3$ to 500 $\mu g/m^3$; and the combined episode criteria for sulfur dioxide and particulate matter are deleted, as promulgated by EPA in the **Federal Register** of July 1, 1987 (52 FR 24668). All sources in Kentucky which emit particulate matter will now be required to take appropriate action when the revised episode criteria specified in Appendix A to this regulation are reached.

401 KAR 59:010, "New process operations", provides for the control of emissions from new process operations which are subject to another particulate emission standard within title 401, chapter 59 of the Kentucky Administrative Regulations. It is being amended to clarify that the fugitive emission standards of section 3(1)(b) shall apply to sources located in an area designated as non-attainment for TSP, rather than for particulate matter. The attainment status designations in 401 KAR 51:010, appendix A are for TSP. This regulation is also being amended to change the classification date in section 3(1)(c) to insert the date that the most recent amendment became effective: September 4, 1986.

401 KAR 61:020 "Existing process operations", provides for the control of emissions from existing process operations which are not subject to another particulate emission standard within title 401, chapter 61 of the Kentucky Administrative Regulations. It is being amended to clarify that the fugitive emission standards of section

3(1)(b) shall apply to sources located in an area designated as non-attainment for TSP, rather than for particulate matter. The attainment status designations in 401 KAR 51:010, appendix A are for TSP.

401 KAR 61:170, "Existing blast furnace casthouses", provides for the control of emissions from existing blast furnace casthouses. It is being amended to delete a reference in the necessity and function paragraph which is specific to sources located in an area designated as non-attainment for particulate matter. The original intent of this regulation as stated in the applicability section, was that it applied to all existing blast furnace casthouses. There is, however, only one source to which this regulation applies, and it is located in an area which is currently designated as non-attainment. The presently approved SIP requires that the provisions of this regulation remain in effect even after any redesignation of the area. Therefore, Kentucky is removing the reference to non-attainment in the necessity and function paragraph to avoid any ambiguity.

The classification date in section 2(3) is also being changed to insert the date that the most recent amendments became effective: April 1, 1984.

Armco Steel Corporation (I.D. No. 103-0340-0005) is currently the only source in the Commonwealth of Kentucky subject to the provisions of this regulation; however, since no new requirements are being added, that entity will not be required to add controls or change its method of operation.

The State has submitted a committal SIP for the two areas in Boyd County. The committal SIP contains all the requirements identified in the July 1, 1987, final promulgation of the SIP requirements for PM_{10}.

The final rulemaking promulgating EPA's PM_{10} SIP requirements published on July 1, 1987 (52 FR 24682) discussed an Area Designation Policy with respect to TSP. EPA encouraged states to submit requests to redesignate TSP non-attainment areas to unclassified for TSP at the time the PM_{10} control strategy for the area is submitted. The rulemaking stated that when EPA approves the control strategy as sufficient to attain and maintain the PM_{10} NAAQS, it will also approve the redesignation. An area designation for TSP must be retained until EPA promulgates PM_{10} increments, because the section 163 PSD increments depend upon the existence of section 107 designations. Section 107 does not provide for PM_{10} area designation; thus, TSP area designations are retained until such time as there is a provision for PM_{10} designations.

401 KAR 51:010, "attainment status designations", designates the status of all areas of the state with regard to attainment of the NAAQS. On December 7, 1987, Kentucky requested that all areas presently classified as non-attainment for the primary and/or secondary TSP NAAQS, including those areas for which a request for redesignation to attainment already has been submitted, be reclassified as unclassified for the TSP standards.

EPA agrees with the Kentucky redesignation request and is also hereby approving the redesignation request for the following non-attainment areas to unclassified for TSP: Bell County, Boyd County, Bullitt County (Shepherdsville), Campbell County (Newport), Daviess County (Owensboro), Henderson County (Henderson), Jefferson County, Lawrence County (Louisa), Madison County (Richmond), McCracken County, Muhlenberg County, Perry County (Hazard), Pike County (Pikeville), and Whitley County (Corbin).

Action: EPA has reviewed the submitted material and found it to meet the requirements of 40 CFR part 51. Therefore, EPA is today approving Kentucky's revisions for PM_{10}.

For further information on EPA's analysis, the reader may consult a Technical Support Document which contains a detailed review of the materials submitted. This is available at the EPA address given above.

Under 5 U.S.C. 605(b), I certify that these revisions will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

This action is being taken without prior proposal because the changes are noncontroversial and EPA anticipates no significant comments on them. The public should be advised that this action will be effective 60 days from the date of this **Federal Register** notice. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Nothing in this action shall be construed as permitting or allowing or establishing a precedent for any future request for a revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical economic and environmental factors and in relation to relevant statutory and regulatory requirements.

This action has been classified as a Table 3 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget waived Table 2 and 3 SIP revisions (54 FR 2222) from the requirements of section 3 of Executive Order 12291 for a period of two years.

List of Subjects

40 CFR Part 52

Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Note: Incorporation by reference of the State Implementation Plan for the State of Kentucky was approved by the Director of the Federal Register on July 1, 1982.

Dated: December 14, 1989

Joe R. Franzmathes,

Acting Regional Administrator.

Parts 52 and 81 of chapter I, title 40, Code of Federal Regulations, is amended as follows:

PART 52—[AMENDED]

Subpart S—Kentucky

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

Authority: 42 U.S.C. 7401–7642.

2. Section 52.920 is amended by adding paragraph (c)(66) to read as follows:

§ 52.920 Identification of plan.

* * * * *

(c) * * *

(66) On July 7, 1988, revisions to Kentucky's State Implementation Plan for PM_{10} were submitted by the Kentucky Natural Resources and Environmental Protection Cabinet. The submittal included a committal SIP. EPA is taking no action on 401 KAR 51:052, Review of new sources in or impacting upon non-attainment areas.

(i) Incorporation by reference.

(A) The following revisions to 401 KAR were effective April 14, 1988:

(*1*) 50:010. Definitions and abbreviations: Section 1. Definitions and section 2. Abbreviations.

(*2*) 50:015. Documents incorporated by reference: Sections 1, 3, and 11.

(3) 50:035. Permits.

(4) 51:010. Attainment status designations: Section 1(1) and Appendices A and B.

(5) 51:017. Prevention of significant deterioration of air quality: Section 8(4) (e) and (f), section 8(9), section 12(1) (f) and (g), and Appendices A, B, C, and D.

(6) 53:005. General provisions: Section 3(2).

(7) 53:010. Ambient air quality standards: Appendix A.

(8) 55:005. Significant harm criteria.

(9) 55:010. Episode criteria: Headings and Appendix A.

(10) 59:010. New process operations: Section 3(1) (b) and (c).

(11) 61:020. Existing process operations: Section 3(1)(b).

(12) 61:170. Existing blast furnace casthouses: Necessity and function paragraph and section 2(3).

(ii) Other material.

(A) Letter of December 7, 1987, from the Kentucky Natural Resources and Environmental Protection Cabinet.

(B) Letter of July 7, 1988, from the Kentucky Natural Resources and Environmental Protection Cabinet.

(C) Letter of January 23, 1989, from the Kentucky Natural Resources and Environmental Protection Cabinet.

3. Section 52.935 is added as follows:

§ 52.935 PM_{10} State implementation plan development in group II areas.

On July 7, 1988, the State submitted a committal SIP for the cities of Ashland and Catlettsburg in Boyd County. The committal SIP contains all the requirements identified in the July 1, 1987, promulgation of the SIP requirements for PM_{10} at 52 FR 24681. The SIP commits the State to sumbit an emissions inventory, continue to monitor for PM_{10}, report data and to submit a full SIP if a violation of the PM_{10} National Ambient Air Quality Standards is detected.

PART 81—[AMENDED]

Subpart C—Section 107 Attainment Status Designations

1. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401–7642

2. In § 81.318 the attainment status designation table for TSP is revised to read as follows:

§ 81.318 Kentucky.

KENTUCKY—TSP

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
Adair County				X
Allen County				X
Anderson County				X
Ballard County				X
Barren County				X
Bath County				X
Bell County			X	
Boone County				X
Bourbon County				X
Boyd County			X	
Boyle County				X
Bracken County				X
Breathitt County				X
Breckinridge County				X
That portion of Bullitt Co. in Shephardsville			X	
Rest of Bullitt Co				X
Butler County				X
Caldwell County				X
Calloway County				X
That portion of Campbell Co. in Newport			X	
Rest of Campbell Co				X
Carlisle County				X
Carroll County				X
Carter County				X
Casey County				X
Christian County				X
Clark County				X
Clay County				X
Clinton County				X
Crittenden County				X
Cumberland County				X
That portion of Daviess Co. in Owensboro			X	
Rest of Daviess Co				X
Edmonson County				X
Elliott County				X
Estill County				X
Fayette County				X
Fleming County				X
Floyd County				X
Franklin County				X
Fulton County				X
Gallatin County				X
Garrard County				X
Grant County				X
Graves County				X
Grayson County				X
Green County				X
Greenup County				X
Hancock County				X
Hardin County				X
Harlan County				X

KENTUCKY—TSP—Continued

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
Harrison County				X
Hart County				X
That portion of Henderson Co. in Henderson			X	
Rest of Henderson Co				X
Henry County				X
Hickman County				X
Hopkins County				X
Jackson County				X
Jefferson County			X	
Jessamine County				X
Johnson County				X
Kenton County				X
Knott County				X
Knox County				X
LaRue County				X
Laurel County				X
That Portion of Lawrence Co. in Louisa			X	
Rest of Lawrence Co				X
Lee County				X
Leslie County				X
Letcher County				X
Lewis County				X
Lincoln County				X
Livingston County				X
Logan County				X
Lyon County				X
McCracken County			X	
McCreary County				X
McLean County				X
That portion of Madison Co. in Richmond			X	
Rest of Madison Co				X
Magoffin County				X
Marion County				X
Marshall County				X
Martin County				X
Mason County				X
Meade County				X
Menifee County				X
Mercer County				X
Metcalfe County				X
Monroe County				X
Montgomery County				X
Morgan County				X
Muhlenberg County			X	
Nelson County				X
Nicholas County				X
Ohio County				X
Oldham County				X
Owen County				X
Owsley County				X
Pendleton County				X
That portion of Perry Co. in Hazard			X	
Rest of Perry Co				X
That portion of Pike Co. in Pikeville			X	
Rest of Pike Co				X
Powell County				X
Pulaski County				X
Robertson County				X
Rockcastle County				X
Rowan County				X
Russell County				X
Scott County				X
Shelby County				X
Simpson County				X
Spencer County				X
Taylor County				X
Todd County				X
Trigg County				X
Trimble County				X
Union County				X
Warren County				X
Washington County				X
Wayne County				X
Webster County				X
That portion of Whitley Co. in Corbin			X	
Rest of Whitley Co				X
Wolfe County				X
Woodford County				X

* * * * *

[FR Doc. 90-2675 Filed 2-6-90; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 180

[PP8E3616/R1054; FRL-3688-7]

Pesticide Tolerance for Metolachlor

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document establishes a tolerance for the combined residues (free and bound) of the herbicide metolachlor and its metabolites in or on the raw agricultural commodity bell peppers. This regulation to establish the maximum permissible level for residues of the herbicide in or on the commodity was requested in a petition submitted by the Interregional Research Project No. 4.

DATES: This regulation becomes effective February 7, 1990.

ADDRESSES: Written objections, identified by the document control number, [PP8E3616/R1054], may be submitted to: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: By mail: Hoyt L. Jamerson, Emergency Response and Minor Use Section (H7505C), Registration Division, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 716C, CM No. 2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)-557-2310.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of November 27, 1989 (54 FR 48772), EPA issued a proposed rule that gave notice that the Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted pesticide petition (PP) 8E3616 to EPA on behalf of Dr. Robert H. Kupelian, National Director, IR-4 Project, and the Agricultural Experiment Stations of Arkansas, Oklahoma, Florida, and Texas, and the U.S. Department of Agriculture.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for the combined residues (free and bound) of the herbicide metolachlor (2-chloro-N-(2-ethyl-6-methylphenyl)-N-(2-methoxy-1-methyl)acetamide) and its metabolites, determined as the derivative, 2-[(2-ethyl-6-methylphenyl)amino]-1-propanol and 4- (2-ethyl-6-methylphenyl)-2-hydroxy-5-methyl-3-morpholinone, each expressed as the parent compound, in or on the raw agricultural commodity bell peppers at 0.1 part per million (ppm).

There were no comments or requests for referral to an advisory committee received in response to the proposed rule.

The data submitted in the petition and other relevant material have been evaluated and discussed in the proposed rule. Based on the data and information considered, the Agency concludes that the tolerance will protect the public health. Therefore, the tolerance is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: January 24, 1990.

Douglas D. Campt,

Director, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. In § 180.368(a), by adding and alphabetically inserting the raw agricultural commodity bell peppers, to read as follows:

§ 180.368 Metolachlor; tolerances for residues.

(a) * * *

Commodities	Parts per million
* * * * *	
Peppers, bell	0.1
* * * * *	

* * * * *

[FR Doc. 90-2819 Filed 2-6-90; 8:45 am]
BILLING CODE 6560-50-D

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2 and 87

[GEN Docket No. 89-16; FCC 90-16; RM-6423]

Frequency Allocation and Aviation Services Rules To Provide Frequencies for Use by Fully Operational Commercial Launch Vehicles

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This rule would permit commercial launch vehicles that are fully operational to share telemetry frequencies that are currently used for flight test purposes. This action was initiated by a petition for rulemaking (RM-6423), 54 FR 7812, February 23, 1989, filed by the Aerospace & Flight Test Coordinating Council (AFTRCC). The effect of this rule is to permit the transmission of diagnostic telemetry data during the flights of fully developed commercial launch vehicles in order to determine whether their components must be modified to improve their performance or avoid a catastrophic failure.

EFFECTIVE DATE: March 12, 1990.

ADDRESSES: Federal Communications Commission, 1919 M Street NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: William P. Berges, Federal Communications Commission, Private Radio Bureau, Washington, DC 20554, (202) 632-7175.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, GEN Docket No. 89-16, adopted January 11, 1990, and released January 25, 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 full text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc. (202) 857–3800, 2100 M Street NW, Suite 140, Washington, DC 20037.

Summary of Report and Order

On February 16, 1989 the Commission released a *notice of proposed rule making*, PR Docket No. 89–16, FCC 89–25, 54 FR 7812, February 23, 1989, which proposed to amend the rules in the aviation services to permit fully operational commercial launch vehicles to share telemetry frequencies that are currently used for flight test purposes. Authorization to share the frequencies will permit the transmission of diagnostic telemetry data during the flights of fully operational commercial launch vehicles. Such data will be used to determine whether the components of fully operational launch vehicles must be modified to improve their performance or prevent a catastrophic failure during flight.

The Commission hereby certifies pursuant to section 605(b) of the Regulatory Flexibility Act of 1980 (Pub. L. 96–354) that these rules will not have a significant economic impact on a substantial number of small entities. Although these proposed changes allow the aerospace community greater flexibility in the operation of launch vehicles and result in some expenditures for equipment, these additional, optional expenditures should be minimal.

The Report and Order contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain no new or modified form, information collection and/or recordkeeping, labeling, disclosure, or record retention requirements; and will not increase or decrease burden hours imposed on the public.

Ordering Clauses

Authority for issuance of this report and order is contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r).

It is ordered, That parts 2 and 87 of the Commission's Rules are amended as shown at the end of this document effective March 12, 1990.

It is further ordered, That a copy of this Report and Order will be served on the Chief Counsel for Advocacy of the Small Business Administration.

It is further ordered, That this proceeding is terminated.

List of Subjects

47 CFR Part 2

Frequency allocations, Treaties.

47 CFR Part 87

Aviation services, Aeronautical stations.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

Rule Changes

Parts 2 and 87 of chapter I of title 47 of the Code of Federal Regulations are amended as follows:

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

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

Authority: Secs. 4, 302, 303, 307, 48. Stat. 1066, 1082, as amended; 47 U.S.C. 154, 302, 303, 307, unless otherwise noted.

2. In § 2.106, footnote US276 is revised to read as follows:

§ 2.106 Table of frequency allocations.

* * * * *

US276 Except as otherwise provided for herein, use of the band 2310–2390 MHz by the mobile service is limited to aeronautical telemetering and associated telecommand operations for flight testing of manned or unmanned aircraft, missiles, or major components thereof. The following six frequencies are shared on a co-equal basis for telemetering and associated telecommand operations of expendable launch vehicles whether or not such operations involve flight testing: 2312.5, 2332.5, 2352.5, 2364.5, 2370.5 and 2382.5 MHz. All other mobile telemetering uses shall be secondary to the above uses.

* * * * *

PART 87—AVIATION SERVICES

1. The authority for part 87 continues to read as follows:

Authority: 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, unless otherwise noted. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. 151–156, 301–609.

2. Section 87.5 is amended by adding after "Emergency locator transmitter (ELT) test station" a new definition for "Expendable Launch Vehicle" and after "Radionavigation service" a new definition for "Re-usable launch vehicle (RLV)" to read as follows:

§ 87.5 Definitions.

* * * * *

Expendable Launch Vehicle (ELV). A booster rocket that can be used only once to launch a payload, such as a missile or space vehicle.

* * * * *

Re-usable launch vehicle (RLV). A booster rocket that can be recovered after launch, refurbished and re-launched.

* * * * *

3. In § 87.303, paragraph (d)(1) is revised to read as follows:

§ 87.303 Frequencies.

* * * * *

(d)(1) Frequencies in the bands 1435–1535 and 2310–2390 MHz are assigned primarily for telemetry and telecommand operations associated with the flight testing of manned or unmanned aircraft and missiles, or their major components. Permissible uses include telemetery and telecommand transmissions associated with the launching and reentry into the earth's atmosphere as well as any incidental orbiting prior to reentry of manned or unmanned objects undergoing flight tests. In the 1435–1535 MHz band, the following frequencies are shared with flight telemetering mobile stations: 1444.5, 1453.5, 1501.5, 1515.5, 1524.5 and 1525.5 MHz. In the 2310–2390 MHz band, the following frequencies may be assigned on a co-equal basis for telemetering and associated telecommand operations in fully operational of expendable and re-usable launch vehicles whether or not such operations involve flight testing: 2312.5, 2332.5, 2352.5, 2364.5, 2370.5 and 2382.5 MHz. In the 2310–2390 MHz band, all other telemetry and telecommand uses are secondary. The Maritime Mobile-Satellite Service will be the only service in the 1530–1535 MHz band after January 1, 1990.

* * * * *

[FR Doc. 90–2771 Filed 2–6–90; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 89–289; RM–6680]

Radio Broadcasting Services; Syracuse, IN

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots FM Channel 278A to Syracuse, Indiana, as that community's first local broadcast service, in response to a petition for rule making filed on behalf of William A. Dixon. See 54 FR 27039, June 27, 1989. Coordinates utilized for Channel 278A at

Syracuse are 41–25–40 and 85–45–09. With this action, the proceeding is terminated.

DATES: Effective March 16, 1990; The window period for filing applications on Channel 278A at Syracuse, Indiana, will open on March 19, 1990, and close on April 18, 1990.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634–6530. Questions related to the window application filing process should be addressed to the Audio Services Division, FM Branch, Mass Media Bureau, (202) 632–0394.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89–289, adopted January 17, 1990, and released January 31, 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 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments is amended under Indiana, by adding Syracuse, Channel 278A.

Federal Communications Commission.

Karl A. Kensinger,

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

[FR Doc. 90–2766 Filed 2–6–90; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 89–64; RM–6584]

Radio Broadcasting Services; Island Park, ID

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: At the request of Island Broadcasters, *See* 54 FR 12250, March 24, 1989, this document allots Channel 293C to Island Park, Idaho, as that community's first local FM service. Channel 293C can be allotted to Island Park, Idaho, in compliance with the Commission's minimum distance separation requirements. The coordinates for this allotment are North Latitude 44–23–30 and West Longitude 111–18–42. With this action, this proceeding is terminated.

DATES: Effective March 16, 1990; The window period for filing applications will open on March 19, 1990, and close on April 18, 1990.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89–64, adopted January 12, 1990, and released January 31, 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 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 by adding Island Park, Idaho, Channel 293C.

Karl A. Kensinger,

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

[FR Doc. 90–2770 Filed 2–6–90; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 89–24; RM–6540]

Radio Broadcasting Services; Princeville, HI

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: At the request of Charles Carrell, *See* 54 FR 07450, February 21, 1989, this document allots Channel 255C1 to Princeville, Hawaii, as that community's first local FM service. Channel 255C1 can be allotted to Princeville, Hawaii, in compliance with the Commission's minimum distance separation requirements. The coordinates for this allotment are North Latitude 22–00–00 and West Longitude 159–22–50. With this action, this proceeding is terminated.

DATES: Effective March 16, 1990; The window period for filing applications will open on March 19, 1990, and close on April 18, 1990.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89–24, adopted January 12, 1990, and released January 31, 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 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 by adding Princeville, Hawaii, Channel 255C1.

Karl A. Kensinger,

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

[FR Doc. 90–2767 Filed 2–6–90; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 89–56; RM–6589]

Radio Broadcasting Services; Montezuma and Zebulon, GA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 223A to Zebulon, Georgia, as that community's first local service at the request of Hogan Broadcasting System. *See* 54 FR 11250, March 17, 1989. Channel 223A can be allotted to Zebulon in compliance with the Commission's minimum distance separation requirements with a site restriction of 1.1 kilometers (0.7 mile)

south to avoid a short-spacing to Station WZGC(FM), Channel 225C1, Atlanta, Georgia. The coordinates for this allotment are North Latitude 33–05–36 and West Longitude 84–20–34. In addition, the Commission substitutes Channel 236A for Channel 223A at Montezuma, Georgia. Channel 236A can be allotted to Montezuma in compliance with the Commission's minimum distance separation requirements and can be used at the reference coordinates of the vacant allotment and the site specified in the pending application of Macon County Broadcasting. The coordinates for Montezuma at the application site are North Latitude 32–17–58 and West Longitude 84–01–34. With this action, this proceeding is terminated.

DATES: Effective March 16, 1990; The window period for filing applications at Zebulon, Georgia will open on March 19, 1990, and close on April 18, 1990.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89–56, adopted January 12, 1990, and released January 31, 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 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 by adding Zebulon, Georgia, Channel 223A, and by removing Channel 223A at Montezuma, Georgia, and adding Channel 236A.

Karl A. Kensinger,

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

[FR Doc. 90–2768 Filed 2–6–90; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 89–361; RM–6718]

Radio Broadcasting Services; Beulah, MI

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 221A to Beulah, Michigan, as that community's first FM broadcast service in response to a petition filed by Roger L. Hoppe II. Canadian concurrence has been obtained for this allotment at coordinates 44–37–36 and 86–05–54.

DATES: Effective March 19, 1990; The window period for filing applications for Channel 221A at Beulah, Michigan, will open on March 20, 1990, and close on April 19, 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. 89–361, adopted January 19, 1990, and released February 1, 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 decisioin may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments is amended under Michigan by adding Beulah, Channel 221A.

Federal Communications Commission.

Karl Kensinger,

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

[FR Doc. 90–2769 Filed 2–6–90; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 240

[FRA Docket No. ARR–89–1; Notice No. 1]

Alaska Railroad Administration; Removal of Obsolete Provisions

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Final rule.

SUMMARY: This action removes obsolete provisions concerning the administration of the Alaska Railroad from part 240.

EFFECTIVE DATE: This rule is effective March 31, 1990.

FOR FURTHER INFORMATION CONTACT: Lawrence I. Wagner, Trial Attorney, Office of Chief Counsel, FRA, 400 Seventh Street SW., Washington, DC 20590 (telephone 202–366–0628).

SUPPLEMENTARY INFORMATION: The Alaska Railroad was built by the Federal Government, and responsibility for its administration was delegated to the Department of Transportation by Executive Order 11107. The duties delegated to FRA to accomplish that mission were codified in part 240.

On July 5, 1985, pursuant to the terms of the Alaska Railroad Transfer Act (Public Law 97–468), the Federal Government transferred the Alaska Railroad to the State of Alaska. That transfer terminated FRA's responsibilities for the administration of the railroad and the date of the transfer became the effective date for the repeal of the statutes that provided the legal basis for the provisions contained in part 240.

Public Participation

The removal of these provisions is essentially a housekeeping action and has no substantive effect. This action is being taken without prior notice since it involves agency management and thus is exempted from the requirements of the Administrative Procedures Act. Moreover, public participation would be impractical, unnecessary, and contrary to the public interest.

Regulatory Impact

This rule has been evaluated in accordance with existing policies and procedures. The rule is considered to be non-major under Executive Order 12291 and non-significant under the Department's policies and procedures (44 FR 11034, February 26, 1979).

The rule will not have any economic impact on any entity and does not contain any information collection requirement and will have no impact on Federalism under Executive Order 12612.

List of Subjects in 49 CFR Part 240

Administration of the Alaska Railroad.

The Rule

In consideration of the foregoing, FRA is hereby amending Chapter II of the Code of Federal Regulations:

PART 240—[REMOVED AND RESERVED]

By removing and reserving part 240 in its entirety.

Issued in Washington, DC, on January 31, 1990.

Susan M. Coughlin,

Deputy Administrator.

[FR Doc. 90-2729 Filed 2-6-90; 8:45 am]

BILLING CODE 4910-06-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 380

[Docket No. 900127-027]

Antarctic Marine Living Resources Convention Act of 1984

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

ACTION: Final rule.

SUMMARY: The Secretary of Commerce (Secretary), amends the regulations governing the harvesting and reporting of Antarctic finfish catches. The regulations implement conservation and management measures promulgated by the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR or Commission) and accepted in whole by the Government of the United States to regulate catches in Convention for the Conservation of Antarctic Marine Living Resources (Convention) statistical reporting subareas (subareas) 48.1, 48.2 and 48.3. These measures restrict the use of gear, restrict the directed taking of certain species of fish, prohibit the taking of other species during closed seasons and require real-time reporting of the harvest of certain species.

EFFECTIVE DATE: February 7, 1990.

ADDRESSES: A copy of the framework environmental assessment may be obtained from the Assistant Administrator for Fisheries, NOAA, National Marine Fisheries Service, 1335 East-West Highway, Silver Spring, MD 20910.

Comments regarding burden estimates or collection of information aspects of this rule should be sent to Robin Tuttle, National Marine Fisheries Service, 1335 East-West Highway, Room 7240, Silver Spring, MD 20910, and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, Attention: Paperwork Reduction Act Project 0648-0194.

FOR FURTHER INFORMATION CONTACT: Robin Tuttle [NMFS International Science, Development and Polar Affairs Division), 301-427-2282.

SUPPLEMENTARY INFORMATION:

Background

At its annual meeting in Hobart, Tasmania, in 1986, CCAMLR, of which the United States is a member, adopted a conservation measure requiring the Commission at subsequent meetings to adopt limitations on catch, or equivalent measures, binding for species upon which fisheries are permitted in Convention subarea 48.3 (South Georgia) depicted at Figure 1 of 50 CFR Part 380. The system for imposing these limitations and measures is described at 50 CFR 380.26.

The measures for and resolutions concerning the 1989/90 fishing season adopted by CCAMLR at its annual meeting in 1989 are based upon the advice of its Scientific Committee and take into account research conducted by Commission members and the report and recommendations of the Scientific Committee's Working Group on Fish Stock Assessment. The measures and resolutions were announced and public comment invited (until January 17, 1990) by Federal Register notice on December 19, 1989 (54 FR 51962). No comments were received.

(i) *Subarea 48.3* The Commission took most of its actions with respect to subarea 48.3.

For the 1989/90 fishing season, the total catch of *Champsocephalus gunnari* (mackerel icefish) in subarea 48.3 has been limited by the Commission to an amount not to exceed 8,000 metric tons (mt). Directed fishing on *Notothenia gibberifrons* (humped rockcod), *Chaenocephalus aceratus* (blackfin icefish), *Pseudochaenichthys georgianus* (South Georgia icefish) and *Notothenia squamifrons* (grey rockcod) is prohibited in subarea 48.3 for the 1989/90 fishing season. Directed fishing on *Notothenia rossii* (marbled rockcod) in subarea 48.3 has been prohibited since the 1985/86 fishing season and in subareas 48.1 and 48.2 effective March 29, 1987. These prohibitions continue in force for the 1989/90 fishing season and all subsequent seasons until the Commission makes a decision to the contrary. The United States implemented the prohibitions at 50 CFR 380.22 by limiting to 1 percent of the catch (by weight) the amount of *N rossii* that can be taken in these subareas. This definition of bycatch continues to appear in 50 CFR Part 380 with respect to the prohibition on directed fishing on *N. rossii* in subareas 48.1, 48.2 and 58.5. However, the Commission has defined the acceptable level of bycatch for *N. rossii* in subarea 48.3 and section 380.23 has been revised accordingly.

The total bycatch of *N. rossii, N. gibberifrons, C. aceratus* and *P. georgianus* in subarea 48.3 for the 1989/90 fishing season is limited by the Commission to an amount not to exceed 300 mt. The fishery in subarea 48.3 will close if the bycatch of any of the species *N. rossii, N. gibberifrons, C. aceratus* or *P. georgianus* reaches 300 mt or if the total catch of *C. gunnari* reaches 8,000 mt, whichever comes first.

From April 1, 1990, until November 4, 1990, no *C. gunnari, N. rossii, N. gibberifrons, C. aceratus, P. georgianus* or *N. squamirons* may be taken in subarea 48.3.

For the 1989/90 fishing season, the use of bottom trawls in the directed fishery for *C. gunnari* in subarea 48.3 is prohibited. If, in the course of any other than a bottom-trawl directed fishery for *C. gunnari* in subarea 48.3, the bycatch of any one haul of any of the species *N. rossii, N. gibberifrons, C. aceratus* and *P. georgianus* exceeds 5 percent, the fishing vessel must move to another fishing ground within the subarea.

For the 1989/90 fishing season, directed fishing is also prohibited in subarea 48.3 for *N. squamifrons*. In the absence of Commission language with respect to an acceptable or required level of bycatch, the United States is setting a catch limit on *N. squamifrons* in subarea 48.3 for the 1989/90 fishing season by limiting to 1 percent of the catch (by weight) the amount of *N. squamifrons* that can be taken in the subarea.

For the 1989/90 fishing season, the total catch of *Patagonotothen brevicauda guntheri* (Patagonian rockcod) in subarea 48.3 has been limited by the Commission to 12,000 mt.

The reporting system for *P. b. guntheri* at 50 CFR 380.24 for the 1988/89 fishing season is modified from an every-ten-day to an every-six-day reporting period and is expanded to require the reporting of *N. rossii, N. gibberifrons, C. aceratus, P. georgianus, C. gunnari* and *P. b.*

guntheri in 1989/90. If either or both of the catch limits set by the Commission for these species in subarea 48.3 is reached before the end of the 1989/90 fishing season, the closure of the fishery or fisheries will be announced in the **Federal Register** and NMFS will notify the designated representative of the holder of a permit to fish in subarea 48.3 of the date(s) of the closure(s) of the fishery, pursuant to 50 CFR 380.26(b).

In 1985, the Commission adopted a measure prohibiting fishing, other than for scientific research purposes, in waters within 12 nautical miles of South Georgia. This measure was implemented by the United States at 50 CFR 380.21. Effective January 1, 1990, the United Kingdom has declared a 12 nautical mile territorial sea around South Georgia. The Commission at its 1989 meeting could not reach consensus on whether to retain its 1985 measure; therefore, the prohibition is no longer inforce. The regulations have been reviewed accordingly. U.S. fishermen should be aware, however, that the United Kingdom intends to prohibit fishing within its expanded territorial sea.

(ii) *Subareas 48.1 and 48.2.* The Commission adopted one resolution with respect to subareas 48.1 and 48.2.

The Commission requested that all parties to the Convention keep the catch of *N. gibberifrons* in subareas 48.1 (the Peninsula area) and 48.2 (around the South Orkneys) in the 1989/90 fishing season to the lowest possible level by refraining from directed fishing and by ensuring that bycatch of the species in directed fishing for other species be avoided. Thus, for the 1989/90 fishing season directed fishing for *N. gibberifrons* in subareas 48.1 and 48.2 is prohibited. The bycatch limit for *N. gibberifrons* in these subareas is 1 percent of all Antarctic finfishes onboard a vessel fishing in these subareas.

(iii) *Longline fishing.* The Commission urged all parties to the Convention conducting longline fishing in the CCAMLR Convention Area to investigate and introduce as soon as possible methods to minimize incidental mortality to seabirds arising from the use of longline fishing techniques. Gear restrictions are thus being required of U.S. citizens and nationals in the Convention areas because of the significant scientific data and/or concern that support the Commission's recommendations.

Classification

The Secretary of Commerce has determined that this rule is necessary to implement the Antarctic Marine Living Resources Convention Act of 1984 (the Act) and to give effect to the conservation and management measures adopted by CCAMLR and agreed to by the United States.

The Assistant Administrator for Fisheries, NOAA (Assistant Administrator) prepared a framework environmental assessment (EA) for the Act in 1987. NMFS reviewed this rule and determined that the actions it requires were generally summarized in the framework EA and are thus excluded from further National Environmental Policy Act analysis.

This action is exempt from Executive Order 12291 and section 553 of the Administrative Procedure Act because it involves a foreign affairs function of the United States. Because notice and comment rulemaking is not required for this rule, the Regulatory Flexibility Act does not apply; therefore, a regulatory flexibility analysis has not been prepared. At present there are no U.S. vessels or vessels subject to the jurisdiction of the United States harvesting Antarctic marine living resources within the area to which these regulations apply, except for research purposes. Presently, the only Antarctic resources affected are scientific specimens taken under National Science Foundation permits and by the U.S. Antarctic Marine Living Resources directed research program. Accordingly, these regulations should not have an incremental impact on U.S. vessels harvesting or performing associated activities in the Convention area.

This rule contains a collection-of-information requirement subject to the Paperwork Reduction Act. The collection of information has been approved by the Office of Management and Budget under OMB Control Number 0648–0194.

The annual reporting burden for this collection of information is estimated to average one-half hour per harvester, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Robin Tuttle, National Marine Fisheries Service, and to the Office of Information and Regulatory Affairs (see **ADDRESSES**).

This rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under Executive Order 12612.

List of Subjects in 50 CFR Part 380

Antarctic, Fish and wildlife, Reporting and recordkeeping requirements.

Dated: February 2, 1990.

James E. Douglas, Jr.,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 380 is amended as follows:

PART 380—ANTARCTIC MARINE LIVING RESOURCES CONVENTION ACT OF 1984

1. The authority citation for 50 CFR part 380 continues to read as follows:

Authority: 16 U.S.C. 2431 *et seq.*

2. Section 380.21 of subpart B is removed and reserved with the following section heading:

§ 380.21 Closed area. [Reserved]

3. Section 380.23 of subpart B is revised to read as follows:

§ 380.23 Catch restrictions.

(a) The catch limit for *N. rossii* is one percent of all Antarctic finfishes onboard a vessel fishing in subareas 48.1, 48.2 and 58.5 [see Figure 1].

(b) The total catch of *C. gunnari* in subarea 48.3 for the 1989/90 fishing season shall not exceed 8,000 metric tons.

(c) Directed fishing for *N. gibberifrons*, *C. aceratus*, *P. georgianus* and *N. squamifrons* is prohibited in subarea 48.3 during the 1989/90 fishing season.

(d) The bycatch of any of the following species: *N. rossii*, *N. gibberifrons*, *C. aceratus* and *P. georgianus* in subarea 48.3 shall not exceed 300 metric tons during the 1989/90 fishing season.

(e) If in the course of a directed fishery for *C. gunnari* subarea 48.3, the bycatch of any one haul of any of the species *N. rossii*, *N. gibberifrons*, *C. aceratus* or *P. georgianus* exceeds 5 percent, the fishing vessel must move to another fishing ground within the subarea.

(f) The bycatch limit of *N. squamifrons* in subarea 48.3 is 1 percent of all Antarctic finfishes onboard a vessel in the subarea.

(g) The total catch of *P. b. guntheri* in subarea 48.3 for the 1989/90 fishing season shall not exceed 12,000 mt.

(h) Directed fishing for *N. gibberifrons* in subareas 48.1 and 48.2 is prohibited during the 1989/90 fishing season. The bycatch limit for *N. gibberifrons* is 1 percent of all Antarctic finfishes onboard a vessel in subareas 48.1 and 48.2.

4. Section 380.24 of subpart B is revised to read as follows:

§ 380.24 Reporting requirements for Convention statistical reporting subarea 48.3.

(a) The calendar month is divided into six reporting periods; day 1 to day 5 is period A, day 6 to day 10 is period B, day 11 to day 15 is period C, day 16 to day 20 is period D, day 21 to day 25 is period E, and day 26 to the last day of the month is period F.

(b) The operator of any vessel fishing in subarea 48.3 must, within 2 days of the end of a reporting period, report his or her catch and bycatch of *C. gunnari*, *N. rossii*, *N. gibberifrons*, *C. aceratus*, *P. georgianus* and *P. b. guntheri* to NMFS. The report must be made in writing by cable, telex, rapifax or other appropriate method to the number specified in the vessel's permit, and include the vessel name, permit number, month, reporting period, and its catch in metric tons (to the nearest tenth of a ton) of C. gunnari, *N. rossii*, *N. gibberifrons*, *C. aceratus*, *P. georgianus* and *P. b. guntheri* taken in subarea 48.3. If none of these species is taken during a reporting period, the operator must submit a report showing no catch.

5. Section 380.27 of subpart B is revised to read:

§ 380.27 Closure of Convention statistical reporting subarea 48.3.

From April 1, 1990, until November 4, 1990, no *C. gunnari*, *N. rossii*, *N. gibberifrons*, *C. aceratus*, *P. georgianus* or *N. squamifrons* may be taken in subarea 48.3.

6. Section 380.28 is added to subpart B to read as follows:

§ 380.28 Gear restrictions.

(a) Longline fishing is prohibited in Convention waters.

(b) The use of bottom trawls in the directed fishery for *C. gunnari* in subarea 48.3 is prohibited during the 1989/90 fishing season.

[FR Doc. 90-2822 Filed 2-6-90; 8:45 am]
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Proposed Rules

Federal Register
Vol. 55, No. 26
Wednesday, February 7, 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.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 110

RIN 3150-AD36

Import and Export of Radioactive Wastes

AGENCY: Nuclear Regulatory Commission.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Nuclear Regulatory Commission (NRC) is publishing an advance notice of proposed rulemaking regarding the existing NRC regulations for the import and export of radioactive wastes. This action responds to concerns that international transfers of radioactive wastes, in particular low-level radioactive wastes (LLW), may not be properly controlled. Various options for regulating the import and export of radioactive wastes are being considered. The Commission is publishing this advance notice of propose rulemaking to seek timely comments from the public, industry, and other government agencies on various regulatory options and issues developed thus far.

DATES: Comment period expires March 9, 1990. Comments received after this date will be considered if it is practical to do so, but the Commission is able to assure consideration only for comments received on or before this date.

ADDRESSES: Mail comments to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch. Deliver comments to 11555 Rockville Pike, Rockville, MD between 7:45 a.m. and 4:15 p.m. Federal workdays. Copies of comments received may be examined at the NRC Public Document Room, 2120 L Street, NW., (Lower Lever), Washington, DC.

FOR FURTHER INFORMATION CONTACT: William R. Lahs, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington DC 20555, telephone (301) 492-3774.

SUPPLEMENTARY INFORMATION:

Introduction and Purpose

Recently, the Commission has become aware of the need to establish a general policy for the import and export of radioactive wastes, particularly low-level radioactive wastes (LLW). The export and import of all types of waste (hazardous and non-hazardous) have been receiving increased public attention internationally. While there are no known cases of countries improperly disposing of radioactive wastes through exports to other countries that, for example, may not have the infrastructure to dispose of the wastes safely, there is a potential for this in the future. There also have been a number of inquiries regarding the import of foreign wastes into the U.S. for disposal.

The International Atomic Energy Agency (IAEA) has published codes, standards, guides, and recommendations that many countries use as the basis for planning and regulating national waste management programs. These codes, standards, guides, and recommendations, which are agreed to at an international level, are ways of providing confidence that radioactive wastes can be managed properly on an international basis. More recently, the U.S. has actively participated in the IAEA's effort to develop a voluntary Code of Practice for transboundary movement of radioactive wastes. The Code will provide guidance to Member States on appropriate control and monitoring mechanisms. Currently it is the consensus of a large number of IAEA Member States that all countries should have in place adequate national means to control the transboundary movements of radioactive wastes in order to avoid unsafe disposal practices.

Existing regulations of the U.S. Environmental Protection Agency (EPA) (40 CFR part 262) establish criteria for the export of (non-nuclear) hazardous wastes which are more restrictive than the existing NRC regulations for the export of radioactive waste. Among other requirements, section 3017 (42 USC 3017) of the "Resource Conservation and Recovery Act" prohibits exports of hazardous waste to a country not having an agreement with the U.S. unless that country has been notified and has consented. The Basel Convention, which has been signed by many nations, also calls for stricter controls on international shipments of non-nuclear hazardous wastes.

The U.S. currently does not have a specific national policy with respect to transfers of radioactive wastes, nor does the Commission require specific licenses for the export or import of most low-level radioactive wastes. The Commission believes that, while it is unaware of any low-level radioactive waste being imported or exported in an unsafe manner, it is time to establish a national policy that would provide the necessary frame-work to enable the Commission to carry out its responsibility to ensure appropriate regulation of the import and export of radioactive wastes. The Commission is presently working towards formulating such a national policy. It is the Commission's preliminary judgment that the best approach would be to develop a policy that would provide greater control and accountability over the export and import of radioactive wastes.

This policy could lead to an amendment to NRC's existing export/import regulations in 10 CFR part 110 to require advance notification and/or consent for radioactive waste exports or imports.

The Commission recognizes that it is in the interest of exporting countries, as well as importing countries, to assure themselves that disposal of radioactive wastes will be effectively regulated. However, there is a delicate balance between protecting public health and safety in foreign countries and placing unnecessary restrictions on international trade. As the Commission begins to integrate a variety of topics into a proposed rule, an opportunity for public comment on the options and issues under consideration is being provided via this document.

In considering what radioactive materials should be considered wastes for import and export purposes, the Commission proposes to use the existing IAEA definition of radioactive wastes as contained in the "Radioactive Waste Management Glossary" (IAEA-TECDOC-447), which describes radioactive waste as "any material that contains or is contaminated with radionuclides at concentrations or radioactivity levels greater than the

exempt quantities established by the competent authorities and for which no use is foreseen."

Proposed Options

The following four possible options are under consideration for establishing Commission regulatory requirements on the export and import of radioactive wastes: (1) Continue the existing policy and procedures as codified in 10 CFR part 110; (2) Require notification of all imports and exports of radioactive wastes; (3) Require specific licenses for the import and export of radioactive wastes; and (4) Ban the import and export of radioactive wastes except with respect to countries with which the U.S. has an agreement. These options are not exhaustive; therefore, comments are sought on any additional options the public may raise.

In addition, the Commission will ensure that the implementation of any one of these options is not inconsistent with its forthcoming policy on "Below Regulatory Concern" (BRC) wastes. Consistency could be assured in several ways. For example, the Commission could develop a mechanism to inform recipient countries of the Commission's BRC policy and that the NRC review of any BRC petition that anticipated exports would include consultation with the recipient country before approval.

Option 1: Status Quo—Continue the use of existing regulations. Under this option the present policy and procedures on import and export of nuclear materials, as codified in 10 CFR part 110, would be continued. NRC's regulations in 10 CFR part 110 currently do not distinguish "radioactive waste" as a separate class of material. Consequently, radioactive wastes are regulated under Part 110 to the extent that the wastes contains byproduct, source, or special nuclear material in quantities; and concentrations that are subject to NRC regulations. For example, existing regulations permit the import of low-level radioactive wastes into the U.S. under a general license issued pursuant to 10 CFR 110.27, if the consignee is authorized to possess the material under: (1) A contract with the U.S. Department of Energy; (2) an exemption from domestic licensing requirements issued by the Commission; or (3) a general or specific domestic license. Part 110 permits export of low-level radioactive wastes from the U.S. under a general license if the provisions of §§ 110.21, 110.22 and 110.23 in 10 CFR part 110 are satisfied. Thus, the existing regulations address the import and export of radioactive wastes only to the same degree that they address other radioactive materials and do not ensure that the NRC is cognizant of all transfers of radioactive wastes *per se* across U.S. borders. Consequently, the Commission may be in a position of knowing little about the quantities, types, and concentrations of radioactive wastes being imported or exported. However, existing regulations do require the exporter and importer to maintain records of transfers which the Commission may inspect.

Option 2: Require notification of NRC for all imports and exports. Under this option, the regulations contained in 10 CFR part 110 would be amended to require written notification of the NRC before radioactive wastes are imported or exported and the receipt of written consent by the exporter from a receiving country prior to the export of wastes from the U.S. Under this option, the Commission would have a regulatory mechanism to track wastes that are imported or exported and assurances that importing countries are willing to import the material. While the primary objective of this option is oversight or tracking, the Commission could take action if a threat to public health or safety were to materialize. However, this option provides little additional regulatory control over that which is provided under current NRC regulations because no NRC licensing (or denial) action would be required for specific imports or exports of radioactive wastes.

Option 3: Under this option, 10 CFR part 110 would be amended to require that any person seeking to import or export radioactive wastes obtain a specific license. Under this option, the NRC would assume positive regulatory control over transfers of radioactive wastes between the U.S. and foreign countries. The extent of NRC control on import and export activities would be determined by the criteria NRC established for specific license applications. Possible criteria could be: (1) Banning wastes, such as Greater-than-Class C wastes (10 CFR 61.55), from import and export and (2) permitting the import of only limited types of waste under general license, such as the return of sealed radiation sources to a manufacturer as specified in a purchase agreement. Under this option, the inconsistencies in NRC regulations that may permit imported radioactive waste to be subject to less regulatory oversight than radioactive waste resulting from domestic licensee operations could be removed. (For example, 10 CFR 20.302, "Method for Obtaining Approval of Proposed Disposal Procedures," governs the disposal of wastes by NRC licensees, but does not regulate disposal of wastes with similar characteristics from foreign entities not licensed by the NRC.) The specific license requirement also would provide the necessary framework that would alleviate growing concerns that transfers of radioactive wastes are not being adequately controlled.

Option 4: Amend part 110 to ban imports and exports of radioactive wastes except under international disposal agreements. Under this option, the NRC would ban the import and export of radioactive waste except with respect to those foreign countries with which the U.S. has negotiated appropriate agreements. These agreements could contain provisions for advance notification and consent of the receiving government, information exchanges in the manner in which the wastes would be managed in the receiving country, cooperation and enforcement, and periodic review of the effectiveness of the agreement. This option would provide a more rigorous framework for control of such transfers, assure governmental acceptance by the other countries, and encourage countries having agreements to take responsibility for waste disposal within their own territories. This would alleviate concerns that transfers of radioactive wastes are not being adequately controlled. As in Option 3, this option would eliminate the inconsistency in existing NRC regulations which could allow imported low-level radioactive waste to be subject to less regulatory oversight than low-level radioactive waste resulting from similar domestic licensee operations at NRC or Agreement State licensed facilities. The agreements would be negotiated through the U.S. Department of State and could involve extensive technical, administrative, and political complexity.

Questions and Issues

In light of the previous discussion, the NRC is particularly interested in receiving comments concerning the following questions which involve key considerations in developing NRC's regulatory requirements on the import and export of radioactive wastes. This list of questions is not exhaustive; therefore, comments are welcome on any additional relevant matters the public may identify.

1. What are the economic advantages and disadvantages to the import and export of radioactive wastes, e.g., would such import or exports affect the economic viability of disposal facilities or State radioactive waste disposal compacts?

2. Are there policy, health and safety, or economic disadvantages to denying import or export of certain radioactive wastes, e.g., interference with ongoing U.S. international trade in sealed sources and gauges used in medical or other applications?

3. Would it be in the interest of U.S. foreign policy to assist certain countries with the disposal of their radioactive wastes?

4. Does the U.S. have an adequate mechanism to dispose of imported radioactive wastes without adversely impacting the disposal of domestically generated wastes?

5. Would imported radioactive wastes be similar to radioactive wastes generated in the U.S. and therefore not likely to result in new radiological and/or environmental problems?

6. What are the views of operators of disposal facilities and state and local governments on the import of radioactive waste?

7. Are national authorities in countries that might receive U.S.-exported radioactive wastes technically competent to dispose of such wastes and would they agree to its receipt?

8. Should the capability of a recipient country to manage and dispose of radioactive wastes safely be considered in any NRC export license review process, recognizing that NRC authority to deny a license on these grounds is open to question?

9. Would the export of some or all categories of radioactive wastes help solve a significant problem in the U.S., such as limited available disposal capacity?

10. NRC cannot currently regulate Naturally Occurring or Accelerator Produced Materials (NARM) such as radium contaminated wastes and accelerator components and shielding containing induced activity. Are provisions needed for the import and export of these NARM wastes, assuming NRC were given statutory authority over such materials?

11. Are there other means to broaden the Commission's information base with regard to transactions of exports and imports of radioactive wastes, exclusive of requiring specific licenses or otherwise revising NRC's existing regulations?

12. What import/export controls and licensing criteria may be necessary for various categories of radioactive waste and under what circumstances should imports/exports be considered wastes?

13. What assurances can be made that the Below Regulatory Concern (BRC) policies of various countries are consistent so that radioactive wastes declared BRC in the exporting country are indeed BRC wastes in the recipient country?

In Appendix A to this document, the Commission is providing preliminary NRC staff responses to similar questions. These responses are intended to focus public comments and are subject to revision based on comments received.

List of Subjects in 10 CFR Part 110

Administrative practice and procedure, Classified information, Export, Import, Incorporation by reference, Intergovernmental relations, Licensed material, Nuclear materials, Nuclear power plants and reactors, Penalty, Reporting and recordkeeping requirements, Scientific equipment, Waste treatment and disposal.

Authority: Sec. 161, Pub. L. 83-703, 68 Stat. 948, as amended (42 U.S.C. 2201); Sec. 201, Pub. L. 93-438, 88 Stat. 1242, as amended (42 U.S.C. 5841).

Dated at Rockville, MD this 1st day of February 1990.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

Appendix A—NRC Staff Responses to Questions Provided In This Advance Notice of Proposed Rulemaking

1. Are there clear economic advantages to the import of radioactive wastes, e.g., would importing waste assist in maintaining the economic viability of disposal facilities or State compacts?

Response: Importing radioactive wastes for disposal in the U.S. might have some economic advantages. The degree of economic benefit, however, would depend on (1) the adequacy of the charges assessed by the disposal-site operator to cover the cost of disposal and subsequent long-term care; and (2) the extent to which a low-level radioactive waste disposal site benefits from economies of scale. It would be difficult to determine the economic benefit in the absence of information on the quantity of waste that would be imported into the U.S. for disposal. Moreover, a detailed economic study of the costs associated with the development and operation of a low-level radioactive disposal site would be needed to determine accurately the economic advantage resulting from the importation and disposal of radioactive wastes.

2. Are there clear policy, health and safety, or economic disadvantages to denying import or export of certain radioactive wastes, e.g., interference with ongoing U.S. foreign trade in sealed sources and gauges used in medical or other applications?

Response: Yes, because the versatility of sealed radiation sources, as tools in research and as aids in medicine (Cobalt-60 teletherapy and brachytherapy), agriculture and industry (radiography, gauging devices, product irradiators), has produced a growing international demand for the technology, it affords the exporting manufacturers and distributors many opportunities for trade with foreign nations in an expanding global market (see Secy-89-020).

With regard to U.S. policy and economic disadvantages in denying import or export of such radioactive wastes, trade and commerce activities are highly competitive, and national trade and regulatory practices play an important role. For example, in some exporting countries, radioisotopes are produced and exported under government corporation licenses or central government control, e.g., Canada, England, France and Japan (through control by the Bank of Japan). The corporations are subsidized by their government, with such national advantages as: (a) No corporate tax; (b) no property tax; (c) no license fees; (d) no civil penalties; (e) minimum or conditional licensing; (f) special loan arrangements; and (g) stocks held by a government administrator (with the ability to transfer stock between corporations). These or similar foreign government arrangements provide trade advantages. The U.S. has no comparable subsidization; therefore, the regulatory practices of some supplier-nations act as an impediment to U.S. trade and commerce in global markets and to the U.S. balance of trade. Any changes in regulatory requirements could pose an additional burden. For example, it is part of normal trade and commerce practices to exchange a spent radiation source for a new source, returning the spent source to the supplier. For some radioisotopes, this is a condition of the sale. Instituting a regulatory prohibition on importing or exporting spent sources (for disposal or recycle) in exchange for new sources, would adversely affect U.S. markets. It should be noted that any suggested regulatory actions affecting the United States that could impact foreign U.S. trade and commerce would be subject to extensive review by the U.S. Trade Representative (TR) and the U.S. Department of State (DOS). No special problems are foreseen at this time.

The Staff is unaware of any overriding disadvantage to denying the import or export of radioactive wastes from a public health and safety viewpoint. The U.S. has in place a domestic program, which is set forth in the Low-Level Radioactive Waste Policy Amendments Act (LLRWPAA), that should ensure that all low-level radioactive wastes are disposed of properly without adversely affecting the public health and safety. Therefore, the export of U.S. generated low-level radioactive wastes could be prohibited and not impact the U.S. public health and safety. With regard to denying the import of foreign low-level radioactive wastes, the Staff believes that the denials would have no effect on the U.S. public health and safety.

3. Is it in the U.S. foreign policy or foreign relations interest to assist certain countries with the disposal of their radioactive wastes?

Response: It is U.S. policy to assist certain countries with the disposal of their radioactive waste. Most developing countries have neither the technical expertise nor the regulatory structure to control adequately the disposal of radioactive wastes. Since 1984, when radioactively contaminated steel products involving inadvertent melting of cobalt-60 contaminated scrap metal were imported into the U.S. from Mexico, the U.S.

has become increasingly sensitized to the very real potential for transborder inadvertent contamination, and to the lack of technical and regulatory infrastructures in the nuclear programs of less developed countries.

The U.S. has a large body of experience, and currently makes a practical contribution to enhancing safety, on an international scale, by assisting less developed countries through both bilateral activity (e.g., Mexico and Brazil) and international agency activities such as those of the International Atomic Energy Agency (IAEA) (e.g., stregthening regulatory organizations; training programs; fostering exchange of information; emergency assistance; the Radiation Protection Advisory Team (RAPAT) program; and the Waste Management Advisory Program (WAMAP).

Participation in international agencies is also helpful in assuring that foreign designs and operations (which can be heavily influenced by international guides and standards) are compatible with NRC safety requirements, and improved safety designs are considered.

NOTE: NRC was instrumental in initiating the IAEA PAPAT review programs for less developed countries, which also include a review of radioactive waste. Since its inception in 1984, NRC Staff members have participated on RAPAT teams in reviews for five countries. It should be further noted that the concern for radioactive waste practices in less developed countries has increased enough for the IAEA to have instituted a review program just for radioactive waste, i.e., WAMAP. NRC has not participated in these reviews.

4. Does the U.S. have an adequate disposal mechanism available as well as sufficient disposal capaicty so as not to impact adversely the disposal of domestically generated wastes?

Response: The Staff is unable to respond to this question definitively in the absence of specific data on the types and quantities of radioactive wastes to be improted into the U.S. However, if the siting process that is set forth in the LLRWPAA is successful, the U.S. would have sufficient disposal capacity to accept some imported low-level radioactive wastes for disposal. If new disposal sites are not developed and access to existing low-level radioactive waste sites is denied, the importation of any waste for disposal would only compound the problem of low-level waste disposal in the U.S.

5. Is imported waste similar to waste generated in the U.S. and therefore not likely to result in new radiological and/or environmental problems?

Response: The Staff has no reason to believe that imported radioactive wastes would be significantly different from wastes generated in the U.S. Foreign low-level radioactive wastes result from medical, industrial, academic, reactor, and fuel cycle operations just as they do in the U.S. Although the characteristics of the imported wastes might be somewhat different than those of domestic wastes, the imported wastes would be subject to domestic Federal and State regulations, including the waste classification system set forth in 10 CFR Part 61. This classification system would ensure that imported wastes would be treated no differently than wastes generated in the U.S. Thus, it is unlikely that imported low-level radioactive wastes would result in new radiological and/or environmental problems.

6. Do operators of disposal facilities as well as the State Compact Commission object to the import of (a) a specific waste stream (b) foreign waste in general?

Response: In general, we believe that the States and Compacts would be very concerned with the prospect of providing disposal capacity for foreign-generated low-level wastes. At States site disposal facilities, a large number of local concerns arise. These concerns would probably be intensified by the prospect of providing capacity for foreign wastes. On the other hand, site operators are not likely to object to disposing of any increased volume of wastes resulting from the importation of foreign wastes. The increased volumes could mean increased profits for the operator.

The issue of handling foreign wastes was not raised during the formulation of the Low-Level Radioactive Waste Policy Act of 1980 (LLRWPA) or its 1985 amendments. NRC Staff also has not discussed this matter with State regulatory and Compact officials.

Because of the sensitive nature of siting in the States, we believe that this issue should be discussed with interested State officials and raised as part of the Advance Notice of Proposed Rulemaking. This would allow better opportunities for a complete airing of the issues the Commission is considering.

7. Are national authorities in countries receiving exported U.S. waste technically competent to understand what they are receiving and agree to its receipt?

Response: The Staff is unaware of any extensive U.S. exports of low-level waste for disposal to foreign countries; but it should be noted that current regulations do not provide for data collecting concerning such wastes. However, the Staff is aware of some foreign countries, which, by their own admission, do not believe they have regulatory programs sufficient to protect the public. Some of these countries have requested assistance through international agencies. We are also aware of efforts by IAEA to seek information on radioactive waste regulatory and notification procedures currently used by foreign countries. This effort is in conjunction with the work now underway by IAEA to develop a draft international voluntary Code of Practice for transboundary movement of radioactive waste.

8. What consideration, if any, should be given to the capability and ability of a recipient country to safely manage and dispose of radioactive wastes, recognizing that NRC would have no authority to deny a license on these grounds?

Response: The long-standing U.S. foreign policy position on this issue is that the United States Government opposes direct regulation of hazardous or radioactive exports (i.e., making determinations of the capability or ability of other countries to handle such wastes) because this ". . . . amounts to impermissible regulation of the domestic affairs of sovereign nations." This was also the predominant view of Member States represented at the first meeting of the IAEA Experts Working Group, convened to develop a draft international voluntary Code of Practice for Transboundary Movement of Radioactive Waste.

However, in the interest of domestic and international health and safety, the NRC should continue to provide technical and regulatory assistance to less developed countries, through both bilateral and international agency activity, to enhance the capability and ability of these countries to manage and dispose of radioactive waste safely (see response to Question 4).

9. Does exporting some or all categories of waste help to solve a significant problem in the U.S., such as limited available disposal capacity?

Response: Regardless of whether wastes are exported or disposed of within the United States, all States under the LLRWPA, as amended, are responsible for providing for disposal capacity for the wastes generated within their borders. As discussed in Question 10, exporting some wastes may make it more difficult for some Compacts to implement this responsibility, if the export cannot adequately be evaluated and controlled. If, however, the Compact can establish a reliable arrangement with a foreign company to dispose of any of the Compact's wastes, such an arrangement could be one way of solving the problem of implementing each member State's responsibilities under the LLRWPA.

10. Would exporting the waste adversely affect the economic viability of disposal facilities for State Compacts?

Response: Potential effects on the economic viability of disposal facilities would vary from Compact to Compact. Pertinent variables to be considered in assessing the effects on any one Compact region would include: the total volume of wastes to be disposed of at the regional facility; the types of waste to be exported, the capital and operating costs of the facility to which the exported waste would otherwise have been shipped for disposal; and the possibility that international or inter-Compact arrangements for the import of other wastes from outside the region could make up for some of the volume lost to export.

[FR Doc. 90-2806 Filed 2-6-90; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 9

[Docket No. 90-3]

Fiduciary Powers of National Banks and Collective Investment Funds

AGENCY: Comptroller of the Currency, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Office of the Comptroller of the Currency ("Office" or "OCC") is

proposing to amend its regulations governing the exercise of fiduciary powers by national banks. The intent of these amendments is twofold: First, the proposed rule is intended to codify recent court decisions regarding collective Individual Retirement Account ("IRA") funds; and second, the proposed rule is intended to liberalize and make less burdensome the requirements of 12 CFR 9.18, regarding the management of collective investment funds by institutions exercising fiduciary powers, in a manner which would preserve appropriate protection for trusts and persons with interests therein.

In addition to the codification of recent court decisions that authorize national banks to establish collective IRA funds which are registered with the Securities and Exchange Commission under the Investment Company Act of 1940, the proposal also would authorize the establishment of such registered collective funds whose assets consist of Keogh accounts or any other retirement accounts authorized under sections 401 and 408 of the Internal Revenue Code (26 U.S.C. 401 and 408).

The proposed rule would also eliminate certain federal regulatory provisions which presently: (1) Limit the participation in certain collective investment funds, (2) limit the investment by the institution administering such funds, (3) prohibit the charging to a fund of costs and expenses incurred by its managing institutions, and (4) prohibit the advertising by institutions managing certain types of funds. The proposal would also broaden the authorization for closed-end funds, streamline the approval process for new types of funds, clarify the authorization for investment by funds in variable-amount notes, and clarify the status of certain tax-exempt funds.

DATES: Written comments must be submitted on or before May 8, 1990.

ADDRESSES: Comments should be directed to: Communications Division, 5th Floor, 490 L'Enfant Plaza East, S.W., Washington, DC 20219; Attention: Jacqueline England; Docket No. 90–3. Comments will be available for public inspection and photocopying at the same location.

FOR FURTHER INFORMATION CONTACT: Dean E. Miller, Deputy Comptroller, Compliance, (202) 447–0447; Donald N. Lamson, Assistant Director, Securities and Corporate Practices Division, (202) 447–1954; or William Glidden, Assistant Director, Legal Advisory Services Division, (202) 447–1880; Office of the Comptroller of the Currency.

SUPPLEMENTARY INFORMATION: The Office is proposing several revisions to its regulations (12 CFR 9.18) governing the administration of collective investment funds [1] by national banks. The revisions, if adopted, would also affect collective investment activities undertaken by federally-chartered savings and loan associations, under existing regulations of the Office of Thrift Supervision ("OTS"). Because common trust funds qualifying for tax-exempt status are required by section 584 of the Internal Revenue Code of 1986, as amended ("IRC"), to comport with 12 CFR 9.18, the proposed changes, if adopted, will also facilitate efficient administration of common trust funds by state-chartered banks, trust companies, and other institutional fiduciaries. The proposed changes are intended to relieve certain federal regulatory burdens on institutions which manage collective investment funds, in a fashion which preserves appropriate protections afforded under state and federal fiduciary law and regulations to settlors, beneficiaries, and remaindermen of trusts participating in collective investment funds.

Background

The Office published an advance notice of proposed rulemaking requesting public comment on the Comptroller's regulations applicable to collective investment fund operations (47 FR 27833, June 25, 1982). The Office specifically solicited comments on several subjects which had been raised previously by interested parties. These included: (1) Operations of guaranteed insurance contract funds similar to products being marketed by insurance companies; (2) establishment of commingled agency accounts; (3) commingling of Keogh trusts with corporate employee benefit funds; (4) establishment of common trust funds for individual retirement accounts; (5) advertising of common trust funds; and (6) commingling of charitable trusts with employee benefit trusts. The Office indicated at that time its intention to undertake a comprehensive review of the collective investment fund regulation. In a related action, the Office requested additional comments on a series of final revisions to 12 CFR part 9 (47 FR 27828).

The Office received over 70 comments, ranging from multi-faceted deregulatory proposals to suggestions and complaints regarding particular technical provisions of 12 CFR 9.18. Few if any commenters requested that the Office maintain the existing provisions of the regulation; technological advances and new customer needs have, according to commentators, made several provisions obsolete or even counter-productive. In other cases, it was asserted that federal regulation is unnecessary in view of more restrictive state law.

In November 1984, the Office suspended its consideration of appropriate revisions to 12 CFR 9.18, due to the litigation which arose from the OCC's approval of national bank established collective IRA funds. The OCC determined that, under the circumstances, significant changes to section 9.18 would be premature during the pendency of the court cases. In view of the favorable disposition of the litigation (*Investment Company Institute* v. *Clarke*, 789 F.2d 175 (2d Cir. 1986), *cert. denied*, 107 S. Ct. 422 (1986); *Investment Company Institute* v. *Conover*, 790 F.2d 925 (D.C. Cir. 1986), *cert. denied*, 107 S.Ct. 421 (1986); *Investment Company Institute* v. *Clarke*, 793 F.2d 220 (9th Cir. 1986), *cert. denied*, 107 S. Ct. 422 (1986); *Investment Company Institute* v. *Clarke*, No. 86–3725 (W.D.N.C. August 25, 1986, appeal withdrawn by stipulation, Jan. 6, 1987)), the OCC is now in a position to continue the revision of section 9.18.

The Office has evaluated several new issues raised in the public comment letters and has incorporated in the proposed rule several revisions suggested by commenters. As part of this rulemaking proceeding, the Office has not endorsed any specific revisions to federal statutes or regulations, or interpretations thereof, promulgated by other federal agencies.

The proposed rule, if adopted, would promote several important economic and public policy objectives. Among other things, the revisions to the collective investment rules would enable modern institutional fiduciaries to reduce their management costs and administer fiduciary assets in a more flexible and effective manner. Further, the proposed rule eliminates the federal law in those instances where it has been determined that deference to local law is appropriate. Thus, absent any specific federal requirements, the collective investment fund will be guided by local law. By directing collective investment

[1] The term "collective investment fund" is used throughout this Preamble to denote both comment trust funds for private trusts, on the one hand, and collective trusts for pension, profit-sharing, and other tax-exempt accounts, on the other hand. The latter collective trusts also are referred to herein as "employee benefit funds", which are established under the authority of 12 CFR 9.18(a)(2). Accounts eligible for commingling in employee benefit funds may, if held in trust, alternatively be commingled with private trusts in a common trust fund. *See* 12 CFR 9.18(b)(2).

fund administrators to comply, in certain instances, with local trust law applicable to trustees generally, instead of purely federal standards applicable to institutions desiring to operate a fund in compliance with certain provisions of the IRC, the proposed revisions would ensure that local standards of fiduciary conduct are given appropriate weight and effect. At the same time, the proposed revisions imposed certain disclosure requirements which will preserve appropriate fiduciary protections for the settlors, beneficiaries, and remaindermen of trusts participating in a collective investment fund.

In connection with these proposals, the Office is soliciting comments from affected institutions, federal and state regulatory bodies, and interested trade associations. Because the proposals raise questions of direct interest to the Securities and Exchange Commission ("SEC"), the Department of Labor, the Internal Revenue Service, and the OTS, the Office contemplates that these agencies will provide their evaluation of the proposals and inform this Office of any regulatory response expected to be undertaken in reaction thereto.

Proposal

The Office proposes to take the following actions regarding 12 CFR 9.18, Collective Investment Funds:

(1) Eliminate the requirement for specific approval by an institution's board of directors prior to establishment of a collective investment fund, and eliminate the requirement for national banks to file fund plans of operation with the Office. *See* proposed § 9.18(b)(1);

(2) Clarify the participation in common trust funds by certain tax-exempt employee benefit funds. *See* proposed § 9.18(b)(2).

(3) Broaden the authorization permitting the establishment of "closed-end" collective investment funds, the assets of which are illiquid. *See* proposed § 9.18(b)(4);

(4) Eliminate the specific regulatory prohibition upon advertising the availability and performance of common trust funds, presently found in § 9.18(b)(5)(v);

(5) Eliminate the fixed percentage limitation on the interest a single participating account may have in a particular common trust fund, presently found in §§ 9.18(b)(9)(i) and 9.18(c)(3);

(6) Eliminate the fixed percentage limitation on the concentration of investment by a common trust fund in the obligations of any one entity, presently found in § 9.18(b)(9)(ii);

(7) Eliminate the liquidity requirement applicable to the assets of common trust funds, presently found in § 9.18(b)(9)(iii);

(8) Eliminate the federal limitations on the charging to a collective investment fund of fees and expenses incurred by an institution in the administration of the fund, presently found in § 9.18(b)(12), but require appropriate disclosure of such fees, whether charged to the fund or directly to participating accounts. *See* proposed § 9.18(b)(11);

(9) Eliminate the federal requirement that investments in variable-amount notes be made on a short-term basis, presently found in § 9.18(c)(2)(ii);

(10) Provide an expeditious procedure for the establishment of new types of funds. *See* proposed § 9.18(b)(5); and

(11) Codify the authorization permitting the establishment of registered collective investment funds whose assets consist solely of Individual Retirement Accounts, Keogh Accounts, or any other retirement accounts authorized by the Internal Revenue Code. *See* proposed § 9.18(c)(6).

The proposed change in Office procedures and other proposed deletions would reduce the federal regulatory burdens imposed by part 9. As discussed below, national banks administering collective investment funds would be required to submit to the Office written plans establishing those funds. Plans covering funds to be operated under authority of proposed § 9.18(c)(5) would still be submitted, but would benefit from an expedited review process described later in this Preamble. The requirement to submit plans constitutes a collection of information which has been submitted to the Office of Management and Budget for approval and assignment of control number 1557–0140.

The proposed change also provides a limited variance from compliance with the provisions of paragraphs (b)(5) and (b)(12) for those banks operating collective investment funds for IRA or similar tax-deferred retirement accounts that have determined to register such funds under the Investment Company Act of 1940 ("1940 Act"). In prior applications to establish collective IRA funds, banks have registered the funds under the 1940 Act rather than request an exemption from that Act from the SEC. The banks, however, felt that registration under the 1940 Act would cause a conflict with 12 CFR 9.18(b)(5) and (b)(12). Paragraph (b)(5) requires, generally, that an annual audit of a collective investment fund be performed by auditors responsible only to the board of directors of the bank. Paragraph (b)(12) requires that a national bank shall have the exclusive management of its collective investment fund. Section 10(c) of the 1940 Act, however, prohibits the majority of the board of directors of a registered investment company from being officers, directors, or employees of any one bank.

Although the Office has never determined that such a conflict between these provisions exists, in order to resolve any possible conflict between the Office's trust regulations and the 1940 Act, this proposal adds a limited variance from paragrahs (b)(5) and (b)(12) for those collective investment funds registered under the 1940 Act. The proposal provides that a bank shall not be in violation of paragraph (b)(5), provided that the bank has access to the periodic audits of the fund, nor will it be in violation of paragraph (b)(12), provided that the bank retains investment decision-making authority over the fund.

In addition to the revisions to 12 CFR 9.18 proposed by this Notice of Proposed Rulemaking, the OCC, at this time, also is considering revisions to another section of part 9. Specifically, the Office plans to revise the provisions of 12 CFR 9.10(a), regarding the investment of funds awaiting investment or distribution.

Discussion

1. *Establishment of new collective investment funds.* The Office now requires approval by the board of directors of a bank with fiduciary powers before the bank's trust department may establish or amend the written plan of a collective investment fund (12 CFR 9.18(b)(1)). Ten commenters indicated that the frequency of board meetings did not typically permit bank trust departments to move quickly to establish new funds in response to a rapidly changing financial environment. Several of these commenters stated that trust committees or bank officers had greater awareness of trust department operations and should be permitted to be generally authorized by a board of directors to initiate a fund without specific approval of the full board. Other commenters requested that the Office require only that the board approve a general policy for the establishment of funds, in order to allow trust departments more flexibility in creating a fund.

After due consideration, the Office proposes to abolish the prior approval requirement. Under the proposed revision, a bank's trust department would be able to establish or amend funds merely by following an existing board- or committee-approved procedure. The proposed regulation,

however, would maintain the requirement that written plans be prepared. The written plan would be required to contain information currently required of board-approved plans under 12 CFR 9.18(b)(1), plus additional disclosures appropriate under existing law and regulations. These additional disclosures would include charges of fees and expenses to a collective investment fund and its participants, and the expected frequency of distribution of income to fiduciary accounts. Although not contained in this proposed rule, the OCC is considering a requirement that all board members be fully informed of the establishment or amendment of collective investment funds by at least the next board meeting. Such requirement may be included in the final rule. Therefore, commenters are invited to address the need for creating a formal board notification requirement to ensure that all directors are fully informed of the creation of new funds under the proposal.

Existing 12 CFR 9.18(b)(1) also requires that each collective investment fund plan created by a national bank shall be filed with the Comptroller of the Currency. As a result of extensive study, the Office now believes that this filing requirement may be inefficient and unduly burdensome to the 514 national banks administering funds. Since 1979, financial institutions subject to the jurisdiction of the federal banking supervisory agencies have reported annually data on collective investment funds currently being administered, including the total market value of assets held by each fund and the number of accounts participating in each fund. This data provides the Office with adequate information concerning the more than 2,900 collective investment funds, with over $108 billion in assets, now administered by national banks. The Office therefore proposes to eliminate the filing requirement.

Previously, this Office customarily reviewed collective investment fund plans filed by national banks for overall compliance with 12 CFR 9.18. This review was performed by the Trust Activities Division staff in Washington, DC, only when specifically requested by the national bank filing a plan. Elimination of the filing requirement would result in a discontinuation of this informal preliminary review process. National bank examiners, however, would continue to review collective investment funds administration during the course of compliance examinations.

The filing requirement is retained as to national banks desiring to establish funds under the special exemption authority of proposed § 9.18(c)(5). Such filings will allow the Office to give proper consideration to fund proposals, and would be essential under the proposed disapproval procedure. (See the discussion of proposed special exemption procedure, below.)

2. *Tax-exempt status of employee benefit funds and accounts participating therein.* Two commenters suggested that the Office delete all specific references in 12 CFR 9.18 to laws and interpretations enforced by other agencies, such as the Internal Revenue Service. In 1963, for example, the Office incorporated Revenue Ruling 56–267, issued by the Internal Revenue Service, into the collective investment fund regulation. *See* 12 CFR 9.18(b)(2) (1964). This allowed participation in a fund, established by an institution under 12 CFR 9.18(a)(2), by employee benefit accounts which are tax-exempt under IRC 401(a) and managed by the institution in its capacity as agent, as long as the fund itself qualified for exemption from federal income taxation under IRC 501(a) and the Revenue Ruling. If a particular fund established under 12 CFR 9.18(a)(2) is not itself exempt from federal income taxation under IRC 501(a) and the Revenue Ruling, participation in the fund has been limited to employee benefit accounts which are exempt from federal income taxation under any provision of the IRC and are managed by the institution in its capacity as trustee. 12 CFR 9.18(b)(2). (Tax-exempt employee benefit accounts managed by the institution in its capacity as trustee may also participate in common trust funds established under 12 CFR 9.18(a)(1), subject to the additional requirements applicable to such funds. *See* 12 CFR 9.18(b)(2).)

The Office proposes to remove references in 12 CFR 9.18(b) to specific sections of the IRC. Specific references would be replaced with general references to the special tax status of a particular fund or trust. The reference in 12 CFR 9.18(b)(2) to Revenue Ruling 56–267, which has been superseded by Revenue Ruling 81–100, would be deleted. Similarly, the reference in § 9.18(b)(2) to section 401 of the IRC would be eliminated.

The Office believes that this revision will accentuate the fact that the trust regulations are promulgated as a matter of federal banking law and do not purport to rely in whole or in part upon authority arguably granted under specific provision of the IRC or amendments thereto, or rulings and interpretations thereunder. The Office believes that the fiduciary powers granted to national banks through application pursuant to 12 U.S.C. 92a are sufficiently broad to encompass the full array of collective investment arrangements permitted under these proposed amendments to 12 CFR 9.18.

3. *"Closed-end" collective investment funds.* In 1982, the Office approved closed-end collective investment funds for qualified employee benefit trusts at several national banks, under 12 CFR 9.18(c)(5). *See* Letters of C.T. Conover, Comptroller of the Currency, to D.E. Baudler, Morrison & Foerster (Crocker National Bank); to D.L. Heald (The First National Bank of Chicago); and to W.P. Wade (Bank of America, N.T. & S.A.) (Jan. 18, 1982). Until that time, national banks had been required to operate such funds on an open-end basis, appraising fund assets at least quarterly, at which time accounts could be admitted or withdrawn. The appraisal requirements and withdrawal provisions created difficulties when fund portfolios were invested in illiquid assets and/or assets with market values that can only be estimated, such as real estate, real estate mortgage loans, and long-term certificates of deposit. The Office codified its determination regarding closed-end investment funds in 12 CFR 9.18(b)(4).

The revision would extend the authorization to common trust funds. It would allow all funds established under 12 CFR 9.18(a), the assets of which are primarily invested in illiquid assets, to value assets annually and to require notice by a participant up to one year prior to withdrawal. (The Office previously has authorized the one-year prior-notice requirement only for employee benefit funds established under 12 CFR 9.18(a)(2) (47 FR 27828 (1982)).) The revision would promote the establishment, consistent with applicable fiduciary requirements, of special purpose collective investment funds by institutions administering employee benefit funds and common trust funds. Such funds would be more finely attuned to the convenience and needs of participating accounts. Institutions organizing such funds would be required, under the terms of existing 12 CFR 9.18(b)(1), to provide to prospective participants, in the plans of operation for the funds, accurate and comprehensive disclosures of all particulars of the operation and administration of the funds.

4. *Advertising prohibition on common trust funds.* Present 12 CFR 9.18(b)(5)(v) provides generally that an institution shall not advertise or publicize its common trust funds established under

12 CFR 9.18(a)(1). This prohibition was intended to ensure that common trust funds were used solely as collective investment vehicles for the convenience of an institution in the administration of its fiduciary accounts and that interests in such funds were not sold as investments to the general public. The prohibition evolved from a regulation adopted in 1937 by the Board of Governors of the Federal Reserve System (the "Board"), requiring that only funds held for a "bona fide fiduciary purpose" could participant in a common trust fund. *See* 2 FR 3440 (1937), amendment 1 FR 483 (1936), reprinted in 24 Fed. Res. Bull. 4 (1938) (Regulation F, section 17); 26 Fed. Res. Bull. 390, 393–94 (1940); 12 CFR 206.17(a)(3) (1961) (repealed Oct. 12, 1962). In 1945, the advertising prohibition became an integral part of the bona fide fiduciary purpose requirement. *See* 10 FR 8953 (1945); 41 Fed. Res. Bull. 142 (1955); 42 Fed. Res. Bull. 228 (1956).

The bona fide fiduciary purpose requirement was intended to ensure that a common trust fund have some purpose other than to obtain collective investment services, and that a fiduciary institution use common trust solely as a tool in the administration of such trusts. The commentary made to the Board prior to the adoption of the requirement suggests that the provision stemmed from a desire to prevent over-commercialization and speculation involving common trust funds. The Office originally adopted the requirement on September 28, 1962 (27 FR 9764; 12 CFR 9.17(a)(3) (1963)), when it assumed jurisdiction over national bank trust matters. *See* 76 Stat. 668, 12 U.S.C. 92a.

The Office, however, with the technical assistance of an Advisory Committee appointed by Comptroller James J. Saxon, reexamined (28 FR 1111) and subsequently deleted the Board's bona fide fiduciary purpose requirement from the regulation, effective April 5, 1963 (28 FR 3309). The Office retained a modified restriction in 12 CFR 9.18(b)(5)(v) on advertising by banks of their common trust funds established under 12 CFR 9.18(a)(1).

The Office's general position has been that the "bona fide fiduciary purpose" clause of the Board's Regulation F was not dictated by statutory requirements and that the elimination of that requirement by the Comptroller represented a more liberal policy towards otherwise permissible bank activity. 110 Cong. Rec. 833 (1964) (Letter of Comptroller of the Currency Saxon to Senator Robertson dated Jan. 20, 1964). The "bona fide fiduciary purpose" language was abandoned because "it lacked any definable meaning and was misunderstood by many." Gerber, "Current Legal and Regulatory Development", 1 National Banking Review 140 (1963). The Office was of the opinion that the regulations affecting administration of common trust funds "must be definite and well understood, and a phrase of this nature [*i.e.*, 'bona fide fiduciary purpose'] has no place or value therein." Letter of Comptroller Saxon to all national banks and state banks operating common trust funds (April 5, 1963). An advertising restriction, on the other hand, was retained "to impose disclosure requirements for the protection of persons interested in common trust funds, in a format consistent with bank regulation and the public interest." *Id.* The advertising provisions imposed by the Office were, in its view, more strict than those of the Board's Regulation F. *See* 110 Cong. Rec. at 834 (1964).

By informal interpretation of the provision, this Office in the past has permitted advertising of a common trust fund only if the particular solicitation made to a prospective customer constituted a bona fide promotion of the services offered by a fiduciary, and not a promotion of the fiduciary's common trust fund(s). The Office, however, has never questioned the authority of an institution to advertise specific fiduciary services that it offers. Thus, the Office generally has not restricted references by a national bank to its common trust funds in advertisements for the bank's general trust services. Also, the Office has deemed it permissible for an institution to publicize surveys of common trust fund performance statistics, including the rate of return, if the surveys were compiled by an independent source on a national basis. *See* Letter of D.R. Johnson, Director for trust Operations (Nov. 11, 1977), reprinted in [1978–1979] Fed. Banking L. Rep. (CCH) ¶ 85,068. Although the Office has deemed it improper for a national bank to publicize statistical comparisons by specific reference to the performance of any other institution's common trust fund, the Office has permitted comparisons of fund performance with the average performance of all funds of a particular type (*e.g.*, fixed-income funds, general equity funds, balanced funds, short-term fixed-income funds, special equity funds, municipal bond funds, and mortgage and real estate funds). The Office also has permitted national banks to publish comparisons of fund performance with national investment return indices such as Standard & Poor's 500, the Salomon Brothers Index, the Lehman Kuhn Corporate and Municipal Indices, and government security indices.

Twenty-eight commenters supported elimination of the advertising restriction. Several commenters argued that trust customers, who already have indirect access to collective investment fund performance statistics throug annual comparisons published by national trade journals, would be better served if, through direct advertisements, institutions sponsoring funds could provide specific performance comparisons to other funds rather than merely to general market indices. The commenters generally acknowledged, however, that the federal securities laws would be applicable to any bank advertising its common trust funds, and that misleading promotions should be prohibited.

As fiduciary institutions have increased the variety of services offered and have improved their collective investment operations, the distinctions required to be drawn under the advertising restrictions between permissible promotion of fiduciary operations and impermissible solicitation of a participation in a common fund have become increasingly blurred. In many cases, the determination of which service is being promoted by trust advertisements, and to what extent, amounts to an arbitrary and futile venture. Moreover, the advertising prohibition has limited the amount of information readily available to trust grantors for use in evaluating the investment management ability of a potential institutional trustee. Although past investment performance of a common trust fund cannot and should not be used as a basis to predict future results, information concerning past performance does provide quantitative evidence of the ability of a particular trustee to effectively manage trust assets. Portfolio management ability, in turn, is an important factor for a grantor to use in assessing the ability of a potential fiduciary manage a smaller, individual account, whether or not such account is created primarily to benefit from collective investment.

Furthermore, financial institutions (banks, trust companies, and thrifts) have developed substantial expertise in the area of funds management. Of the 4,702 institutions with fiduciary powers in 1988, 675 administered collective investment funds.

These funds managed $345.2 billion in assets (30% of total discretionary trust assets), with contributions from more than 1.675 million accounts. Almost 25% of these collectively invested assets ($84.7 billion) were managed in common trust funds for personal trusts. Federal Financial Institutions Examination Council, Trust Assets of Financial Institutions—1988, at 5–7, 75–76.

As the above statistics demonstrate, banks and trust companies manage significant amounts of trust assets through the operation of collective investment funds. Because of this fact, and for reasons indentified above, the Office is concerned that the current restriction in 12 CFR 9.18 (b)(5)(v) may unduly restrict advertising activities concerning common trust funds, which represent a significant portion of the collective-investment services managed by such institutions. Thus, in order (1) To increase the quantity and quality of financial information available to settlors and other interested trust customers, and (2) to eliminate the need to speculate as to the true intentions of trust settlors who create valid trusts under applicable state law, the Office is proposing to eliminate the prohibition on common trust fund advertising.

In establishing common trust funds, fiduciary institutions are subject to a host of duties and restrictions imposed by state law, and, in the case of federally chartered institutions and state-chartered institutions desiring tax-exempt treatment for their funds, federal law as well. These obligations are designed to prevent breaches of trust and potential conflicts of interest which could result in harm to settlors, beneficiaries, and remaindermen of the trusts participating in the common trust fund. The Office does not consider the advertising prohibition in its regulation to be necessary, in the ordinary course, to the satisfaction of general fiduciary obligations by institutions choosing to administer common trust funds. An advertising prohibition is not necessary because, among other things, a wide range of advertising activities exists which would violate the present regulation, but would not necessarily conflict with the fiduciary's underlying responsibilities.

The Office recognizes, however, that there may be some types or levels of promotional activities (including certain misleading advertising) which may rise to the level of violating these fiduciary responsibilities. Hence, the Office solicits comments as to the adequacy of the antifraud protections afforded by existing state and federal laws and regulations, and the necessity and desirability for this Office to develop comprehensive advertising guidelines to compensate for any perceived inadequacies in that regard.

Similarly, the Office recognizes that the Glass-Steagall Act (48 Stat. 162, codified at various sections of 12 U.S.C.), which does not address bona fide bank fiduciary services, does not require the imposition of restrictions on the advertising of such services. Rather, a bank, whose fiduciary services are otherwise permissible under state and federal law, may advertise such service without restriction and without violating the Glass-Steagall Act. Inasmuch as it has long been recognized that bank collective investment funds established for legitimate fiduciary purposes are permissible under state and federal law, such funds, too, may be advertised without restriction. The fact that a bank advertises its collective trust fund does not alter the fund's valid fiduciary nature or character. Thus, there is no basis in law or policy to restrict the advertisement of collective trusts funds. *See Franklin National* v. *New York*, 347 U.S. 373 (1953).

In this regard, recently concluded litigation supports the OCC's position that advertising does not determine the propriety of collective investment trust activities under the Glass-Steagall Act. In *ICI* v. *Clarke*, 630 F. Supp. 593 (D. Conn. 1986), *aff'd*, 789 F.2d 175 (2d Cir. 1986), *Cert. denied*, 107 S.Ct. 422 (1986), the district court found that the collective investment IRA trust established by the bank in question did not violate the Glass-Steagall Act "merely because the availability of the Fund is advertised to the public." The court, in citing *Franklin National Bank* v. *New York*, 347 U.S. 373 (1953), held that national banks are permitted to advertise the services that they lawfully may offer to the public, which includes collective IRA trust accounts.[2, 3]

Although the Glass-Steagall Act does not prohibit national bank advertisement of collective investment trust funds, the SEC, in its interpretations of the 1940 Act (54 Stat. 789, 15 U.S.C. 80a-1 to 80a-85),[4] and Securities Act of 1933 (48 Stat. 74, 15 U.S.C. 77a-77aa) (the "Securities Act"),[5] has issued several opinions that impact upon the nature of common trust fund advertising activities.

Both the 1940 Act and the Securities Act exempt common trust funds from their respective registration requirements. *See* section 3(c)(3) of the 1940 Act and section 3(a)(2) of the Securities Act. However, the SEC, the federal agency with primary administrative jurisdiction under these statutes, has imposed restrictive interpretations upon each exemption. The SEC, in several no action and interpretive letters, has permitted a common trust fund to qualify under the relevant exemption only if the fund meets the bona fide fiduciary purpose test, originally promulgated by the Federal Reserve Board under old Regulation F. *See* Hibernia National Bank of New Orleans (avail. Sept. 24, 1986); Burke & Herbert Bank & Trust Co. (avail. Dec. 4, 1985); Centerre Trust Company of St. Louis (avail. Nov. 12, 1984); Drexel Trust Co. (avail. Oct 12, 1983); Interfirst Corp. (avail. Nov. 24, 1982); Provident National Bank Middle Market Trust Program (avail. Feb. 17, 1982); United Missouri Bank of Kansas City, N.A. (avail. Dec. 31, 1981); and "Common Trust Funds—Overlapping Responsibility and Conflict in Regulation: Hearings Before the Subcomm. on Legal and Monetary Affairs of the House Comm. on Government Operations," 88th Cong., 1st Sess. 3–6 (1963) (statement of SEC Chairman W.L. Cary) (*"1963 Hearings"*). It has been the opinion of the SEC's staff that the promotion or advertising of a common trust fund seriously jeopardizes the fund's ability to meet the bona fide fiduciary purpose test, and therefore, also, the availability of each exemption.

This Office recognizes, however, that the SEC applies the bona fide fiduciary purpose test as part of a criterion to determine whether a common trust fund must register under the 1940 Act or the Securities Act. This purpose in applying the standard is wholly distinct from this Office's duty to examine and regulate

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[2] Courts in the Distsrict of Columbia, California and North Carolina, similarly found that the advertising of collective investment IRA trusts does not violate the Glass-Steagall Act. *See ICI* v. *Conover*, 790 F.2d 925 (D.C. Cir. 1986), *cert. denied*, 107 S.Ct. 422 (1986), *ICI* v. *Clarke*, 793 F.2d 220 (9th Cir. 1986), *cert. denied*, 107 S.Ct. 422 (1986), *ICI* v. *Clarke*, No. 86-3725 (W.D.N.C. August 25, 1986), appeal withdrawn by stipulation, Jan. 6, 1987.

[3] These courts held that advertising was possible because it did not undermine the fiduciary purpose of the participating trusts. The same must be true for all trusts which participate in any common trust fund permitted by this regulation.

[4] The 1940 Act was designed, among other things, to provide investors in investment companies, such as mutual funds, information necessary for making an investment decision. Investment companies are required to comply with the Securities Act (see below) and to file any advertisement or other sales literature with the SEC within ten days of distribution. 15 U.S.C. 80a-24(b). Investment companies are subject to criminal liability for supplying misleading information. 15 U.S.C. 80a-48. The 1940 Act also imposes various constraints on the operations and capital structure of investment companies. *See* 15 U.S.C. 80a-10, -15, -17, -18, -19, -21, -22. In *obiter dicta*, the Supreme Court has stated that all common trust funds administered by banks would be regulated as investment companies under the 1940 Act were such funds not exempted from the Act's coverage. *Board of Governors of the Federal Reserve System* v. *Investment Co. Institute*, 450 U.S.C. 46 at 55–56 (1980) (*"ICI II"*).

[5] The Securities Act is intended to provide full and fair disclosure of the character of securities and to prevent fraud in the offer and sale thereof. Ch. 38, 48 Stat. 74 (1933). Section 5 of the Securities Act makes it unlawful for any person to use "any means of instruments of transportation or communication in interstate commerce or of the mails" to sell a security, unless the person files a registration statement with the SEC and makes the prospectus conform to the requirements of the Securities Act. 15 U.S.C. 77e. The Securities Act requires that a prospectus accompany any written offer to sell a security (15 U.S.C. 77e, 77b(10)), with effectively limits any written advertising that would otherwise occur before the effective date of the registration statement. The Securities Act also applies certain antifraud provisions to offers and sales of securities. 15 U.S.C. 77q(a).

the fiduciary activities of national banks. Thus, the criterion used by the SEC to determine whether registration of a common trust fund is required is of no regulatory concern to this Office and need not be employed to determine whether the trust activity is permissible. Commenters, however, are requested to address the advisability or efficacy of the proposed deletion of the advertising restriction, in light of the SEC's interpretations of the 1940 Act and the Securities Act.

Although the Office does not propose to impose any affirmative regulatory requirements designed to assure that all trusts participating in a common trust or collective investment fund be established for a bona fide fiduciary purpose, participating accounts may not be established for the sole purpose of collective investment. *See ICV* v. *Clarke*, 630 F. Supp. 593, *Supra*. The prohibition on advertising as provided in the Board's old Regulation F, and later adopted in the Comptroller's original regulation, was a device used to determine whether a trust was established solely to participate in a collective investment vehicle. While the Office believes that the advertising prohibition is not necessary to achieve the purpose for which it was created, the Office's proposal to delete the restriction on advertising in no way changes the obligation that trusts participating in a common trust fund be established other than for the sole purpose of investment. The elimination of the advertising regulation will, in some respect, place on bank management a responsibility to ensure that collective funds are not created solely as investment vehicles. Likewise, national bank examiners will closely monitor common funds and the participating trust to ensure that both are being conducted legally under the national banking laws and applicable fiduciary requirements.

Because the creation of collective funds is a legitimate bank fiduciary activity which will be conducted according to the specific needs of the bank's customer base and the bank's own business judgement, the Office does not propose to enumerate specific criteria designed to determine whether a collective fund or the separate trusts invested therein are designed solely for investment. In the OCC's view, however, trusts established for the sole purpose of investment in a common trust fund or collective investment fund would not be eligible to participate in such comon trust or collective investment funds.

The Securities Exchange Act of 1934 ("1934 Act") contains antifraud provisions (15 U.S.C. 78j(b)) which apply to transactions in connection with the purpose or sale of any security. For purposes of the 1934 Act, a "security" includes a "certificate of interest or participation in any profit-sharing agreement * * *, investment contract * * * for a security, or in general, any instrument commonly known as a 'security' * * *" 15 U.S.C. 78c(a)(10). Similarly, the antifraud provisions of the Securities Act apply to the offer and sale of any "security," including securities otherwise exempt from the applicability of the Securities Act. 15 U.S.C. 77q(c). Based upon broad judicial interpretations of the 1934 Act, the antifraud provisions of the 1934 Act and the 1933 Act arguably apply to all collective investment funds, including common trust funds. The Office notes, however, that the inclusion of collective investment trusts within the broad definition of "securities" for purposes of the securities laws does not render such trusts "securities" for purposes of the Glass-Steagall Act. *See, e.g., Investment Company Institute* v. *Conover*, 596 F. Supp. 1496, 15012 (D.D.C. 1984), *aff'd* 790 F. 2d 925 (D.C. Cir. 1986), *cert. denied* 107 S.Ct. 421 (1986).

Antifraud protection is, of course, relevant to advertising related to collective investment funds. In 1972, this Office removed a limitation on promotion by national banks of employee benefit funds (37 FR 24161). That decision was based on the fact that state-chartered banks were not subject to the limitation. Since that time, the Office nevertheless has admonished institutions promoting employee benefit funds that such advertising should comport with the antifraud provisons of the federal securities laws and, where relevant, the standards of the National Association of Securities Dealers.

Therefore, in connection with the proposed elimination of the advertising prohibition applicable to common trust funds, the antifraud provisions of the 1934 Act and the Securities Act and SEC rules promulgated thereunder, in particular Rule 10b–5 (17 CFR 240.10b–5), should apply both to common trust funds and to employee benefit funds. In monitoring national banks' advertising of the existence and performance of their common trust funds under the proposed revision to 12 CFR 9.18(b)(5), however, national bank examiners also will refer to state common law standards for deceit and misrepresentation. The Office believes that these standards, combined with the improved disclosures to be required of banks administering collective investment funds, will adequately protect settlors who rely on such advertising in establishing trust that will be contributed to an advertised common trust fund.

5. *Participation and investment limitations of common trust funds.* The Office is proposing to eliminate two quantitative federal limitations that now apply to the operation of common trust funds. To prevent undue domination of a fund by a single large participating account, and to facilitate the participation of small trusts in a fund, 12 CFR 9.18(b)(9)(i) currently prohibits managing institutions from allowing any participating account to have an interest in a fund in excess of 10 percent of the market value of the fund. To ensure diversification of each fund's portfolio, 12 CFR 9.18(b)(9)(ii) currently forbids investment by an institution operating a common trust fund in an amount in excess of 10 percent of the fund's market value in obligaions of any one "person, firm, or corporation * * *." The Office is of the opinion that these federal restrictions can in fact at times interfere with optimal management of common trust fund assets by fiduciaries, and that the protections provided by these percentage limitations can be maintained adequately through reliance upon state law. The Office therefore proposes to remove the restrictions.

A. Participation Limitation. The participation limitation, 12 CFR 9.18(b)(9)(i), which has been in existence since 1937, provides in effect that any common trust fund must have at least ten participating trust accounts. While it served its purposes well in a business and legal environment which effectively restricted innovations in collective fund management, the participation limitation may well inhibit and delay the creation of new vehicles which would improve the quality of bank fiduciary management services. Moreover, by impeding the creation of new funds, the participation limit unnecessarily restricts the trustee's investment options as to newly contributed trust accounts. Therefore, to the extent that the participation limitation delays the creation of new in-house investment options, it also may impede efficient trust account administration. The participation limitation may also affect an account which exceeds the 10-percent limit, due solely to withdrawals by other participating accounts, by requiring the trustee to withdraw at least the excess, which may cause the trust account to recognize a loss for federal income tax purposes.

Removal of the 10-percent participation restriction would not only alleviate the above problems but would

give fiduciaries greater flexibility. The revision would allow fiduciary institutions to create, within the constraints of local fiduciary investment standards, special purpose common trust funds, such as ones holding illiquid assets with substantial appreciation potential, for the benefit of the relatively few trust accounts for which such investment is otherwise authorized. A few commenters requested establishment of a specific exemption to the participation limit for such specialized funds; none supported the existing comprehensive limitation.

The participation limitation was in large part designed to provide extra protection for small participating trusts over and above the normal fiduciary responsibilities delineated by state law. Several commenters point out that such an accretion to applicable state law is fundamentally unnecessary, inasmuch as states uniformly may impose, and in fact have imposed specific participation limits which are as strict as, or stricter than, the existing federal limitations. The trend has been to adopt limits similar to the federal limits, *see, e.g.*, 3 N.Y. Codes, Rules, and Regulations 22.3 (1986); Hawaii Rev. Stat. 406–28 (1985).

On the basis of its past experience in the administration of the federal limitation, and in the general supervision of trust activities of national banks, the Office believes that the participation limit now may provide only a limited incremental increase in protection to small trusts. The Office, therefore, proposes to abolish the federal participation restriction, thereby providing fiduciary banks and trust companies with maximum flexibility in maintaining and improving investment performance in a changing economic environment. However, it is intended that the elimination of the participation limitation will not affect the ability of those parties who are harmed by a trustee's admission of trust assets into a common trust fund dominated by one or more large participating accounts from bringing suit for breach of trust and recovering damages therefor.

Related to the deletion of the participation limitation is a proposed amendment to 12 CFR 9.18(c)(3). That paragraph provides authority for fiduciaries to create a "mini-fund" which may not: (1) Exceed $100,000, (2) have more than 100 participants, or (3) have an individual participation in excess of $10,000. Mini-funds operated under § 9.18(c)(3) are not subject to any of the specific requirements or prohibitions embodied in § 9.18(b), including the requirements for filing fund plans (12 CFR 9.18(b)(1)) and preparing annual reports (12 CFR 9.18(b)(5)). In addition, mini-funds do not have to be audited annually, although sound fiduciary and banking practices may require the bank administering the fund to conduct a periodic audit.

For the reasons stated above, the Office proposes to remove the $10,000 participation limit applicable to mini-funds. Such funds would continue to be subject to state fiduciary standards, which will adequately deter improper domination of a fund by any single participating account. Funds operated as mini-funds under the proposal would continue to be subject to the $100,000-asset maximum and the 100-participation maximum.

Such funds, generally, would be exempt from the provisions of 12 CFR 9.18(b). Mini-funds also would continue to be subject to the interpretation of the Office which prohibits participation by agency accounts and limits participation to accounts maintained in the capacities specifically enumerated in 12 CFR 9.18(a)(1) for common trust funds.

In analyzing the proposed revision to the mini-fund provision, commenters are requested to address the continuing need for the special mini-fund authority in 12 CFR 9.18(c)(3). Deletion of this authority, in conjunction with the proposed removal of the participation and investment limitations from 12 CFR 9.18(b)(9), would allow fiduciaries flexibility to establish mini-funds, subject to appropriate limitations grounded in applicable state law. In this regard, however, commenters should note that the elimination of § 9.18(c)(3) would shift the authority for mini-funds to § 9.18(a)(1), and would thus impose new administrative burdens on such funds under § 9.18(b), such as the periodic audit requirement of § 9.18(b)(5)(i).

B. Investment Limitation. The investment limitation of 12 CFR 9.18(b)(9)(ii) has been interpreted by the Office to prohibit investment of more than a total of 10 percent of a common trust fund in any family of mutual funds having "common management."

See Letter of D.E. Miller, Deputy Comptroller for Specialized Examinations (June 11, 1981), reprinted in [1981–81] Fed. Banking L. Rep. (CCH) ¶ 85,280. This interpretation required banks to aggregate investment shares of investment companies having the same investment adviser. It was based upon a perceived need to preserve the principle of risk diversification.

The Office subsequently revised this interpretation. In Trust Examining Circular No. 19, the Office indicated that it would no longer object to common trust fund investments in the shares of several investment companies which have the same investment adviser, up to a maximum of 50 percent of the market value of the fund. This change in supervisory policy was accompanied by the following rationale:

> Since 1981, experience has shown that the portfolios of funds managed by the same investment advisor commonly are not identical and do not have identical investment objectives. A universal 10 percent rule is now thought to be unnecessarily restrictive in such circumstances, since diversification can be satisfactorily accomplished by other means. As a matter of normal bank operating procedures, these matters should be reviewed at least annually to determine whether trust department holdings should be decreased, increased or maintained at the same level. At that time, diversification of individual account holdings and those for the bank overall are checked.

The 50-percent per adviser limit was created as an expeditious interim measure, pending the publication of this Notice of Proposed Rulemaking. The Office now proposes to abolish the 10-percent investment diversification rule altogether.

Banks operating common trust funds, including national banks with trust powers granted under 12 U.S.C. 92a, are subject to state laws regarding various decisions, including the decision to admit a portion of a trust account to a particular fund, and the decision to diversify or specialize the investments of the fund itself. *See* 12 CFR 9.11(a). Trust beneficiaries generally have standing to invoke equity jurisdiction to challenge a trustee's prudence in managing a common trust fund. *See First Alabama Bank of Montgomery, N.A.* v. *Martin*, 425 So. 2d 415, 423 (Ala.) *cert. denied*, 461 U.S. 938 (1983). The trustee's fiduciary duty both to preserve trust corpus and to make it productive is not diminished or circumvented by the creation and management of a common trust fund. For example, otherwise prudent decisions by a fiduciary acting as trustee to invest portions of a particular trust in a bond fund and in an equity fund do not terminate a court's jurisdiction in equity over the fiduciary's investment management activity as administrator of those two funds. Failure by the fiduciary, as administrator, to invest the assets of the funds prudently, within reasonable criteria designed to permit each fund to achieve its purposes, may result in a class action against the fiduciary and, ultimately, a surcharge award payable to the mismanaged fund. Thus, whether or not a fund administrator complies with the existing investment diversification regulation, civil liability

generally will attach only when a court finds that the administrator has breached duties imposed upon a trustee under state law. *See* Restatement (Second) of Trust 227 (1969); Scott, The Law of Trusts 227 (3d ed. 1967).

The Office believe that applicable state common law and statutory "prudent trustee" standards will adequately deter institutional fiduciaries from making imprudent investment decisions in the course of operating their common trust funds. The existing federal quantitative investment restriction does not take into account the circumstances of a particular common trust fund's portfolio or a particular investment therein; instead, investment concentrations are limited to a flat 10 percent. Because civil liability ultimately depends upon the particular circumstances and indeed may result whether or not a fund administrator violates the federal regulation, the Office views the investment limit as a burden upon institutions managing common trust funds which no longer may be necessary under present conditions.

Despite the proposed removal of the quantitative investment restriction, however, national bank examiners will continue to scrutinize the portfolios of collective investment funds operated by national banks. In certain cases, an investment concentration of even less than 10 percent of fund assets may be deemed imprudent. Further, while a national bank may be acting prudently if an investment was made in accordance with the advice of local counsel, the Office nonetheless reserves the right to review interpretations of national bank counsel concerning local trust law and to conclude in appropriate cases that particular investment concentrations are unsafe or unsound. (In this regard, see the discussion below of deference to opinions of counsel.) In some cases, this could result in a directive from this Office or formal administrative action requiring a national bank to take appropriate corrective action, and to compensate its common trust fund for any attributable losses.

C. Liquidity Limitation. The Office also proposes to remove the liquidity provisions of existing 12 CFR 9.18(b)(9)(iii), as liberalized in 1982 (47 FR 27828). That paragraph requires a bank administering a collective investment fund to maintain, in cash and readily marketable investments, such percentage of the assets of the fund "as is necessary to provide adequately for the liquidity needs of the fund and to prevent inequities among fund participants." Although the proposed revision would eliminate the federal standard, both the diversification and liquidity of common trust funds would be subject to applicable local fiduciary standards. Relevant state fiduciary requirements, inasmuch as they would prohibit a trustee from causing an improper concentration of trust assets in illiquid investment media, provide adequate assurances of liquidity as well as diversification. Under this proposal, it is assumed that a fiduciary administering a common trust fund would, under applicable state law, be prevented from allowing further admissions to or withdrawals from the fund if a substantial portion of the fund assets remaining after prior admissions and withdrawals is unmarketable.

Moreover, the liquidity requirements are unnecessary, given the Office's experience with funds established under paragraph (a)(2), which are not subject to such requirements. The Office has found that (a)(2) fund administrators, generally, provide adequately for their funds' liquidity needs even though they are not subject to paragraph (b)(9)(iii). Since there is no apparent reason why (a)(1) administrators would not provide for adequate liquidity in the same manner as (a)(2) administrators, there appears to be no reason to retain the liquidity requirement of paragraph (b)(9)(iii). Fund administrators, however, should note that although the federal liquidity requirement is being delected, collective funds must maintain sufficient liquidity to meet withdrawals, as provided by 12 CFR 9.18(b)(4).

In connection with the Office's proposal to delete the investment, liquidity, and participation limitations in 12 CFR 9.18(b)(9) and 9.18(c)(3), the Office notes that some states, while having well-developed principles of fiduciary account administration, have not heretofore specifically applied such standards in the context of common trust funds. The Office requests that interested parties comment on any significant differences between the protection offered by the laws of particular states to accounts participating in common trust funds and the protection offered to trust accounts in general.

6. *Fees and expenses.* Under existing 12 CFR 9.18(b)(12), an institution may charge a fund for certain reasonable costs and expenses incurred in administering a collective investment fund. In the past the Office has informally interpreted this restriction to permit a managing institution to charge the principal or income amount of its fund, as appropriate, the following expenses: reasonable commissions, taxes, legal fees and other costs associated with the purchase or sale of fund assets; court accounting costs; and state personal property taxes imposed upon fund assets. Additionally, the Office has formally granted authority in 12 CFR 9.18(b)(5)(i) for a fund administrator to charge to the principal or income amount of a fund the reasonable expenses of an audit performed by independent public accountants. The Office also has formally granted authority, in 12 CFR 9.18(b)(10), for a fund administrator to charge against the income amount of a fund the reasonable expenses incurred in servicing mortgages. Finally, in 12 CFR 9.18(b)(12), the Office has allowed the charging of a management fee to a fund. However, to prevent "double charging" and potential conflicts of interest where the fiduciary possesses investment discretion, a restriction was added: the sum of such fund management fee plus the fiduciary fee (if any) charged to participating trusts may not exceed the sum of the fiduciary fees that would be paid by participating accounts if they were not invested in the collective investment fund but were instead invested individually in assets of like nature. The latter alternative fees, which may be hypothetical in nature, are normally determined through reference to formal or *de facto* fiduciary fee schedules established by a trustee institution for administration of trust accounts with various investment strategies, within any applicable state fee restrictions.

In implementing the federal regulatory prohibition as to fees, the Office has not permitted certain operating expenses to be charged to collective investment funds. These have included costs incurred in the following activities: establishing or reorganizing a fund (12 CFR 9.18(b)(12)); printing, publishing, and distributing financial reports (12 CFR 9.18(b)(5)); valuing the assets of a fund as required by 12 CFR 9.18(b)(4); amending or restating the plan of fund operation as required by 12 CFR 9.18(b)(1), whether or not for reasons within the control of the managing institution (informal interpretation); and maintaining the written plan of a fund in conformity with applicable laws and regulations (informal interpretation).

Twenty-one commenters requested modification or abolition of the federal fee restriction. These commenters were especially concerned with the effect of the regulation on the organization of specialized funds. They argued that applicable state and federal laws and regulations, and the fiduciary marketplace itself, would adequately

restrain fiduciary institutions from charging unjustified fees. For example, New York does not permit the administrator of a common trust fund (including national banks and federal savings and loans) to collect a management fee or receive commissions. *See* N.Y. Banking Law § 100-c (3) (McKinney 1987 Supp.). New York does, however, allow charges against common trust funds for periodic accounting costs and for printing costs incurred by the administrator in connection with the preparation of a fund's plan of operation and annual audit report. *See In re Chase National Bank of City of New York*, 206 Misc. 343, 132 N.Y.S.2d 592 (Sur. Ct. 1954); *In re Bank of New York*, 189 Misc. 459, 67 N.Y.S.2d 444, 448 (Sur. Ct. 1946). *But see In re Lincoln Rochester Trust Co.*, 201 Misc. 1008, 111 N.Y.S.2d 45, 54–55 (Sur. Ct. 1952). *See generally* 3 Scott, Trusts 227.9, n.26 (3d ed. 1967). Also, as to employee benefit funds, the fiduciary standards of the Employee Retirement Income Security Act of 1974 ("ERISA") may limit the charging of fees by fund administrators. Most commenters supporting liberalization of the fee restriction also suggested that full and fair disclosure of fees charged to a collective investment fund would be appropriate.

The Office has reconsidered the bases for the federal restriction on the charging of various fees to a collective investment fund administered for the benefit of participating trust accounts. The Office proposes to amend the language of the regulation to permit a broader range of permissible fees, including management fees which exceed the total fees that would be charged to non-participating trusts of similar size and nature. In addition to broadening the federal authorization for charging management fees where not in contravention of specific state laws, the proposal would permit all reasonable and lawful expenses to be charged directly to a collective investment fund, rather than expenses as operating costs of the managing institution's trust department to be covered by general fiduciary fees and other revenues of the institution.

Experience has suggested that existing 12 CFR 9.18(b)(12) may discourage innovation in the design of new collective investment funds by requiring managing institutions to assume the costs of establishing and operating funds. Therefore, when these costs are reasonable and permissible under state law, and are fully disclosed in appropriate documentation, the Office proposes to allow institutions to charge these costs directly to funds, regardless if the fractional part of the total fee charged, proportionate to the interest of a participating account in the fund, exceeds the amount of total fees that would be charged to the participant without participation in the funds. The Office similarly proposes to allow an institution to charge its collective investment funds for all other administrative activities incidental to the operation of that fund, within the constraints of state law pertaining to fees for fiduciary services. State restrictions, such as maximum fee schedules, will continue to apply to the total free charged by a managing institution for fiduciary services. With an improved ability to develop specialized collective investment funds, national banks and other institutions will be able to offer a wider range of services to their trust customers.

In accordance with the proposed revision, national bank examiners ascertaining whether a national bank has complied with applicable state law will, where appropriate, aggregate an individual account's proportional amount of fees charged to a collective investment fund with general fiduciary fees charged directly to that account. Where state law presents no impediment, by way of a maximum fee or other restriction, national banks and other managing insitutions would be authorized under this proposal to charge all of the above-mentioned costs, including those currently prohibited under 12 CFR 9.18(b)(12) as presently drafted and construed. In addition, the Office envisions the following activities as examples of those for which, in the case of specific authority or silence under applicable state law, an institution could extract reimbursement from collective investment funds: advertising; financial report preparation; printing and distribution; valuation of assets; safekeeping of assets, including the use of sub-custodians and clearing agencies; administration of cash balances; recordkeeping; reconciliation of withdrawals and admissions; disribution of income; and settlement of trades.

In connection with the increased flexibility institutions administering collective investment funds would enjoy under the proposed relaxation of the federal fee restriction, the Office proposes several corresponding amendments to improve the quality of disclosure made by such institutions to persons having an interest in participating accounts (*i.e.*, settlors, beneficiaries, and remaindermen). The proposal would require an institution to include in a fund's plan of operation comprehensive disclosure of all expenses expected to be incurred (proposed 12 CFR 9.18(b)(1)). Additionally the proposal would require a managing institution to disclose, in the regular periodic account statement provided to each person with an interest in a participating trust, either the amount of fees charged to the fund proportionate to the participating account's interest in that fund, or the amount of fees charged to the fund proprotionate to a selected base dollar-value unit of interest in the fund (proposed 12 CFR 9.18(b)(12)). It is believed that these complete and accurate disclosures would provide necessary and useful information to participants and inhibit self-dealing by fiduciary institutions. Commenters are requested to specifically address these proposed disclosure modifications.

As indicated above, to verify the appropriateness and reasonableness of fees charged by national banks, national bank examiners would scrutinize fees charged to collective investment funds operated by national banks. Normally, a fee charged that is legal under local trust law regarding fiduciary compensation would be considered "reasonable" by this Office under proposed 12 CFR 9.18(b)(12). The Office, however, would reserve the supervisory prerogative to determnine that a particular fee is unreasonable under local trust law when such law is vague or silent, or where circumstances otherwise warrant. In some cases, this could result in a directive or an administrative action by this Office requiring a national bank to restore any unreasonable excess fee to the depleted fund and take other appropriate corrective action. This Office would continue to review the legality of particular charges and would evaluate available opinions of bank counsel supporting such charges. (In this regard, see also the discussion below concerning deference to opinions of local counsel.)

7. *Short-term investment funds and variable amount notes.* In 1982, the Office codified prior authorizations granted under 12 CFR 9.18(c)(5) for creation of short-term investment funds ("STIFS") (47 FR 27828). Existing 12 CFR 9.18(b)(15) authorizes fiduciary institutions to create such funds, subject to certain liquidity requirements. In promulgating the codification in 1982, the Office solicited comments on further liberalization of the provisions applicable to such funds. No substantive revision to exisitng 12 CFR 9.18(b)(15) is proposed at this time. Under this proposal, the paragraph would be

renumbered (b)(14), with the text unchanged.

Prior to the codification of authority to invest in STIFs, the Office informally required investments by trustee institutions in STIFs to be temporary, pending permanent investments outside the STIFs. Similarly, investments by collective investment funds in variable-amount notes were to be short-term under 12 CFR 9.18(c)(2). The Office originally imposed these durational restrictions on investments by collective investment funds in variable-amount notes to inhibit self-dealing by institutional fiduciaries. Two commenters noted, however, that potentially idle fund balances ("funds awaiting investment or distribution" under 12 CFR 9.10(a)) may be more effectively invested in variable-amount notes on a continuing basis, through repeated renewals. Although the actual cash involved may "turn over" frequently, a collective investment fund may have a significant proportion of its assets so invested on a relatively permanent basis.

Accordingly, the Office proposes to clarify 12 CFR 9.18(c)(2) by removing the federal short-term requirement applicable to funds invested in variable-amount notes pursuant to that section. This amendment will bring that section into conformity with existing 12 CFR 9.18(b)(15), which allows an insitutional fiduciary to invest trust assets collectively in a STIF comprised of certain short-term vehicles, including variable-amount notes, but places no limitation on the trustee's renewals of such investments.

It should be noted that the 1982 codification of STIF authority did not affect existing restrictions on own-bank deposit placements. Nothwithstanding existing 12 CFR 9.18(b)(15), an institution which permanently places trust funds in its own deposit instruments would violate 12 CFR 9.18(b)(8).

8. *Special exemption procedure.* The Office believes that the offering of closed-end collective investment funds will benefit the public by providing new investment opportunities to fiduciary customers. In order to grant national banks an even greater degree of flexibility, the Office proposes to revise its procedures for applying for special exemptions under existing 12 CFR 9.18(c)(5) to establish other innovative types of collective investment vehicles. The Office proposes to establish a procedure whereby the Office will be deemed to have approved a bank's application for exemption, unless the Office either specifically disapproves the application within 60 days after its filing or extends that response period. This change in procedure would allow carefully monitored innovation in trust banking products and would be similar to procedures applicable to operating subsidiary applications and fiduciary power applications. *See* 12 CFR 5.34(d)(1) and 12 CFR 5.26(f)).

Under the proposed disapproval procedure, the Office would retain the ability to condition exemptions granted under paragraph 9.18(C)(5) upon stated facts and circumstances, and to withdraw an exemption upon finding a fund to be operating outside its plan or upon finding that the facts and circumstances have changed.

9. *Individual Retirement Account collective investment funds.* In 1982, the Office approved an application by Citibank, N.A., to operate funds for the collective investment of assets from Individual Retirement Accounts ("collective IRA funds"). "Decision of the Comptroller of the Currency on the Application by Citibank, N.A., pursuant to 12 CFR 9.18(c)(5) to Establish Common Trust Funds for the Collective Investment of Individual Retirement Account Trusts Exempt from Taxation under Section 408 of the Internal Revenue Code of 1954" (Oct. 31, 1982) ("Citibank Decision"), reprinted in 1 Comptroller of the Currency Q.J. No. 4 (1982), at 45. The Office reiterated this decision, after giving due consideration, in response to similar applications from Wells Fargo Bank, N.A., Bank of California, N.A., Connecticut National Bank and Trust, N.A., and First Union National Bank, Charlotte, North Carolina. *See* "Decision of the Office of the Comptroller of the Currency on the Application by Wells Fargo Bank, N.A. to Establish a Common Trust Fund for the Collective Investment of Individual Retirement Account Trust Assets Exempt From Taxation Under Section 408(a) of the Internal Revenue Code of 1954," as (amended (Jan. 27, 1984) ("Wells Fargo Decision"); Letter of H. Joe Selby, Senior Deputy Comptroller for Bank Supervision, to John H. McGuckin, Jr., Vice President and Associate Counsel, Bank of California, N.A. (Jan. 31, 1984) ("BankCal Decision"); "Decision of the Office of the Comptroller of the Currency on the Application by Connecticut National Bank and Trust, N.A. to Establish a Common Trust Fund for the Collective Investment of Individual Retirement Account Trust Assets Exempt From Taxation Under Section 408(a) of the Internal Revenue Code of 1954," as amended (Feb. 7, 1985) ("CBT Decision"); and Letter of H. Joe Selby, Acting Comptroller of the Currency, to Stephen L. Smith, Esquire, Counsel to First Union National Bank (Nov. 25, 1985) ("First Union Decision"). These decisions by the Office were subject to legal challenge by a trade association. The Office determined that the codification of these decisions authorizing national bank established registered collective IRA funds would be premature during the pendency of the litigation. In view of the favorable outcome of the litigation, the OCC now proposes to amend §9.18 to authorize such collective IRA funds.

The proposal would add a new paragraph (6) to 12 CFR 9.18(c), and would authorize national banks to establish funds for the collective investment of assets of IRAs, Keogh or H.R. 10 Accounts, or any other tax-deferred retirement accounts established under sections 401 or 408 of the IRC (26 U.S.C. 401 and 408) and which are registered under the 1940 Act. The proposed requires the bank to act as the investment adviser, sole trustee, administrator, custodian, and transfer agent to the fund. In addition, such fund must comply with revised subsections (b)(1) and (b)(3) through (b)(13) of 12 CFR 9.18. Finally, the proposal requires that a fund that ceases to be composed solely of assets from IRA, Keogh, or other qualified employee benefit accounts, shall be deemed to be a fund established under 12 CFR 9.18(a), and must comply immediately with all the requirements which apply to such a fund.

The proposal also codifies OCC decisions relating to registered collective IRA fund compliance with the exclusive management requirement of existing paragraph (b)(12) and the periodic audit requirement of existing paragraph (b)(5). During consideration of the above-referenced bank applications, which were submitted under § 9.18(c)(5), § 9.18(b)(12) was identified as creating a possibe conflict with the provisions of the Securities Act and the 1940 Act. Section 9.18(b)(12) requires, among other things, that an institution administering a collective investment fund maintain exclusive management of such fund. However, the management of each applicant bank's IRA fund was made subject to the authority of a "supervisory committee", which retained the right to approve arrangements with the fund trustee and to terminate such arrangements. The supervisory committee arrangement was created by each bank in order to comply with, among other things, section 10(c) of the 1940 Act, under which each bank had elected to register its collective IRA fund. This section of the 1940 Act regulates the membership of boards of

directors of registered investment companies.[8] Thus, pursuant, to section 10(c), a fund supervisory committee, acting in the place of a board of directors of a registered investment company, may not be composed of persons, the majority of whom are officers or directors of the managing institution or its affiliates.

The authority of the fund supervisory committee might appear, at first, to be inconsistent with the exclusive management requirement of paragraph (b)(12). However, the Comptroller of the Currency found in the Citibank Decision at 18, that "[i]t is not clear that [the exclusive management] provision of § 9.18 will be violated, since, among other things, [the managing bank] will serve at the outset as the investment adviser to the collective fund." The Office later found in the Wells Fargo Decision, at 10, that the managing bank "has been accorded substantial management of the [collective fund] and that, pursuant to 12 CFR 9.18(c)(5), the [collective fund] may be permitted to operate in compliance with 12 CFR 9.18." The Office further described the reasoning behind this limited exercise of agency discretion:

> [I]nvestment decision-making authority for the [collective fund] is vested in the [managing institution] and may be exercised without the prior approval of the [collective fund's] supervisory committee. Further, the [managing institutional] serves in a number of capacities, including those of investment adviser, administrator, custodian and transfer agent to the [collective fund]. Moreover, the [managing institution] has clear responsibilities for all the day-to-day activities of the [collective trust], and generally can be held fully accountable for actions taken in contravention of its fiduciary responsibilities. * * * These facts and circumstances, in our view, adequately ensure that the [managing institution's] responsibilities currently are sufficient to allow it to exercise substantially its fiduciary responsibilities, regardless of the * * * supervisory committee's ultimate oversight responsibilities.

Wells Fargo Decision, at 11.

In connection with the Wells Fargo and Bank of California IRA fund applications, the Office also considered the effect of the supervisory committees on the periodic audit provisions of 12 CFR 9.18(b)(5)(i). That paragraph requires a periodic audit to be made by auditors responsible only to the board of directors of the sponsoring institution. In order to comply with the 1940 Act and regulations thereunder, under which each institution had elected to register its collective IRA fund, periodic audits are conducted by independent certified public accountants responsible only to the fund's supervisory committee. The Office approved such an arrangement under 12 CFR 9.18(c)(5), as long as the managing institution has access, through the members of the supervisory committee who are affiliated with the managing institution, to the results of the periodic audits of the collective fund. *See* Wells Fargo Decision, at 11–12. The Office found no other substantial deviations from the provisions of subsection 9.18(b), giving scrutiny to, among other things, the fee structure, valuation technique, and distribution scheme. *Id.* at 7–8.

In preparing this Notice of Proposed Rulemaking, it was requested that the Office consider promulgating a general waiver of the requirements of existing 12 CFR 9.18(b)(5) and (b)(12) with regard to the collective investment of IRAs by national banks. The Office does not believe that a complete waiver would be necessary. However, the proposal does allow those funds that register under the 1940 Act to continue to operate under the OCC'S regulations. The authorization codifies the OCC's decisions in the above-referenced applications, and provides that a fund will not be in violation of the exclusive management provision of existing paragraph (b)(12), provided that the trustee of the fund (*i.e.*, the fiduciary institution) is vested with investment-making authority that may be exercised without the prior approval of a fund supervisory committee. The proposal also provides that a fund will not be in violation of the periodic audit requirement of paragraph (b)(5), provided the sponsoring bank has access to the periodic audits perform on the fund.

As stated above, the proposal requires each sponsoring bank to act as investment advisor, custodian, transfer agent, and administrator of the fund. However, recent applicants to establish registered collective IRA funds have requested that the sponsoring bank be permitted to assign the performance of these activities to third parties. In addition, IRA fund applicants have requested the authority to permit the customers of affiliated banks to participate in the sponsoring bank's collective IRA fund. Commenters are requested to address the effect of permitting these requests on the ability of the bank to maintain the fiduciary nature of the fund and, if the requests are approved by the OCC, the need to incorporate these requests into § 9.18(c)(6).

10. *Disclosure of brokerage placement activities.* 12 CFR 9.5 requires each national bank exercising investment discretion, as defined in 12 CFR 12.2, to adopt and follow written policies and procedures to ensure that its brokerage placement practices, including the use of brokerage commissions to purchase research and other services, comply with applicable law. At the time section 9.5 was adopted, July 26, 1982, the Office sought additional public comments as to the nature of appropriate disclosures (limited narrative or detailed statistical), the proper persons to whom disclosure should be furnished, the proper time for disclosure, the appropriate form for disclosure (separate brochure or addendum to trust instrument), and the applicability of the rule to national banks which exercise investment discretion but are inside the so-called "safe-harbor" of section 28(e) of the 1934 Act (15 U.S.C. 78bb(e)). A prior proposal had been published in 1980 (*see* 45 FR 71572–71574) specifically addressing each of these matters, but that rule was not adopted in 1982; instead, additional comments were sought from the public on each of the above issues.

Commenters expressing an opinion on the matter generally recommended that if the Office were to require disclosure, it should do so only as to national banks operating outside the safe-harbor section of 28(e). These commenters felt that he benefits of disclosure to the customer would not outweigh the cost to the bank of appending disclosure statements to the trust instrument. There was strong support for a general brochure format for any required disclosure, with no requirement for detailed statistics (although the bank or the customer might deem such data appropriate in particular cases). It was suggested by some that the general narrative disclosure brochure, if required, be provided to settlors of funded revocable trust accounts, persons who have a present beneficial interest in a trust account, and the sponsors of a corporate pension plan

[8] The SEC, pursuant to section 6(c) of the 1940 Act (15 U.S.C. 80a–6(c)), may waive provisions of the Act, such as the independent board requirement of section 10 (15 U.S.C. 80a–10), provided that such waiver is consistent with the investor protection provisions of the Act. Although the SEC has granted banks limited waivers of section 10 in the past, none of the three applicant banks sought similar waivers in these instances. Their decisions were based in part on communications with the SEC staff indicating that a waiver process could be protracted, involving extended public hearings.

trust, and not be required to be provided to minors, incompetent beneficiaries, unborn remaindermen, court-supervised guardians or conservators, or settlors or beneficiaries of an unfunded insurance trust. As to the time for disclosure, most commenters believed notice of the availability of a disclosure brochure should be provided upon creation of a revocable trust or agency account, upon funding and identification of the beneficiaries of a testamentary trust, and upon the establishment of a corporate pension or profit-sharing plan administered by the bank.

On the basis of the comments received, the Office has decided not to propose any specific disclosure guidelines regarding brokerage placement practices at this time. The deterrent effect afforded by the examination process and the securities laws appear adequate to induce national banks to provide customers sufficient opportunity to make an informed consent regarding a bank's brokerage placement practices. The Offices expects banks to provide to interested customers, upon request, a copy of their policies and procedures established to existing 12 CFR 9.5. Similarly, the Office expects banks to comply with the safe-harbor provisions of section 28(e) when appropriate. (*See* OCC Trust Banking Circulars No. 17 (Mar. 19, 1980) and No. 25 (June 19, 1986).

11. *Deference to opinions of counsel.* The Office received one comment suggesting that 12 CFR 9.11 be amended to give additional weight to opinions of counsel designated, employed, or retained by a national bank pursuant to 12 CFR 9.7(c). Specifically, the commenter suggested establishing a presumption that investments made by a bank in reliance on such opinions of counsel are lawful under local law. Such a broad grant of deference would extend to opinions regarding the legality of particular investments uder applicable trust documents, investment concentrations, liquidity, etc.

As indicated in the discussion of certain revisions proposed above, the Office plans to review the legality of national bank collective investment practices, such as investment concentrations and fee charges, regardless of the conclusions reached by counsel. After due consideration, moreover, the Office has decided not to establish any general presumption of legality in favor of a national bank fiduciary investing in reliance upon an opinion of counsel. This is not intended to discourage fiduciary national banks from requesting or taking action based upon such opinions; such action may, in certain circumstances, only be prudent. The Office, however, will continue to make and apply its own interpretations of state law on a uniform basis, as required in carrying out its supervisory duties regarding national bank trust activities, although it will take into account all relevant facts and circumstances, including any opinions of counsel.

Executive Order 12291

This rule is not classified as a "major rule", and therefore, does not require a regulatory impact analysis. The proposal will not have an annual effect on the economy of $100 million or more, will not result in a major increase in costs or prices to consumers, individual industries, Federal, State, or local government agencies, or geographic regions, nor will it have significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of United State-based enterprises to compete with foreign-based enterprises.

The proposed elimination of several of the provisions, such as those which impede the establishment of new collective investment funds and those which limit participation in common trust funds, will foster competition among commercial banks, trust companies, and savings and loan associations. The proposed elimination of the fee and common trust fund advertising restrictions may lead to additional charges being assessed by fiduciary banks against their funds and participating trust accounts. However, these charges are not expected to result in major increases in costs to trust customers. In general, this package of revisions is expected to allow commercial banks and trust companies to operate collective investment operations more efficiently and cost-effectively.

Regulatory Flexibility Act

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. No. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612) it is certified that the proposed amendments, if adopted, will not have a significant economic impact on a substantial number of small businesses. The proposed amendments would ease the burden of existing regulations. The effect of the amendments is expected to be beneficial rather then adverse, and small entities are generally expected to share the benefits of the amendments equally with larger institutions.

Paperwork Reduction Act

The collections of information contained in this notice of proposed rulemaking have been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)). Comments on the collections of information should be sent to the Office of Management and Budget, Paperwork Reduction Project (1557-0140), Washington, DC, 20503, with copies to the Office of the Comptroller of the Currency at the address previously specified.

The collections of information in this proposed regulation are in 12 CFR 9.18(b)(1), (5), and (11), and (c)(5) and (6). This information is required by the OCC to ensure the continued safety and soundness of national banks. This information will be used to ensure the adequate disclosure of operational aspects and expenses of collective investment funds to participants. The likely respondents are national banks, possibly including a few small national banks.

Estimated total annual reporting burden: 14,600 hours.

This proposal, if adopted as a final rule, will not result in any change to the existing burden estimate. The estimated annual burden per respondent varies from one hour to 25 hours, depending on the item and the experience of the bank in the preparation of that item, with an estimated average of 2.7 hours.

Estimated number of respondents: 380.
Estimated annual frequency of response: 14.

List of Subjects in 12 CFR Part 9

Fiduciary powers, National banks, Collective investment funds.

Authority and Issuance

For the reasons set out in the foregoing preamble, the Comptroller of the Currency proposes to amend part 9 of Chapter I to title 12 of the Code of Federal Regulations as follows:

PART 9—FIDUCIARY POWERS OF NATIONAL BANKS AND COLLECTIVE INVESTMENT FUNDS

1. The authority citation for 12 CFR Part 9 is revised to read as follows:

Authority: 12 U.S.C. 92a; 12 U.S.C. 93a; and 12 U.S.C. 481.

Section 9.18 is amended by revising paragraphs (b)(1), (2), (4), (5)(ii), (iii), and (iv), by removing paragraph (b)(5)(v), by removing paragraph (b)(9), by redesignating paragraphs (b)(10) through (15) as (b)(9) through (14) respectively, by revising newly redesignated paragraphs (b)(11), the introductory text of (c)(2)(ii), (3) up to the first proviso,

and (5), and by adding a new paragraph (c)(6), to read as follows:

§ 9.18 Collective investment.

* * * * *

(b) * * *

(1) Each collective investment fund shall be established or amended in accordance with a statement of policies and procedures approved by a resolution of the bank's board of directors or by such committee as the board may designate in the exercise of its fiduciary powers. Each collective investment fund shall be maintained in accordance with a written plan (referred to herein as the Plan). The Plan shall contain appropriate provisions not inconsistent with applicable law and the rules and regulations of the Comptroller of the Currency as to the manner in which the bank will operate the collective investment fund, including provisions relating to the investment powers and policies of the bank with respect to the fund; the allocation of income, profits, and losses; the charging of fees and expenses to the fund and to fund participants; the terms and conditions governing the admission or withdrawal of participations in the fund; the auditing of accounts of the bank with respect to the fund; the basis and method of valuing assets in the fund, setting forth specific criteria for each type of asset; the expected frequency for distribution of income to fiduciary accounts; the minimum frequency for valuing assets of the fund; the period following each such valuation date during which the valuation may be made; the basis upon which the bank may terminate the fund; and such other matters as may be necessary to define clearly the rights of participants in such funds. Except as otherwise provided in paragraph (b)(14) of this section, assets of collective investment funds shall be valued at market value unless such value is not readily ascertainable, in which case a fair value determined in good faith by the fund trustees may be used. A copy of the bank's Plan for maintenance of each of its collective investment funds shall be available at the principal office of the bank for inspection during all banking hours, and a copy of the Plan shall be furnished upon request to any person.

(2) Property held by a bank in its capacity as trustee of retirement, pension, profit sharing, stock bonus, or other trusts which are exempt from Federal income taxation under any provision of the Internal Revenue Code of 1986, as amended or superseded by Federal laws of similar effect, may be invested in collective investment funds established under the provisions of either paragraph (a)(1) or (a)(2) of this section, subject to the provisions of paragraphs (b) and (c) of this section pertaining to such funds. Assets of retirement, pension, profit sharing, stock bonus, or other trusts exempt from Federal income taxation held by a national bank in any capacity may be invested in collective investment funds established under the provisions of paragraph (a)(2) of this section; *Provided*, that the fund itself qualifies for exemption from Federal income taxation under any provisions of the Internal Revenue Code of 1986, as amended.

* * * * *

(4)(i) Not less frequently than once during each period of three months, a bank administering a collective investment fund (except one with illiquid assets as described in paragraph (b)(4)(ii) of this section) shall determine the value of the assets in the fund as of the date set for the valuation of assets. No participation shall be admitted to or withdrawn from the fund except on the basis of such valuation date. No participation shall be admitted to or withdrawn from the fund, unless a written request for or notice of intention to take such action shall have been entered on or before the valuation date in the fiduciary records of the bank and approved in such manner as the board of directors shall prescribe. The bank may establish a date prior to the valuation date by which all notices for admissions and withdrawals must be received: *Provided*, that such date is not more than five days prior to the valuation date.

(ii) Notwithstanding the provisions of paragraph (b)(4)(i) of this section, if a fund is to be invested primarily in real estate or other assets which are not readily marketable, the bank shall determine the appraised, fair market value of the assets in the fund (as of the date set for the valuation of assets) not less frequently than once during each year, and the bank may require a prior notice period, not to exceed one year, for withdrawals.

(iii) No requests or notice may be cancelled or countermanded after the valuation date, except pursuant to a prior-notice requirement imposed by the bank pursuant to paragraph (b)(4)(i) or paragraph (b)(ii) of this section.

(5)(i) * * *

(ii) A bank administering a collective investment fund shall at least once during each period of 12 months prepare a financial report of the fund. This report, based on the above audit, shall contain a list of investments in the fund showing the cost and current market value of each investment, and a statement for the period since the previous report, organized by type of investment, showing the following: summaries of all purchases (with cost); sales (with profit or loss and any other investment changes); income and disbursements; an appropriate notation as to any investments in default; and fees charged by the bank for costs incurred in connection with the administration of the fund, including establishment, management, advertising, reorganization, or termination of the fund.

(iii) The financial report may include a description of the fund's value on previous dates, and its income and disbursements during previous accounting periods. No predictions or representations as to future results may be made.

(iv) A copy of the financial report shall be furnished, or notice shall be given that a copy of such report is available and will be furnished without charge upon request, to each person to whom a regular periodic accounting would ordinarily be rendered with respect to each participating account. A copy of such financial report may be furnished to prospective customers. In addition, a copy of the report shall be furnished upon request to any person for a reasonable charge.

* * * * *

(11) A national bank administering a collective investment fund shall have the exclusive management thereof. To the extent permitted by applicable state and federal laws and regulations, the bank may charge a reasonable fee to a collective investment fund for any costs incurred in connection with the administration of the fund, including the costs of establishment, management, advertising, reorganization, termination, and all other costs incidental to the operation of the fund. The bank shall fully disclose, in the regular periodic accounting rendered with respect to each participating account, either

(i) The fractional amount of such fees proportionate to the interest of the participating account in the assets of the fund, or

(ii) The fractional amount of such fees proportionate to a selected base unit of interest in the fund.

* * * * *

(c) * * *

(2)(ii) In a variable amount note of a borrower of prime credit: * * *

(3) In a common trust fund maintained by the bank for the collective investment of cash balances received or held by the bank in its capacity as

trustee, executor, administrator, or guardian, which the bank considers to be individually too small to be invested separately to advantage. The total investment for such fund must not exceed $100,000, and the number of participating accounts is limited to 100: Provided, * * *

* * * * *

(5) In such other manner as the bank may establish 60 days after the date on which the bank submits a written plan to the Comptroller of the Currency generally addressing:

(i) The reason § 9.18(c)(5) approval is being requested;

(ii) To the extent appropriate, the provisions contained in paragraphs (a) and (b) of this section;

(iii) The provisions of the proposed fund that are inconsistent with paragraphs (a) and (b) of this section; and

(iv) The manner in which the proposed fund addresses and considers the rights and interests of fund participants;

Provided, That the Office has not given the bank notice disapproving the proposed collective investment or extending the 60-day period. The 60-day period may be extended by the Comptroller of the Currency if the proposal raises issues that require additional detail or time for analysis by the Office. If the 60-day period is extended, the bank may establish the proposed collective investment only upon receipt of specific written approval by the Office.

(6) In a common trust fund registered under the Investment Company Act of 1940 (15 U.S.C. 80a *et.seq.*) whose assets consist solely of Individual Retirement Accounts, Keogh Accounts or other qualified employee benefit accounts established pursuant to sections 401 and 408 of the Internal Revenue Code (hereinafter referred to as "eligible accounts"): *Provided,* that such fund complies with the following requirements:

(i) Except as provided in paragraphs (c)(6)(iii) and (iv) of this secton, the fund shall comply with paragraphs (b)(1), (b)(3), (b)(4), (b)(5), (b)(6), (b)(7), (b)(8), (b)(9), (b)(10), (b)(11), (b)(12), and (b)(13) of 12 CFR 9.18;

(ii) The bank shall act as the administrator, custodian, and transfer agent to the fund;

(iii) The bank shall be the sole trustee and shall act as the exclusive investment adviser to the fund. However, notwithstanding the fund's compliance with other provisions of federal or local law, a fund shall not be deemed to have violated this provision or paragraph (b)(11) of 12 CFR 9.18, *Provided:* That the trustee of the fund is vested with investment decision-making authority that may be exercised without the prior approval of a fund supervisory committee.

(iv) Notwithstanding the fund's compliance with other provisions of federal or local law, a fund shall not be deemed to have violated paragraph (b)(5)(i) of 12 CFR 9.18, provided the bank has access to reports of periodic audits of the fund.

(v) If at any time a fund established under this paragraph ceases to be composed solely of eligible accounts, such fund shall be deemed to be a fund established pursuant to 12 CFR § 9.18(a).

(The collection of information requirements contained in this section were approved by the Office of Management and Budget under OMB Control No. 1557-0140)

Dated: February 1, 1990.

Robert L. Clarke,

Comptroller of the Currency.

[FR Doc. 90-2747 Filed 2-6-90; 8:45 am]

BILLING CODE 4810-33-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 89-AGL-18]

Proposed Alteration of VOR Federal Airways

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the descriptions of several VOR federal airways located in the states of North Dakota, South Dakota, Minnesota, and Nebraska by revoking some airway segments and renumbering other segments. This action supports FAA's agreement with the International Civil Aviation Organization (ICAO) to remove all alternate airway segments from the National Airspace System (NAS).

DATES: Comments must be received on or before March 22, 1990.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Air Traffic Division, AGL-500, Docket No. 89-AGL-18, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, IL 60018.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue SW., Washington, DC.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 89-AGL-18." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA-230, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267-3484. Communications must identify the notice number of this NPRM. Persons

interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to alter the descriptions of VOR federal airways V-15, V-26, V-78, V-80, V-148, V-159 and V-462 located in the states of North Dakota, South Dakota, Minnesota, and Nebraska, by removing all alternate airway designations. These airways are the final segments of alternate airways that are to be removed from the NAS per an agreement between the FAA and ICAO. Section 71.123 of part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6F dated January 2, 1990.

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

List of Subjects in 14 CFR Part 71

Aviation safety, VOR federal airways.

The Proposed Amedment

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

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

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

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

§ 71.123 [Amended]

2. § 71.123 is amended as follows:

V-15 [Amended]

By removing the words "Huron, SD, including a west alternate from Sioux Falls to Huron via Mitchell, SD, Aberdeen, SD, including a W alternate; 18 miles, 89 miles, 42 MSL, Bismarck, ND; to Minot, ND." and substituting the words "Huron, SD; Aberdeen, SD; Bismarck, ND; to Minot, ND."

V-26 [Amended]

By removing the words ", including a S alternate"

V-78 [Amended]

By removing the words ", including a S alternate"

V-80 [Revised]

From Akron, CO; North Platte, NE; O'Neill, NE; to Sioux Falls, SD.

V-148 [Amended]

By removing the words "Redwood Falls, MN, including an S alternate," and substituting the words "Redwood Falls, MN;"

V-159 [Amended]

By removing the words "Mitchell, SD." and substituting the words "Mitchell, SD; to Huron, SD."

V-462 [Revised]

From Fort Dodge, IA; to Sioux Falls, SD.

Issued in Washington, DC, on January 26, 1990.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 90-2723 Filed 2-6-90; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900-AE24

Failure to Report for VA Examination

AGENCY: Department of Veterans Affairs.

ACTION: Proposed Rule.

SUMMARY: The Department of Veterans Affairs (VA) is proposing to amend its adjudication regulations concerning failure to report for VA examinations. These changes are necessary to clarify current rules and due process procedures. The effects of these amendments are to clarify the requirement that individuals must report for VA examinations and to require that VA issue an advance notice before taking adverse action because of failure to report.

DATES: Comments must be received on or before March 9, 1990. The change is proposed to be effective 30 days after the date of publication of the final rule. Comments will be available for public inspection until March 19, 1990.

ADDRESSES: Interested persons are invited to submit written comments, suggestions, or objections regarding this change to the Secretary of Veterans Affairs (271A), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. All written comments received will be available for public inspection only in the Veterans Services Unit, room 132, at the above address and only between the hours of 8 am and 4:30 pm Monday through Friday (except holidays) until March 19, 1990.

FOR FURTHER INFORMATION CONTACT: Donald England, Consultant, Regulations Staff, Compensation and Pension Service, Veterans Benefits Administration (202) 233-3005.

SUPPLEMENTARY INFORMATION: In order to emphasize the current requirement that individuals must report for VA examinations, we are proposing to amend 38 CFR §§ 3.326 and 3.327 by reorganizing the material in a more logical manner. Each of the revised sections includes language specifying that the terms "examination" and "reexamination" include periods of hospital observation when required by VA. The provision which requires individuals to report for VA examinations is currently contained in § 3.329, but we propose to delete that section and incorporate the material into §§ 3.326 and 3.327. The material addressing VA's right to request reexaminations or other medical evidence is being moved from paragraph (d) to paragraph (a) of § 3.327 in order to emphasize that the guidelines contained in subsequent paragraphs do not limit VA's authority to request a reexamination at any time. The language in paragraphs (b) and (c) has been modified for the sake of clarity and gender neutral language has been substituted wherever appropriate throughout §§ 3.326 and 3.327.

VA's due process procedures are currently being revised. In keeping with those revisions we propose to amend 38 CFR § 3.655 to require an advance notice before VA takes any adverse action based on an individual's failure to report for an examination. Paragraph (a) sets forth guidelines for determining whether an examination was missed for good cause and specifies that for purposes of this section the terms "examination" and "reexamination" include periods of hospital observation if required by VA. Also included are procedures to follow if an individual agrees to report for a rescheduled examination or requests a hearing after

receiving an advance notice of adverse action. The citation of 38 CFR 3.105 contained in paragraph (c)(4) refers to a final rule which we expect to publish shortly per a proposal published in the **Federal Register** on September 28, 1988 (53 FR 37797–37801).

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

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

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

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

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

The Catalog of Federal Domestic Assistance program numbers are 64.104, 64.105, 64.109 and 64.110.

List of Subjects in 38 CFR Part 3

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

Approved: January 9, 1990.

Edward J. Derwinski,

Secretary of Veterans' Affairs.

38 CFR part 3, Adjudication is proposed to be amended as follows:

PART 3—[AMENDED]

§ 3.326 [Amended]

1. In § 3.326 in paragraphs (a) and (d) remove the words "widow, widower" wherever they appear and insert in their place the words, "surviving spouse".

2. In § 3.326 introductory text is added, a sentence is added at the end of paragraph (a) and a cross-reference is added after paragraph (d) to read as follows:

§ 3.326 Examinations.

For purposes of this section, the term examination includes periods of hospital observation when required by VA.

(a) * * * Individuals for whom examinations have been authorized and scheduled are required to report for such examinations.

* * * * * *

Cross-reference: Failure to report for VA examination. See § 3.655.

3. In § 3.327 paragraph (a) is revised, in paragraph (b)(2) the first and second sentences are revised, paragraph (c) is revised, a cross reference is added and paragraph (d) is removed as follows:

§ 3.327 Reexaminations.

(a) *General.* Reexaminations, including periods of hospital observation, will be requested whenever VA determines there is a need to verify either the continued existence or the current severity of a disability. Generally, reexaminations will be required if it is likely that a disability has improved, or if evidence indicates there has been a material change in a disability or that the current rating may be incorrect. Individuals for whom reexaminations have been authorized and scheduled are required to report for such reexaminations. Paragraphs (b) and (c) of this section provide general guidelines for requesting reexaminations, but shall not be construed as limiting VA's authority to request reexaminations, or periods of hospital observation, at any time in order to ensure that a disability is accurately rated.

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

* * * * * *

(b) Compensation cases.

* * * * * * *

(2) No periodic future examinations will be requested. In service-connected cases, no periodic reexamination will be scheduled * * *.

* * * * * *

(c) *Pension cases.* In nonservice-connected cases in which the permanent total disability has been confirmed by reexamination or by the history of the case, or with obviously static disabilities, further reexaminations will not generally be requested. In other cases further examination will not be requested routinely and will be accomplished only if considered necessary based upon the particular facts of the individual case. In the cases of veterans over 55 years of age, reexamination will be requested only under unusual circumstances.

Cross-reference: Failure to report for VA examination. See § 3.655.

§ 3.329 [Removed]

3a. Section 3.329 is removed.

4. § 3.655 is revised in its entirety as follows:

§ 3.655 Failure to report for Department of Veterans Affairs examination.

(a) *General.* When entitlement or continued entitlement to a benefit cannot be established or confirmed without a current VA examination or reexamination and a claimant, without good cause, fails to report for such examination or reexamination, action shall be taken in accordance with paragraph (b) or (c) of this section as appropriate. Examples of good cause include, but are not limited to, the illness or hospitalization of the claimant, death of an immediate family member, etc. For purposes of this section, the terms "examination" and "reexamination" include periods of hospital observation when required by VA.

(b) *Original or reopened claim, or claim for increase.* When a claimant fails to report for an examination scheduled in conjunction with an original compensation claim, the claim shall be rated based on the evidence of record. When the examination was scheduled in conjunction with an original compensation claim, the claim shall be rated based on the evidence of record. When the examination was scheduled in conjunction with any other original claim, a reopened claim for a benefit which was previously disallowed, or a claim for increase, the claim shall be denied.

(c) *Running award.* (1) When a claimant fails to report for a reexamination and the issue is continuing entitlement, VA shall issue a pretermination notice advising the payee that payment for the disability or disabilities for which the reexamination was scheduled will be discontinued or, if a minimum evaluation is established in Part 4 of this title or there is an evaluation protected under § 3.951 of this part, reduced to the lower evalaution. Such notice shall also include the prospective date of discontinuance or reduction, the reason therefor and a statement of the claimant's procedural and appellate rights. The claimant shall be allowed 60 days to indicate his or her willingness to report for a reexamination or to present

evidence that payment for the disability or disabilities for which the reexamination was scheduled should not be discontinued or reduced.

(2) If there is no response within 60 days, or if the evidence submitted does not establish continued entitlement, payment for such disability or disabilities shall be discontinued or reduced as of the date indicated in the pretermination notice or the date of last payment, whichever is later.

(3) If notice is received that the claimant is willing to report for a reexamination before payment has been discontinued or reduced, action to adjust payment shall be deferred. The reexamination shall be rescheduled and the claimant notified that failure to report for the rescheduled examination shall be cause for immediate discontinuance or reduction of payment. When a claimant fails to report for such rescheduled examination, payment shall be reduced or discontinued as of the date of last payment and shall not be further adjusted until a VA examination has been conducted and the report reviewed.

(4) If within 30 days of a pretermination notice issued under paragraph (c)(1) of this section the claimant requests a hearing, action to adjust payment shall be deferred as set forth in § 3.105(h)(1) of this part. If a hearing is requested more than 30 days after such pretermination notice but before the proposed date of discontinuance or reduction, a hearing shall be scheduled, but payment shall nevertheless be discontinued or reduced as of the date proposed in the pretermination notice or date of last payment, whichever is later, unless information is presented which warrants a different determination. When the claimant has also expressed willingness to report for an examination, however, the provisions of paragraph (c)(3) of this section as to running awards shall apply.

Cross-references:

Procedural due process and appellate rights.....See § 3.103
Examinations.....See § 3.326
Reexaminations.....See § 3.327
Resumption of rating when veteran subsequently reports for VA examination.....See § 3.330

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

[FR Doc. 90-2553 Filed 2-6-90; 8:45 am]
BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Region II Docket No. 101; FRL-3721-6]

Approval and Promulgation of Air Quality Implementation Plans; Revision of New York State's Niagara Frontier Plan for Total Suspended Particulates

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is today announcing the proposed approval of revisions to the New York State Implementation Plan (SIP) which provide for the attainment and maintenance of total suspended particulate (TSP) standards in the total suspended particulate (TSP) standards in the State's Niagara Frontier Air Quality Control Region (AQCR).

A SIP for this pollutant in this area was originally approved by EPA on May 31, 1972. However, subsequent revisions have not been fully approved. Nevertheless, reduced operations by coke and steel producing companies, in the Niagara Frontier have resulted in a significant decrease in TSP emissions and a resultant improvement in ambient air quality levels. This combined with a New York State Department of Environmental Conservation modeling effort to demonstrate attainment of the federal air quality standards for TSP, has resulted in EPA's proposed approval of the New York State plan.

Despite the fact that the TSP standard has been replaced on July 1, 1987 by a new standard for particulate matter of ten microns or less in diamter (PM_{10}), EPA is proposing approval of this SIP revision request to facilitate the eventual approval of the PM_{10} SIP for this AQCR.

DATES: Comment must be submitted on or before March 9, 1990.

ADDRESSES: All comments should be addressed to: Constantine Sidamon-Eristoff, Regional Administrator, Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278.

Copies of the state submittals are available at the following addressees for inspection during normal business hours.

Environmental Protection Agency, Region II Office, Air Programs Branch, 26 Federal Plaza, Room 1005, New York, New York 10278.

New York State Department of Environmental Conservation, Division of Air Resources, 50 Wolf Road, Albany, New York 12233.

FOR FURTHER INFORMATION CONTACT: William S. Baker, Chief, Air Programs Branch, Environmental Protection Agency, Region II Office, 26 Federal Plaza, Room 1005, New York, New York 10278, (212) 264-2517.

SUPPLEMENTARY INFORMATION:

Background

As authorized by the Clean Air Act, in 1971 the Environmental Protection Agency (EPA) promulgated national ambient air quality standards for particulate matter. These standards necessitated the measurement and control of particles of all sizes, termed total suspended particulates, or TSP. The primary standards were set at 260 micrograms per cubic meter ($\mu g/m^3$) for a 24-hour average and 75 $\mu g/m^3$ for an annual geometric mean, and a secondary standard was set at 150 $\mu g/m^3$ for a 24-hour average. On July 1, 1987 EPA promulgated revised particulate matter standards which shifted the emphasis from total particulates to particles of less than ten microns in aerometric diameter (or PM_{10}. These consist of primary standards set at 150 $\mu g/m^3$ for a 24-hour average and 50 $\mu g/m^3$ for an annual average. The secondary PM_{10} standard is identical to the primary standard.

States were required to develop control plans for attainment and maintenance of the TSP standards and, subsequently, for the PM_{10} standards. In today's notice EPA is proposing to approve the New York State Implementation Plan (SIP) to attain and maintain the TSP national ambient air quality standards in the Niagara Frontier Air Quality Control Region (AQCR), comprised of Erie and Niagara Counties in western New York State. This approval will have the additional effect of facilitating the enventual approval of the Niagara Frontier portion of New York State's PM_{10} SIP. This is because even though the TSP ambient standards no longer exist, EPS's policy is to have a TSP SIP in place for a given area before a PM_{10} SIP can be approved for the same area. Therefore, if today's action is finally approved, New York State can then request reclassification of the Niagara Frontier area to attainment for TSP and submit another request to use its TSP SIP to meet for PM_{10} SIP requirements. EPA proposed to approve the State's PM_{10} SIP on May 1, 1989 (54 FR 18551), where it was noted that EPA would take a separate rulemaking action on the Niagara Frontier TSP SIP. This is that action.

The application of a statistical formula developed by EPA and applied

to TSP monitoring data for 1984 through 1986 from the Niagara Frontier shows that this area has a less than 20 percent likelihood of violating the PM_{10} standards. For such areas, EPA policy is to assume that a fully approved TSP SIP is adequate to provide for maintenance of the PM_{10} standards until such time that a PM_{10} violation is recorded. PM_{10} monitoring in this area since 1985 has not revealed a single violation of the PM_{10} standard.

Non-Attainment Area Description

Up until recently the Niagara Frontier was a major industrial area that was home to several steel and coke producing facilities. Emissions from these operations were significant and consisted mainly of particulate matter. Major particulate emitting facilities included Bethlehem Steel, Hanna Furnace, Republic Steel, Donner Hanner Coke, and Shenango Steel.

New York's TSP SIP for the Niagara Frontier

In 1971, states were required by the Clean Air Act to develop and submit for EPA approval plans for attaining and maintaining the air quality standards in areas that did not already meet ambient air quality standards (i.e., non-attainment areas). The Niagara Frontier was such an area. Portions of the AQCR that failed to meet the primary national ambient air quality standards for TSP included a part of South Buffalo and the City of Lackawanna. The City of Niagara Falls, the Town of Niagara, parts of South Buffalo, the City of Lackawanna, the Village of Blasdell and parts of Cheektowage and Lackport, did not meet secondary standards. A SIP submittal for the Niagara Frontier was approved by EPA on May 31, 1972. (For detailed description of the attainment status of the Niagara Frontier AQCR the reader is directed to the *Code of Federal Regulations* (40 CFR part 81.333).)

Subsequently, the 1977 Clean Air Act amendments required states to submit new plans. These were to provided for attainment by December 31, 1982. For areas for which attainment by 1982 could not be demonstrated, EPA promulgated a policy on November 2, 1983 (48 FR 50686) which required SIP revisions that would lead to attainment. The South Buffalo-Lackawanna area was the only area of New York affected by this policy.

In 1979 New York submitted a SIP revision intended to meet Clean Air Act requirements for TSP in the Niagara Frontier. On August 15, 1980 (45 FR 54372) EPA proposed to approve conditionally that submittal. Full approval of the SIP was not possible for several reasons. The 1979 SIP did not contain enforceable measures for the control of fugitive dust, a strategy upon which the SIP was dependent for its demonstration of attainment. In addition, it did not contain regulations reflecting "reasonably available control technology" emission control requirements for the iron and steel and coke industries. Finally, a number of regulations did not contain clearcut, "enforceable" requirements. Ultimately, these problems prevented EPA from taking final action on the 1979 SIP submittal; however, certain regulations were approved by EPA as part of the SIP. On December 31, 1982, the national deadline for attainment of air quality standards, the State proposed to reclassify all areas of the Niagara Frontier to attainment for TSP, except for the Lackawanna area. These areas are now attainment for TSP. This request was based on ambient air monitoring data taken in these areas.

On February 15, 1983, New York State submitted another SIP revision request. This submittal documented the control measures necessary to attain the primary TSP standards in the South Buffalo-Lackawanna area. The plan included New York Code of Rules and Regulations (NYCRR) part 214, regulating coke ovens, part 216, regulating iron and steel processes, and specific control measures for fugitive dust.

1983 SIP Revision Request Inadequacies

EPA was unable to approve the February 15, 1983 submittal as it did not adequately provide for attainment on all non-industrial property. Action on this SIP was postponed pending the State's completion of a modeling demonstration showing attainment at all non-industrial locations in the South Buffalo-Lackawanna area. This demonstration was completed in August 1984 and supplemented on January 5, 1987.

Another concern that was raised by EPA about the State's 1983 submittal was that test procedures, or suitable alternatives, were not adequately defined for certain coke oven operations. However, this issue was resolved to EPA's satisfaction through the inclusion by the State of a revised capacity test method as a March 23, 1988 amendment to the January 5, 1987 submittal. This test method consists of drawing a sample from the plume using high volume sampling equipment, photographing the plume and observing and recording the visible emissions.

However, it should be noted that since 1972 EPA did approve several regulations related to the steel industry, but not as part of the area's TSP SIP. These were New York State Rules and Regulations part 212 and part 214 (see 40 CFR 52.1679).

Economic Changes and their Effect on the Niagara Frontier's Air Quality

Since the early 1980's, there has been a major improvement in the Niagara Frontier's TSP air quality resulting from changes to the area's steel and coke producing facilities as a result of the national trend in this industry. Of the five major steel and coke producing facilities that were operating in the 1970's only one, Bethlehem Steel, remains. No exceedance of the primary or secondary TSP standards has been recorded in the Niagara Frontier since 1981. New York State began ambient monitoring for PM_{10} in the Niagara Frontier in 1985. An exceedance of the PM_{10} standard has never been recorded in the Niagara Frontier.

New York's Plan for Maintaining the Niagara Frontier's Air Quality

The State projects that the area's air quality for particulate matter will remain in attainment because the sources responsible for earlier violations have closed down and all operating permits that were issued to these sources are expired. Sources seeking to commence operations from which particulates would be emitted will be subjected to New York State's new source review regulation, NYCRR part 231, which has already been approved by EPA on July 1, 1980 (45 FR 44273) as a part of the SIP.

If this area is eventually redesignated as attainment for particulate matter, sources seeking operating permits will be subject to Prevention of Significant Deterioration (PSD) review. New York State has been delegated responsibility for the PSD program and employs analytical techniques that are consistent with federal requirements for analysis as defined in 40 CFR part 52.21.

Finding

EPA believes that the January 5, 1987 New York SIP revision submittal answers the outstanding questions that were raised as a result of EPA's review of the State's February 15, 1983 TSP SIP revision request, and that together these submittals effectively provide for the attainment and maintenance of ambient air quality standards for particulate matter in the Niagara Frontier. Any new source seeking permission to operate in this area is subject to review under EPA-approved new source review regulations until such time as the area is redesignated to attainment. Thereafter, new and significantly modified sources

will be required to meet stringent federal PSD requirements.

Conclusion

EPA is proposing to approve the New York State SIP for the control of TSP in the Niagara Frontier to facilitate the implementation of a plan to control PM_{10} particulates. Provided that no significant queries arise from today's publication, EPA will, in the coming months, announce its final approval of this TSP SIP. The onus will then fall on New York State to request a redesignation of this area from non-attainment to attainment for TSP and, subsequently, that its TSP SIP be considered the PM_{10} SIP for this area.

This notice is issued as required by Section 110 of the Clean Air Act, as amended. The Administrator's decision regarding the approval of this plan revision is based on its meeting the requirements of Section 110 of the Clean Air Act, and 40 CFR part 51.

EPA is soliciting public comments on this notice and on issues relevant to EPA's proposed action. Comments will be considered before taking final action. Interested parties may participate in the federal rulemaking procedure by submitting written comments to the address cited at the beginning of this notice.

Under 5 U.S.C. 605(b), I certify that this SIP revision will not have a signficant economic impact on a substantial number of small entities. (See 46 FR 8709.)

This action has been classified as a table 2 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget waived table 2 and 3 SIP revisions (54 FR 2225) from the requirements of section 3 of Executive Order 12291 for a period of two years.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

List of Subjects in 40 CFR Part 52

Air pollution control, Particulate matter, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401–7642.

Dated: December 18, 1989.

Constantine Sidamon-Eristoff,

Regional Administrator, Environmental Protection Agency, Region II.

[FR Doc. 90–2814 Filed 2–6–90; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 180

[PP9E3760/P504; FRL–3690–1]

Pesticide Tolerance for 2-[1-(Ethoxyimino)Butyl]-5-[2-(Ethylthio)Propyl]-3-Hydroxy-2-Cyclohexene-1-One

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that a tolerance be established for the combined residues of the herbicide 2-[1-(ethoxyimino)butyl]-5-[2-(ethylthio)propyl]-3-hydroxy-2-cyclohexene-1-one (also referred to in this document as sethoxydim) and its metabolites containing the 2-cyclohexene-1-one moiety (calculated as the parent compound) in or on the raw agricultural commodity rhubarb. The regulation to establish a maximum permissible level for residues of the herbicide in or on the commodity was requested in a petition submitted by the Interregional Research Project No. 4 (IR–4).

DATES: Written comments, identified by the document control number [PP 9E3760/P504], must be received on or before March 9, 1990.

ADDRESSES: By mail, submit comments to: Public Information Branch, Field Operations Division (H7506), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, deliver comments to: Rm. 246, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. All written comments will be available for public inspection in Rm. 246 at the address given above from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Hoyt Jamerson, Emergency Response and Minor Use Section (H–7505C), Registration Division, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 716, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, 703–557–2310.

SUPPLEMENTARY INFORMATION: The Interregional Research Project No.4 (IR–4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, submitted pesticide petition 9E3760 to EPA on behalf of Dr. Robert H. Kupelian, National Director, IR–4 Project, and the Agricultural Experiment Station of Michigan.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for the combined residues of the herbicide 2-[1-(ethoxyimino)butyl]-5-[2-(ethylthio)propyl]-3-hydroxy-2-cyclohexene-1-one and its metabolites containing the 2-cyclohexene-1-moiety (calculated as the herbicide) in or on the raw agricultural commodity rhubarb at 0.3 part per million (ppm). The petitioner proposed that this use of sethoxydim be limited to Michigan, Indiana, Illinois, Ohio, Wisconsin, and Minnesota, based on the geographical representation of the residue data submitted. Additional residue data will be required to expand the area of usage. Persons seeking geographically broader registration should contact the Agency's Registration Division at the address provided above.

The data submitted in the petition and other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought. The toxicological data considered in support of the proposed tolerance include:

1. A 1-year dog feeding study with a no-observed-effect level (NOEL) of 8.86/9.41 (male/female) milligrams (mg)/kilogram (kg)/day.

2. A 2-year chronic feeding/oncogenicity study in rats with a NOEL for systemic effects equal to or greater than 18 mg/kg/day (equivalent to 360 ppm, highest dose tested) and no carcinogenic effects observed under the conditions of the study at all dose levels tested (2, 6, and 18 mg/kg/day).

3. A 2-year chronic feeding/oncogenicity study in mice with a NOEL of 18 mg/kg/day (equivalent to 120 ppm)

and no carcinogenic effects observed under the conditions of the study at all dose levels tested (0, 6, 18, 54, and 162 mg/kg/day).

4. A two-generation reproduction study in rats with a NOEL for reproductive effects at 54 mg/kg/day (1,080 ppm) and a NOEL for systemic effects at 18 mg/kg/day (360 ppm).

5. A teratology study in rats with a NOEL of 40 mg/kg/day for maternal toxicity and no observed developmental toxicity at 250 mg/kg/day (highest dose tested).

6. A teratology study in rabbits with a NOEL for maternal effects and developmental toxicity at 160 mg/kg/day.

7. Mutagenicity studies including recombinant assays and forward mutations in *B. subtilis*, *E. coli*, and *S. typhimurium* (negative at concentrations of chemical to 100 percent), and a host-mediated assay (mouse) with *S. typhimurium* (negative at 2.5 grams (g)/kg/day of chemical).

8. A metabolism study in rats which showed negligible accumulation and rapid excretion of the chemical.

The reference dose (RfD), based on the 1-year dog feeding study NOEL of 300 ppm (8.86/9.41 mg/kg/day, male/female) using an uncertainty factor of 100, is calculated to be 0.09 mg/kg of body weight/day.

The theoretical maximum residue contribution (TMRC) from existing tolerances for uses of sethoxydim is calculated to be 0.24208 mg/kg/day. The current action will increase the TMRC by 0.000002 mg/kg/day. Published tolerances utilize 26.9 percent of the ADI; the current action will utilize an additional 0.002 percent.

The nature of the residue is adequately understood, and an adequate analytical method, capillary column gas-liquid chromatography using a sulfur-specific flame photometric detector, is available for enforcement purposes. Analytical enforcement methods are currently available in the *Pesticide Analytical Manual*, Vol. II (PAM II). There are currently no actions pending against the continued registration of this chemical.

No secondary residues in meat, milk, poultry, or eggs are expected since rhubarb is not considered a livestock feed item. Based on the information and data considered, the Agency concludes that the tolerance will protect the public health. Therefore, it is proposed that the tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, that contains these ingredients may request within 30 days after publication of this document in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating both the subject and the petition and document control number, [PP 9E3760/P504]. All written comments filed in response to this proposal will be available for inspection in the Information Services Section at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: January 19, 1990.

Anne E. Lindsay,

Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR part 180 be amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. Section 180.412 is amended by adding and alphabetically inserting in the table in paragraph (b) the raw agricultural commodity rhubarb, to read as follows:

§ 180.412 2-[1-(Ethoxyimino)butyl]-5-[2-(ethylthio)propyl]-3-hydroxy-2-cyclohexene-1-one; tolerances for residues.

* * * * *

(b) * * *

Commodities	Parts per million
* * * * *	
Rhubarb	0.3
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[FR Doc. 90-2816 Filed 2-6-90; 8:45 am]

BILLING CODE 6560-50-D

GENERAL SERVICES ADMINISTRATION

42 CFR Parts 201-1, 201-2, 201-3, 201-4, 201-6, 201-7, 201-9, 201-11, 201-22, 201-39, and 201-45

Implementation of Third Phase of the FIRMR Improvement Project

AGENCY: Information Resources Management Service, GSA.

ACTION: Notice of proposed rulemaking (NPR).

SUMMARY: This notice announces the availability of a proposed rule that is the third phase (and final NPR) of the Federal Information Resources Management Regulation (FIRMR) Improvement Project to reorganize and replace the current FIRMR. This notice announces a new FIRMR subchapter A, "General," and a new subchapter B, "Management and Use of Information and Records." The intent of this proposed rule is to simplify regulations and procedures about information management by Federal agencies.

The initial phase of the FIRMR Improvement Project consolidated FIRMR contracting policies and procedures in a new subchapter D (part 201-39), "Acquisition of Federal Information Processing Resources by Contracting," issued as a proposed rule February 6, 1989 (54 FR 5904). The second phase establishes a new FIRMR subchapter C, "Management and Use of Federal Information Processing Resources," issued October 12, 1989 (54 FR 41850).

This third phase of the FIRMR Improvement Project establishes subchapters A and B. Subchapter A covers FIRMR applicability, designated senior officials, a description of the FIRMR system, and definitions of words and terms. Subchapter B, covers management and use of information and records, and implements laws, executive orders, and responsibilities assigned to GSA concerning information and records management within the Federal Government.

This regulation uses the umbrella term, Federal information processing

(FIP) resources, to identify ADP and telecommunications resources that are subject to GSA's exclusive procurement authority under Public Law 99–500 (see 40 U.S.C. 759).

DATES: Comments must be received no later than March 26, 1990.

ADDRESSES: To request a copy or to submit comments on this proposed rule contact the General Services Administration (KMPP), Project 89–1, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Jack Stewart, Paul Whitson or Patricia Phillips, GSA, Office of Information Resources Management Policy, telephone (202) or FTS 535–7462.

SUPPLEMENTARY INFORMATION: (a) FIRMR subchapters A, B, C and D are expected to be issued as final rules in fiscal year 1990, resulting in replacement of the entire current FIRMR. The proposed new FIRMR will consist of the following subchapters:

Subchapter A, General (Consists of four parts).

Subchapter B, Management and Use of Information and Records (four parts).

Subchapter C, Management and Use of Federal Information Processing Resources (seven parts).

Subchapter D, Acquisition of Federal Information Processing Resources by Contracting (one part).

(b) A summary of the new FIRMR Subchapter A follows:

(1) Part 201–1, "Applicability," prescribes how the FIRMR applies to the management, acquisition, and use of FIP resources, records, and radio and television equipment by Federal agencies.

Note. This proposed rule reserves §§ 201.1.002, Applicability, 201–1.002–1, Policy, and 201–1.002–2 Exceptions. These sections will be the same as those for the final rule implementing Public Law 99–500 that will be published in the near future based on the NPR published in 53 FR 32085.

(2) Part 201–2, "Designated Senior Officials," provides a description of the authorities and responsibilities of the agency DSO.

(3) Part 201–3, "The FIRMR System," describes the purpose of the FIRMR; the issuance, structure, and maintenance of the FIRMR; the policy regarding the issuance of agency regulations to implement or supplement the FIRMR; and the policies and procedures for authorizing deviations from the FIRMR.

(4) Part 201–4, "Definitions, of Words and Terms," defines words and terms used in the FIRMR.

Note. Definitions for subchapters C and D are not included because they are the same definitions that were provided with the NPRs for subchapters C and D. The definition of "significant use" for purposes of FIRMR applicability is not included because it will be the same as the definition of that term in the final rule implementing Public Law 99–500.

(c) A summary of the new FIRMR subchapter B follows:

(1) Part 201–6, "Predominant Considerations," describes the legislative basis and goals of information management and provides a brief overview of the policies that must be addressed by senior agency IRM officials.

(2) Part 201–7, "Planning," prescribes policies for information planning by Federal agencies.

(3) Part 201–8 is reserved.

(4) Part 201–9, "Creation, Maintenance, and Use of Records," prescribes policies and procedures for both agency records management programs and GSA Governmentwide records programs.

(5) Part 201–10 is reserved.

(6) Part 201–11, "Review and Evaluation," prescribes policies and procedures for the Federal Information Resources Management Review Program and the Information Resources Procurement and Management Review Program as they relate to the management and use of information.

(7) In addition to the new FIRMR parts described above, Subchapter B has associated with it four new FIRMR bulletins that supersede one current bulletin and contain guidance and procedures transferred from the current FIRMR. FIRMR bulletins are not regulatory.

(d) This proposed rule will amend the current FIRMR by removing the following parts:

(1) Part 201–1, "Federal Information Resources Management Regulations System"

(2) Part 201–2, "Definitions"

(3) Part 201–22, "Records Management Programs"

(4) Part 201–45, "Management of Records"

(e) The NPR also includes a change to the new FIRMR Subpart 201–39.8, "Required Sources of Supplies and Services." The change adds a new § 201–39.804, "Financial Management Systems Software (FMSS) mandatory multiple award schedule (MAS) program." The new section provides policies and procedures for using a mandatory MAS program that GSA has established to help executive agencies implement the Office of Management and Budget's (OMB's) Governmentwide financial management systems program as outlined in OMB Circular No. A–127.

(f) The General Services Administration (GSA) has determined that the proposed rule is not a major rule for purposes of Executive Order 12291 of February 17, 1981. GSA decisions are based on adequate information concerning the need for, and the consequences of the rule. The rule is written to ensure maximum benefits to Federal agencies. This is a Governmentwide management regulation that will have little or no net cost effect on society. The rule is not likely 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.).

Dated: October 30, 1989.

Francis A. McDonough,

Deputy Commissioner for Federal Information Resources Management.

[FR Doc. 90–2798 Filed 2–6–90; 8:45 am]

BILLING CODE 6820–25–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 90–13; RM–7090]

Radio Broadcasting Services; White Hall, AR

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed by Carl Jones, seeking the allotment of FM Channel 283A to White Hall, Arkansas, as that community's first local broadcast service. Coordinates for this proposal are 34–15–15 and 92–01–49.

DATES: Comments must be filed on or before March 23, 1990, and reply comments on or before April 9, 1990.

ADDRESSES: Federal Communications Commission, Washington, DC 20554 In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Carl Jones, P.O. Box 2800, Pine Bluff, AR 71613.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 90–13, adopted January 16, 1990, and released January 31, 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. 90–2772 Filed 2–6–90; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 90–12, RM–7087]

Radio Broadcasting Services; Thousand Palms, CA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed on behalf of Jeffrey Rochlis, seeking the allotment of FM Channel 234A to Thousand Palms, California, as that community's first local broadcast service. Coordinates for this proposal are 33–49–20 and 116–21–57.

DATES: Comments must be filed on or before March 23, 1990, and reply comments on or before April 9, 1990.

ADDRESSES: Federal Communications Commission, Washington, DC 20544. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Lewis J. Paper, Esq., Keck, Mahin & Cate, 1201 New York Avenue, NW., Washington, DC 20005.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 90–12, adopted January 12, 1990, and released January 31, 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. 90–2773 Filed 2–6–89; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 90–21, RM–7126]

Radio Broadcasting Services; Beaumont, CA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed on behalf of Eastland Broadcasting Corp., seeking the allotment of FM Channel 265A to Beaumont, California, as that community's first local broadcast service. Coordnates for this proposal are 33–56–06 and 116–58–24.

DATES: Comments must be filed on or before March 26, 1990, and reply comments on or before April 10, 1990.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: William E. Kennard, Esq., Verner, Liipfert, Bernhard, McPherson and Hand, 901—15th Street, NW., Suite 700, Washington, DC 20005.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 90–21, adopted January 16, 1989, and released February 1, 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. 90–2776 Filed 2–6–90; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 90–15, RM–7038]

Radio Broadcasting Services; Benton, IL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Lanmar Broadcasting, Inc., requesting the substitution of Channel 292B1 for Channel 292A at Benton, Illinois, and modification of its license for Station

WQRL(FM) to specify the higher power channel. Channel 292B1 can be allotted to Benton in compliance with the Commission's minimum distance separation requirements with a site restriction of 22 kilometers (13.6 miles) southeast of the community. The coordinates for this allotment are North Latitude 37–57–05 and West Longitude 88–40–00. In accordance with § 1.420(g) of the Commission's Rules, we shall not accept competing expressions of interest in the higher powered channel at Benton or require the petitioner to demonstate the availability of an additional equivalent channel for use by interested parties.

DATES: Comments must be filed on or before March 26, 1990, and reply comments on or before April 10, 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: Tom Land, Lanmar Broadcasting, Inc., P.O. Box 310 Fairfield, Illinois 62837.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 90–15, adopted January 12, 1990, and released February 1, 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. 90–2777 Filed 2–6–90; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 90–14, RM–7193]

Radio Broadcasting Services; Eldorado and Lawton, OK

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition by Communicorp, Inc. seeking the substitution of Channel 246A for unoccupied and unapplied for Channel 232A at Eldorado, Oklahoma. If the channel substitution is made at Eldorado, Station KQLI(FM), Channel 232A, Lawton, Oklahoma, can increase power to 6 kilowatts. Channel 246A can be allotted to Eldorado 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 34–28–24 and West Longitude 99–38–54. The request of Communicorp, Inc. to substitute Channel 232C3 for Channel 232A at Lawton, Oklahoma, is not proposed since Channel 232C3 cannot be allotted to Lawton in compliance with the Commission's minimum distance separation and city grade coverage requirements.

DATES: Comments must be filed on or before March 26, 1990, and reply comments on or before April 10, 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: Colby M. May, Esq., May & Dunne, Chartered, 1000 Thomas Jefferson Street, NW., Suite 520, Washington, DC 20007 (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. 90–14, adopted January 16, 1990, and released February 1, 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* 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* contracts.

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. 90–2778 Filed 2–6–90; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 90–22; RM–7194]

Radio Broadcasting Services; Obion, TN

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Billy Gene Presson proposing the allotment of Channel 267C3 to Obion, Tennessee, as that community's first local FM service. A site restriction of 14.4 kilometers (9.0 miles) northwest of the city is required. The coordinates are 36–20–42 and 89–19–00.

DATES: Comments must be filed on or before March 26, 1990, and reply comments on or before April 10, 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: John A. Borsari, Esq., Borsari & Kump, 900 Seventeenth 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. 90–22, adopted January 19, 1990, and released February 1, 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. 90–2775 Filed 2–6–90; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 90–23; RM–7150]

Radio Broadcasting Services; Buckhannon, WV

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Harlynn, Inc., licensee of Station WBTQ(FM) at Buckhannon, West Virginia, proposing the substitution of Channel 228B1 for Channel 228A at Buckhannon, and the modification of its license accordingly. A site restriction of 13 kilometers (8.1 miles) southeast of the city is required. The coordiantes are 38–53–55 and 80–08–22.

DATES: Comments must be filed on or before March 26, 1990, and reply comments on or before April 10, 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: Timothy E. Welch, Esq., Dean George Hill, P.C., 1330 New Hampshire Ave., NW. #113, 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. 90–23, adopted January 19, 1990, and released February 1, 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. 90–2774 Filed 2–6–90; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 76

[MM Docket No. 90–4; FCC 90–12]

Cable Television; Reexamination of the Effective Competition Standard for the Regulation of Cable Television Basic Service Rates

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This notice of proposed rule making (notice) initiates a reexamination of the Commission's rules regarding the regulation of rates for the provision of basic cable service. Under Section 623 of the Cable Communications Policy Act of 1984 (Cable Act), local franchising authorities may regulate basic cable service rates only in situations where the cable system is not subject to effective competition. The Cable Act directed the Commission to define effective competition and to establish standards for the regulation of basic cable service rates. Section 623 also requires that the Commission periodically review its rate regulations, especially to take into account developments in technology, and to amend its rules as needed. The Commission now concludes that a review of the rules pertaining to the regulation of basic cable service rates is appropriate, in light of the changed circumstances in the video services marketplace since these rules were adopted in 1985.

DATES: Comments must be submitted on or before April 6, 1990, and reply comments on or before May 7, 1990.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's notice of proposed rule making in MM Docket No. 90–4, adopted January 11, 1990, and released January 22, 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, Northwest, 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, Northwest, Suite 140, Washington, DC 20037.

Summary of the Notice of Proposed Rule Making

1. The Commission adopted a "three signal standard" for determining whether cable systems were subject to "effective competition" and thus not subject to regulation of their basic cable service rates by the local franchising authority in the 1985 Report and Order in MM Docket No. 84–1296, 50 FR 18637, May 2, 1985 implementing the Cable Act. At that time, the Commission concluded that effective competition should be based on the availability of off-air television broadcast signals because the

basic service tier was primarily composed of retransmitted broadcast signals. The Commission also found that a three signal standard for effective competition would be sufficient to allow viewers adequate programming choices and ensure that the basic tier offering did not become a source of undue market power for the cable operator.

2. The Commission now believes that a review of the three signal standard is appropriate because the cable industry has recently undergone rapid changes that have altered the nature of basic cable service. The fundamental change that has occurred since the deregulation of basic service rates is that the number of channels now generally offered on the basic tier has increased. As a result of this basic tier expansion; the makeup of the basic tier has changed from principally offering retransmitted local broadcast signals to a menu that includes a full range of programming services, including superstations and cable networks, such as CNN, USA, MTV and ESPN. Accordingly, while three off-the-air broadcast television signals may have been an appropriate measure of effective competition when the basic service tier consisted primarily of signals available over-the-air, local broadcast signals may no longer be a good substitute for the variety of programming now included on the basic tier.

3. The notice requests comment on whether the existing standard remains valid, or whether another measure would provide a more accurate determination of effective competition. Specifically, the notice seeks comment on a number of alternative ways to define effective competition. These alternatives include an enlarged number of off-air broadcast signals, the availability of alternative video delivery systems, such as MMDS, and cable penetration. Commenters also are asked to consider whether we should determine that effective competition exists in communities where cable service is provided to all subscribers on a per-channel, or unbundled, basis. In addition, parties are encouraged to suggest any other alternatives that would be readily applicable on a community-by-community basis and would ensure that franchising authorities may regulate basic cable service rates in situations where effective competition does not exist.

4. The Cable Act also requires that the Commission establish standards for local rate regulation. In 1985, the Commission adopted a set of administrative procedures that franchising authorities must use in setting rates. The Commission also decided at that time to permit local franchising authorities to determine appropriate rate-setting mechanisms.

5. The notice purposes to retain the existing procedural requirements. In addition, the notice requests comment on a number of options that may assist local franchising authorities in the rate-making process, including the adoption of federal accounting standards for cable systems, the reinstitution of the Commission's financial reporting requirement and the adoption of specific rate-making methodologies for the setting of basic cable service rates, such as price caps.

6. We note that any new rules we may adopt as a result of this proceeding would likely authorize more franchising authorities to regulate the basic service rates of their local cable television systems. Thus, the notice requests comment on several matters related to the implementation of and transition to a new regulatory scheme. We seek comment on a proposal to delegate to franchising authorities in the first instance the authority to determine whether a cable system whose rates for basic service are currently not regulated, but would qualify for regulation under any new standard we adopt, with the existing processes under § 76.33(c) of the Commission's rules retained in the event the cable system operator or other party disagrees with the determination. We also ask parties to consider whether we should delay the implementation of any new rules that we may adopt herein for some length of time, and, if so, for what period of time. Finally, we seek comment on the way that the Commission can ensure that cable systems do not engage in strategic behavior (*e.g.*, to increase basic service rates or reverse tier expansion) that may be contrary to the public interest before the effective date of any new rule regarding the regulation of basic cable rates to defeat their intended effect.

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.

8. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 603, this proceeding will consider modification of the three signal standard for determining effective competition which is used to determined whether a cable system is subject to regulation of its basic cable service rates by the local franchising authority. The notice also seeks comment regarding revisions to the Commission's existing standards for local rate regulation. Public comment is requested on the initial regulatory flexibility analysis set out in full in the Commission's complete decision.

9. 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 April 6, 1990, and reply comments on or before May 7, 1990. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding.

10. Authority for this action is contained in sections 4(i), 303 and 543(b)(3) of the Communications Act of 1934, as amended.

List of Subjects in 47 CFR Part 76

Cable television.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 90-2779 Filed 2-6-90; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Advance Notice of a Proposal To Reclassify or Delist the Bald Eagle (Haliaeetus leucocephalus)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Advance notice of a proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) is reviewing the status of the bald eagle (*Haliaeetus leucocephalus*) in preparation of a proposal to either reclassify or delist the species. Since 1978 when the species was listed throughout its range in the conterminous States, the bald eagle has increased in several important population parameters including the number of nesting pairs and production of young. The Service has approved five regional recovery plans for the bald eagle that collectively encompass the entire conterminous 48 States. The current population data indicate that the bald eagle has met the goals for reclassification from endangered to threatened in four of these five recovery plans. The Service is currently reviewing past and present bald eagle population survey data and other information to ascertain what listing action may be appropriate for the species. The Service seeks data and comments from the

public on this notice and is requesting information on environmental and other impacts that would result from a proposal to either reclassify, downlist, or delist all or specific populations of the bald eagle.

DATES: Comments from all interested parties must be received by March 30, 1990.

ADDRESSES: Comments and materials concerning this notice should be sent to the Endangered Species Coordinator, Fish and Wildlife Enhancement, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities Minnesota 55111. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Daniel L. James, Wildlife biologist, at the above address (612/725- 3276 or FTS 725–3276).

SUPPLEMENTARY INFORMATION:

Background

The bald eagle (*Haliaeetus leucocephalus*) has an overall range encompassing Canada, Alaska, northern Mexico, and the 48 conterminous States of the United States. Historical estimates of the number of bald eagles occupying the lower 48 States are unavailable, however, the species was flourishing in 1782 when it became the national symbol. Westward expansion of civilization in this country and the resultant land we changes contributed to an early decline in bald eagle numbers. This decline in the population was exacerbated by indiscriminate shooting encouraged by the bounty many States paid for eagle carcasses. Nevertheless, bald eagle populations in the conterminous States were relatively secure through the early decades of the twentieth century.

A precipitous population decline following widespread application of the organochlorine insecticide DDT (dichloro dphenyl trichloroethane) from the 1940s through 1972, led the Service to list the bald eagle as endangered in 1967 (March 11; 32 FR 4001). This listing was made under the Endangered Species Preservation Act of 1966 (Preservation Act). At the time of this listing, two subspecies of the bald eagle were recognized by the scientific community; the northern bald eagle (*Haliaeetus leucocephalus alascanus*) and the southern bald eagle (*Haliaeetus leucocephalus leucocephalus*). The 1967 listing included only the southern subspecies, defined by the Service to be those eagles found south of 40 degrees North Latitude. The Preservation Act did not include a threatened category, and it did not provide for the opportunity to list a population within a species or subspecies' range. The northern bald eagle was not listed in 1967 primarily because the Alaskan and the central and western Canadian populations of that subspecies were not considered endangered

In 1973 the Endangered Species Act (16 U.S.C. 1531 *et seq.*) (Act) was passed into law. The Act provided for a new threatened category of endangerment and the listing of distinct populations of vertebrate species. A bald eagle survey conducted by the Service in 1974 revealed that in parts of the norther half of the 48 conterminous States, bald eagle populations were in worse condition than within certain areas south of 40 degrees N. Consequently, the Service published a second bald eagle rulemaking (February 14, 1978; 43 FR 6233) under the authorities granted by the Endangered Species Act of 1973. This rulemaking listed the species *Haliaeetus leucocephalus* (bald eagle) as endangered throughout the 48 conterminous States, except in Washington, Oregon, Minnesota, Wisconsin, and Michigan, where it was listed as threatened. It was recognized by the Service that the populations in these five States did not meet the criteria for endangered, as defined in section 3(6) of the Act.

The use of DDT is generally believed to have had the most deleterious impact to bald eagle populations in the conterminous States. Specifically, DDE, a major metabolite of DDT, accumulates in the fatty tissue of adult bald eagles inducing eggshell thinning and reproductive impairment. Other factors that contributed to the species' decline included: habitat loss and/or conversion to uses incompatible with continued use by bald eagles, shooting, trauma (accidents, etc.), poisoning, electrocution, and other general causes of mortality. On January 1, 1973, the Environmental Protection Agency banned the use of DDT in the United States. This date is noteworthy as it marks the end of an era that was catastrophic for bald eagles and other species sensitive to the effects of DDT, including the peregrine falcon (*Falco peregrinus*) and brown pelican (*Pelicanus occidentalis*). The ban on the use of DDT is generally recognized as pivotal in the struggle to save the bald eagle from extinction. However, as the nation's symbol and a "flagship" species for the endangered species program, the bald eagle has benefited from a level of protection and conservation effort perhaps without parallel for a single species in the United States.

The Service has committed considerable resources to the recovery of the bald eagle, specifically in the categories of land acquisition/ protection, research, public education, law enforcement, and management. These efforts have contributed to the slow but steady recovery of bald eagles. Placement of the bald eagle on the Federal list of Endangered and Threatened Wildlife and Plants ensured that the species would benefit from the protective provisions of the Act. This further contributed to the improvement of bald eagle populations.

Among the more substantive of the Act's protective provisions are sections 7 and 4. Section 7(a)(1) of the Act directs all Federal agencies to "* * * utilize their authorities . . . for the conservation of endangered species and threatened species. . . ." Section 7(a)(2) directs each Federal agency to ". . . insure that any action authorized, funded, or carried out by such agency is not likely to jeopardize the continued existence of any endangered species or threatened species. . . ." Section 4(g) of the Act provides for the development and implementation of recovery plans for listed species. The implementation of many of the recovery tasks identified in the Service's five bald eagle recovery plans has significantly improved the status of the species. These tasks have been funded and/or carried out by numerous Federal and State agencies, academic institutions, and private organizations and individuals. The cumulative effect of all these efforts has been a progressive increase in the population of bald eagles in the conterminous States.

Early surveys to count the number of bald eagles were inexact and, at best, rough estimates. When comparing the number of eagles known from previous years with more recent data, it should be recognized that increases in eagle numbers reflect an improvement in survey technique and expansion of search effort as well as an absolute increase in population levels. A further complication arises from the fact that the various organizations and individuals collecting the data have used terminology with varying definitions in reporting their findings. The result is that the findings from different years are not always directly comparable. Nevertheless, it is instructive to review the results of past surveys in relation to those conducted in more recent years to gain a perspective on the improvement in the status of the bald eagle nationwide.

In 1963, a National Audubon Society survey of the 48 conterminous States

identified 417 active nests that produced a ratio of 0.59 young per nest. The Service's bald eagle survey conducted in 1974 accounted for 791 active nests yielding a ratio of 0.78 young per nest. In 1981, the Bureau of Land Management conducted a status and distribution survey of bald eagles for the conterminous States that reported 1,428 occupied breeding areas (1,188 with pairs) producing 1.04 young per occupied area. By 1986 a total of 1,875 nesting pairs in the conterminous States was reported to the Service, producing in excess of 1.0 young per occupied territory. Whereas the results of the 1989 breeding season are not yet fully reported, the Service can nevertheless account for a minimum of 2,660 occupied bald eagle breeding territories in the lower 48 States, with reproduction of approximately 1.0 young per active territory nationwide.

Four of the five bald eagle recovery plans have incorporated, as part of the recovery goals, a criteria for reproducing pairs of approximately 1.0 young per active pair. The ratio is calculated by taking into consideration the reproductive results for all pairs of eagles in the population that attempted to nest, including unsuccessful attempts. The 1.0 figure is significant as it is indicative of a population that is stable or increasing. A summary of the goals and objectives for recovery for each of the Service's five bald eagle recovery plans follows:

Pacific—Recovery Goal—800 occupied nesting territories, average productivity of 1.0 young per occupied territory, with an average breeding success rate per occupied site of not less than 65 percent, with 80 percent of the 47 recovery zones identified in the plan meeting population goals. Threatened Goal—an annual increase in the number of nesting pairs from 1985–1990.

Southwestern—Recovery Goal—none identified. Threatened Goal—population expansion into one or more drainages in addition to the Salt and Verde River (Arizona) systems, productivity of 10 to 12 young per year over a five year period.

Northern States—Recovery Goal—1200 occupied breeding territories distributed over a minimum of 16 States, average productivity of 1.0 young per occupied territory. Threatened Goal—none identified.

Chesapeake Bay—Recovery Goal—none identified. Threatened Goal—175 to 250 occupied breeding territories, average productivity of 1.1 young per occupied territory.

Southeastern States—Recovery Goal—600 occupied breeding territories, 9 of 12 States in the region meeting individual State goals, average productivity of 0.9 young per occupied territory, with 50 percent of nests successful in raising one or more young. These criteria must be met or exceeded for five consecutive years. Threatened Goal—the above criteria must be met or exceeded over a three year average.

The Service believes that the available population data provide a convincing argument for reclassifying the bald eagle. Bald eagle populations have met or exceeded the recovery plan goals for reclassification to threatened in each of the five recovery regions with the exception of the Southeast. In 1989 the number of known occupied nesting territories in the Southeast was 583, approximately the plan goal of 600 for the region. However, a distributional component by State for nesting pairs in the region is still lacking. Although the Northern States Recovery Plan identifies only delisting (recovery) criteria, the Service believes that downlisting to threatened in the Northern States is justified. The bald eagle has met the recovery goal for the ratio of young produced per territory and, through the 1988 breeding season, achieved 84 percent of the number of occupied nesting territories identified for delisting in the Northern States region.

The regulations the Service must follow in proceeding with reclassification or delisting are codified in 50 CFR 424.11. Reclassification of a species is based on the best scientific and commercial data available after conducting a review of the species' status. The species is determined by the Service to be endangered or threatened because of any one or a combination of the following factors;

(1) The present or threatened destruction, modification, or curtailment of its habitat or range;

(2) Over utilization for commercial, recreational, scientific, or educational purposes;

(3) Disease or predation;

(4) The inadequacy of existing regulatory mechanisms; or

(5) Other natural or manmade factors affecting its continued existence.

Delisting a species must also be supported by the best scientific and commercial data available that substantiate that is is neither endangered or threatened for one or more or the following reasons:

(1) Extinction

(2) Recovery, or

(3) Original data for classification of the species is in error.

The Service has decided to await the results of the 1990 bald eagle breeding season prior to reaching a final decision on any rulemkaing to reclassify the bald eagle. This will provide an additional year to monitor the recovery progress of all listed populations, including the progress of specific populations in regions of the country where recovery goals for reclassification have not yet been met, or only marginally so.

Should one or more endangered populations of the bald eagle be reclassified to threatened, those populations would continue to benefit from protection under the Endangered Species Act. However, some differences do exist with regard to the Act's treatment of endangered as opposed to threatened species. The term "endangered species" is defined in the Act to mean any species which is in danger of extinction throughout all or a significant portion of its range, while a "threatened species" is defined as one that is likely to become an endangered species within the foreseeable future. Section 7(a)(2) of the Act requires each Federal agency to insure that its actions do not jeopardize the continued existence of an endangered or threatened species. A threatened species would be expected to have more of a "resource cushion" than an endangered species. As such, a threatened species would likely be able to withstand greater impacts from agency actions before the threshold of jeopardy to the continued existence of the species is reached.

Implementing regulations (50 CFR 17.22, 17.32) governing the issuance of permits under section 10 of the Act provide greater management flexibility for threatened as opposed to endangered species. In addition to permits for endangered species that may be issued for scientific purposes, enhancement of propagation or survival, or for incidental take, permits for threatened species may also be issued for economic hardship, zoological exhibition, educational purposes, or special purposes consistent with the purposes of the Act. The civil and criminal penalties (section 11) for violating the Act are greater for endangered than for threatened species.

Should one or more populations of the bald eagle be delisted as a result of this exercise or in the future, the Endangered Species Act would continue to afford a measure of protection for the species following delisting. Section 4 of the Act was amended in 1988, directing the Secretary (Service) to implement a system to monitor recovered species for not less than five years. When monitoring shows that protection is needed to prevent a significant risk to a species, the Service is to utilize the Act's existing emergency listing authority.

Regardless of any future changes in the status of bald eagle populations under the Endangered Species Act, the species will continue to benefit from protection under the Bald and Golden Eagle Protection Act, the Migratory Bird Treaty Act, and certain regulations issued thereunder (16 U.S.C. 668–668d, 703–712; 50 CFR 10.13, 21.2, 21.22, part 22). In addition, many States have passed endangered and threatened species statutes to provide protection to species of special concern in the State. The bald eagle is listed and protected under many of these State statutes, and the States may choose to maintain the eagle on their State protected lists even if it is delisted and removed from Federal Endangered Species Act protection.

Public Comments Solicited

The Service intends that the forthcoming proposal be as complete and accurate as possible. Therefore, comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this notice are hereby solicited. Comments particularly are sought concerning:

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

(2) The location of any additional populations of this species;

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

(4) Current or planned activities within the conterminous States that might have possible long-term impacts on this species. The forthcoming proposal on the bald eagle will take into consideration these comments and any additional information received by the Service.

References Cited

A complete list of all references is available upon request from the Service's North Central Regional Office, Twin Cities, Minnesota (see ADDRESS above).

Author

The primary author of this notice is Daniel L. James (see ADDRESSES above).

List of Subjects in 50 CFR Part 17

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

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

Dated: January 31, 1990.

Richard N. Smith,

Acting Director, Fish and Wildlife Service.

[FR Doc. 90–2765 Filed 2–6–90; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 628

Bluefish Fishery; Correction

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

ACTION: Notice of availability of fishery management plan and request for comments; correction of receipt date.

SUMMARY: This notice is being issued to inform the public of a change in the date that NMFS received the Fishery Management Plan for the Bluefish Fishery (FMP) from the Mid-Atlantic Fishery Management Council (Council). The receipt date is corrected to reflect the date when NMFS received all of the required documents from the Council. The Council is in agreement with this change. The notice of availability of the FMP was published in 54 FR 51437, December 15, 1989, and a correction changing the closing date for receiving public comments on the FMP was published in 55 FR 652, January 8, 1990.

DATES: Comments on this correction will be accepted until February 13, 1990.

FOR FURTHER INFORMATION CONTACT: Jack Terrill, Resource Policy Analyst, 508–281–9252.

In FR Doc. 89–29227 on page 51437, in the issue of December 15, 1989, make the following correction:

On page 51437, in the third column under the **"SUPPLEMENTARY INFORMATION"** heading, second paragraph, line 3, the receipt date "December 10, 1989" should read "December 15, 1989".

Dated: February 2, 1990.

Richard H. Schaefer,

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

[FR Doc. 90–2821 Filed 2–6–90; 8:45 am]

BILLING CODE 3510–22–M

Notices

Federal Register
Vol. 55, No. 26
Wednesday, February 7, 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

Forms Under Review by Office of Management and Budget

February 2, 1990.

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

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

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

Extension

- Forest Service, Youth Conservation Corps (YCC) Application and Medical History, FS-1800-3, FS-1800-18, On occasion, Individuals or households; 27,500 responses; 2,500 hours; not applicable under 3504(h), L. Wayne Bell. (202) 535-0927.

New

- Foreign Agricultural Service, CFR part 1494—Regulations covering CCC's Export Enhancement Program, None, Recordkeeping; On occasion, Businesses or other for-profit; Small businesses or organizations; 16,368 responses; 8,184 hours; not applicable under 3504(h), L.T. McElvain (202) 447-6211.

Reinstatement

- Federal Crop Insurance Corporation, Crop Insurance Application, FCI-12, Annually, Farms; 80,723 responses; 6,781 hours; not applicable under 3504(h), Garland D. Westmoreland (202) 447-5251.

Larry K. Roberson,

Acting Departmental Clearance Officer.

[FR Doc. 90-2837 Filed 2-6-90; 8:45 am]

BILLING CODE 3410-01-M

Packers and Stockyards Administration

Proposed Posting of Stockyards; Marion Stockyard, Marion, AL et al.

The Packers and Stockyards Administration, United States Department of Agriculture, has information that the livestock markets named below are stockyards as defined in section 301 of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 202), and should be made subject to the provisions of the Act.

AL-180	Marion Stockyard, Marion, Alabama
AL-181	Rusty Guy Auction Company, Dothan, Alabama
AR-164	Poteau Valley Cattle Co., Waldron, Arkansas
GA-205	Crystal Farms Livestock Auction, Ranger, Georgia
GA-206	Georgia Mountain Livestock, Cleveland, Georgia
GA-207	K&K Hair and Feather Auction, Swainsboro, Georgia
IL-172	Vienna Auction, Inc., Vienna, Illinois
MI-148	Pitchfork Livestock Exchange, Alpena, Michigan
TN-186	Knoxville, Livestock, Center, Inc., Knoxville, Tennessee
TX-339	Central Texas Auction, Inc., Jarrell, Texas
TX-340	Elkhart Livestock Exchange, Elkhart, Texas

Notice is hereby given that pursuant to authority under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 *et. seq.*), it is proposed to designate the stockyards named above as posted stockyards subject to the provisions of the Act as provided in section 302 thereof.

Any person who wishes to submit written data, views or arguments concerning the proposed designation may do so by filing them with the Director, Livestock Marketing Division, Packers and Stockyards Administration, Room 3408-South Building, U. S. States Department of Agriculture, Washington, DC 20250 by February 17, 1990.

All written submissions made pursuant to this notice shall be made available for public inspection in the office of the Director of the Livestock Marketing Division during normal business hours.

Done at Washington, DC this 2nd day of February 1990.

Harold W. Davis,

Director, Livestock Marketing Division.

[FR Doc. 90-2801 Filed 2-6-90; 8:45 am]

BILLING CODE 3410-KD-M

Posted Stockyards; South Alabama Livestock, Inc., et al.

Pursuant to the authority delegated under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 *et seq.*), it was ascertained that the livestock markets named below were stockyards within the definition of that term contained in section 302 of the Act, as amended (7 U.S.C. 202), and notice was given to the owners and to the public by posting notices at the stockyards as required by said section 302 on respective dates specified below.

Facility No.	Name and location of stockyard	Date of posting
AL-178	South Alabama Livestock, Inc., Brundidge, Alabama	Nov. 9, 1989.
AL-179	Circle J. Horse Auction, Bryant, Alabama	Oct 23, 1989.
GA-204	Dodge County Stockyards, Inc., Eastman, Georgia	Oct. 20, 1989.
LA-142	Mouiller Livestock Auction, Mamou, Louisiana	Nov. 28, 1989.
MT-121	Robbins Livestock Auction, Co., Missoula, Montana	Dec. 6, 1989.

Facility No.	Name and location of stockyard	Date of posting
PA-154	Union City Livestock Market, Inc., Union City, Pennsylvania	Nov. 6, 1989.
PA-155	John D. Whiting Auction, New Wilmington, Pennsylvania	Nov. 1, 1989.
SC-144	Interstate Stock Barn, Inc., Pelzer, South Carolina	Oct. 31, 1989.
SC-145	Southeastern Livestock Center, Campobello, South Carolina	Oct. 31, 1989.
SC-146	Intercoastal Auction Barn, Conway, South Carolina	Nov. 2, 1989.
SC-147	H & H Livestock, Seneca, South Carolina	Nov. 14, 1989.
SD-170	Platte Livestock Market, Inc., Platte, South Dakota	Oct. 31, 1989.

Done at Washington, DC, this 1st day of February 1990.

Harold W. Davis

Director, Livestock Marketing Division, Packers and Stockyards Administration.

[FR Doc. 90-2802 Filed 2-6-90; 8:45 am]

BILLING CODE 3410-KD-M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

[Docket No. 91044-0033]

Foreign Availability Determination: Polycrystalline Silicon Rods and Chunks

AGENCY: Office of Foreign Availability, Bureau of Export Administration, Commerce.

ACTION: Notice of positive determination.

SUMMARY: On January 4, 1990, under the authority of the Export Administration Act of 1979, as amended (EAA), the Deputy Assistant Secretary for Export Administration made a determination that foreign availability exits for a quality and quantity of polycrystalline silicon rods and chunks to Poland as specified in two denied export licenses, to the extent that the denial of these licenses would be ineffective in achieving the purposes of the controls. Polycrystalline silicon rods and chunks are controlled under ECCN 1757A(f) of the Commodity Control List (15 CFR 799.1, Supp. 1). The Deputy Assistant Secretary for Export Administration has initiated action to submit the export license applications for multilateral review in accordance with the agreement of the Coordinating Committee for a period of not more than four months beginning on the date of the publication of this **Federal Register** notice.

FOR FURTHER INFORMATION CONTACT: Dr. Irwin M. Pikus, Director, Office of Foreign Availability, Room SB-097, Department of Commerce, Washington, DC 20230; Telephone: (202) 377-8074.

SUPPLEMENTARY INFORMATION:

Background

Sections 5 (f) and (h) of the EAA require the Department of Commerce to review claims of foreign availability of items controlled for national security reasons. Part 791 of the Export Administration Regulations (15 CFR part 768 *et. seq.*) establishes the procedures and criteria for determining foreign availability. The Secretary of Commerce or his designee is authorized by statute to determine whether foreign availability exists within the meaning of the EAA.

With limited exceptions, the Department of Commerce may not deny the export of a U.S. item controlled for national security reasons when it has been determined that an item of comparable quality is available in fact to a controlled country from a foreign source in quantities sufficient to render the control ineffective in achieving its purpose. Under section 5(f)(1)(B) of the EAA, the Secretary or his designee must approve the export license application.

On September 5, 1989, OFA initiated a denied license assessment on the foreign availability of polycrystalline silicon rods and chunks in response to a claim submitted to OFA, pursuant to section 5(f)(1)(B) of the EAA, for denied export license applications to Poland. This material is controlled for national security reasons under Export Commodity Control Number (ECCN) 1757A(f) of the Commodity Control List.

After completion of the denied license assessment, OFA provided it, with a recommendation for a positive finding, to the Deputy Assistant Secretary for Export Administration for his review. On January 4, 1990, the Deputy Assistant Secretary for Export Administration made a determination that foreign availability exists, within the meaning of section 5(f) of the EAA, to Poland for polycrystalline silicon rods and chunks in the amounts and with the specifications set forth in the two export license applications. In accordance with section 5(f)(3)(b), the Departments of State and Defense were given the opportunity to provide comments on the determination and the assessment. Other interested agencies of the U.S. government were also provided with the assessment. The interagency review process did not affect the determination.

Based on this determination, the Department of Commerce has initiated action to submit the export license applications for multilateral review in accordance with the agreement of the Coordinating Committee for Multilateral Export Controls for a period of not more than four months beginning on the date of the publication of this **Federal Register** notice. Upon completion of the multilateral review process, the Department of Commerce will proceed with the processing of the export license applications.

If OFA receives new evidence affecting this foreign availability determination, OFA may reevaluate its assessment. Inquiries concerning the scope of this assessment should be sent to the Director of OFA at the above address.

Dated: February 2, 1990.

James M. LeMunyon,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 90-2924 Filed 2-6-90; 8:45 am]

BILLING CODE 3510-DT-M

[Docket No. 91169-0034]

Foreign Availability Determination: "Stored Program Controlled" Die (Chip) Mounters and Bonders

AGENCY: Office of Foreign Availability, Bureau of Export Administration, Commerce.

ACTION: Notice of Negative Determination.

SUMMARY: Under the authority of the Export Administration Act of 1979, as amended (EAA), the Deputy Assistant Secretary for Export Administration determined that foreign availability does not exist for "stored program controlled" die (chip) mounters and bonders controlled under ECCN 1355A(b)(5)(i) of the Commodity Control List (CCL) (15 CFR 799.1, Supp. 1) to controlled countries. This determination will not affect current export controls.

FOR FURTHER INFORMATION CONTACT: Dr. Irwin M. Pikus, Director, Office of Foreign Availability, Room SB-097,

Department of Commerce, Washington, DC 20230, Telephone: (202) 377–8074.

SUPPLEMENTARY INFORMATION: .

Background

Sections 5 (f) and (h) of the EAA require the Department of Commerce of review claims of foreign availability of items controlled for national security purposes. Part 791 of the Export Administration Regulations (15 CFR part 768 *et seq.*) establishes the foreign availability procedures and criteria. The Secretary of Commerce or his designee determines whether foreign availability exists within the meaning of the EAA.

With limited exceptions, the Department of Commerce may not maintain national security controls on exports of an item to affected countries if the Secretary or his designee determines that items of comparable quality are available-in-fact to such countries from a foreign source in quantities sufficient to render the controls ineffective.

On September 5, 1989, the Office of Foreign Availability (OFA) initiated a foreign availability assessment of "stored program controlled" die (chip) mounters and bonders. These items are controlled for national security reasons under ECCN 1355A(b)(5)(i) of the CCL. The Department published notice of the assessment in the **Federal Register** on January 5, 1990 (55 FR. 453).

After OFA completed its assessment, OFA provided it to the Deputy Assistant Secretary for Export Administration. The Deputy Assistant Secretary has considered the assessment and other relevant information, and has determined that foreign availability does not exist to controlled countries for "stored program controlled" die (chip) mounters and bonders within the meaning of section 5 of the EAA. Commerce provided other interested government agencies, including the Departments of State and Defense, the opportunity to comment on the assessment and this determination. As a result of this negative determination, the Bureau of Export Administration will not amend the existing export controls.

If OFA receives new evidence affecting this foreign availability determination, OFA may reevlautate its assessment. Inquiries concerning the scope of this assessment should be sent to the Director, OFA, at the above address.

Dated: February 2, 1990.

James M. LeMunyon,

Deputy Assistant Secretary for Export Administration

[FR Doc. 90–2923 Filed 2–6–90; 8:45 am]

BILLING CODE 3510-DT-M

Computer Peripherals, Components, and Related Test Equipment Technical Advisory Committee; Closed Meeting

A meeting of the Computer Peripherals, Components, and Related Test Equipment Technical Advisory Committee will be held February 26, 1990, at 9:30 a.m., in the Herbert C. Hoover Building, Room 1092, 14th Street and Constitution Avenue NW., Washington, DC. The Committee advises the Office of Technology and Policy Analysis with respect to technical questions which affect the level of export controls applicable to computer peripherals, components and related test equipment or technology.

The Committee will meet only in Executive Session to discuss matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 5, 1990, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings or portions of meetings of the Committee and of any Subcommittees thereof, dealing with the classified materials listed in 5 U.S.C. 552b(c)(1) shall be exempt from the provisions relating to public meetings found in section 10 (a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of the Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, Washington, DC. For further information, call Ruth D. Fitts at 202–377–4959.

Dated: February 1, 1990.

Betty A. Ferrell,

Director, Technical Advisory Committee Unit, Office of Technology and Policy Analysis.

[FR Doc. 90–2792 Filed 2–6–90; 8:45 am]

BILLING CODE 3510-DT-M

Foreign-Trade Zones Board

[Docket No. 25–89]

Foreign-Trade Zone 136—Brevard County, Florida, Application for Expansion, Amendment of Application

Notice is hereby given that the application submitted by the Canaveral Port Authority, grantee of FTZ 136, requesting authority to expand its zone in Brevard County, Florida (54 FR 47100, 11/9/89), has been amended to request approval for an additional 24 acres as part of the Melbourne Regional Airport industrial park zone site, one of two new sites involved in the pending application for expansion of FTZ 136. This proposed multi-use parcel, owned by the Henderson Group, is located at Gateway Boulevard and Penn Street in Brevard County. The application remains otherwise unchanged.

The comment period is reopened until February 27, 1990. The application and amendment material are available for public inspection at the following locations:

Port Director's Office, U.S. Customs Service, 120 George King Boulevard, Port Canaveral, FL 32920

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 2835, 14th & Pennsylvania Avenue NW., Washington, DC 20230.

Dated: January 31, 1990.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 90–2790 Filed 2–6–90; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

[A–580–803]

Antidumping Duty Order and Amendment to the Final Determination of Sales at Less Than Fair Value; Certain Small Business Telephone Systems and Subassemblies Thereof From Korea

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: In its investigation, the U.S. Department of Commerce determined that certain small business telephone systems and subassemblies thereof (SBTS) from Korea were being sold in the United States at less than fair value. In a separate investigation, the U.S. International Trade Commission (ITC) determined that a U.S. industry is being materially injured by reason of imports of SBTS from Korea

Therefore, based on these findings, all unliquidated entries or warehouse withdrawals of SBTS for consumption from Korea made on or after August 3, 1989, the date on which the Department published its "Preliminary Determination" notice in the **Federal Register**, will be liable for the possible

assessment of antidumping duties. Further, a cash deposit of estimated antidumping duties must be made on all such entries, and withdrawals from warehouse, for consumption made on or after the date of publication of this antidumping duty order in the Federal Register.

EFFECTIVE DATE: February 7, 1990.

FOR FURTHER INFORMATION CONTACT: Nancy Saeed, Brad Hess, Joel Fischl or Tracey Oakes, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 377–1777, 377–3773, 377–3003, or 377–3174 respectively.

SUPPLEMENTARY INFORMATION: The products covered by this investigation are certain small business telephone systems and subassemblies thereof, currently classifiable under *Harmonized Tariff Schedule* item numbers 8517.30.2000, 8517.30.2500, 8517.30.3000, 8517.10.0020, 8517.10.0040, 8517.10.0050, 8517.10.0070, 8517.10.0080, 8517.90.1000, 8517.90.1500, 8517.90.3000, 8518.30.1000, 8504.40.0004, 8504.40.0008, 8504.40.0010, 8517.81.0010, 8517.81.0020, 8517.90.4000, and 8504.40.0015. Prior to January 1, 1989, such merchandise was classifiable under items 684.5710, 684.5720, 684.5730, 684.5805, 684.5810, 684.5815, 684.5825, 684.5830, 682.6051, and 682.6053 of the *Tariff Schedules of the United States Annotated.*

Certain small business telephone systems and subassemblies thereof are telephone systems, whether complete or incomplete, assembled or unassembled, with intercom or internal calling capability and total non-blocking port capacities of between two and 256 ports, and discrete subassemblies designed for use in such systems. A subassembly is "designed" for use in a small business telephone system if it functions to its full capability only when operated as part of a small business telephone system. These subassemblies are defined as follows:

(1) Telephone sets and consoles, consisting of proprietary, corded telephone sets or consoles. A console has the ability to perform certain functions including: Answer all lines in the system; monitor the status of other phone sets; and transfer calls. The term "telephone sets and consoles" is defined to include any combination of two or more of the following items, when imported or shipped in the same container, with or without additional apparatus: housing; hand set; cord (line or hand set); power supply; telephone set circuit cards; console circuit cards.

(2) Control and switching equipment, whether denominated as a key service unit, control unit, or cabinet/switch. "Control and switching equipment" is defined to include the units described in the preceding sentence which consist of one or more circuit cards or modules (including backplane circuit cards) and one or more of the following items, when imported or shipped in the same container as the circuit cards or modules, with or without additional apparatus: connectors to accept circuit cards or modules; building wiring.

(3) Circuit cards and modules, including power supplies. These may be incorporated into control and switching equipment or telephone sets and consoles, or they may be imported or shipped separately. A power supply converts or divides imput power of not more than 2400 watts into output power of not more than 1800 watts supplying DC power of approximately 5 volts, 24 volts, and 48 volts, as well as 90 volt AC ringing capability.

The following merchandise has been excluded from this investigation: (1) Nonproprietary industry-standard ("tip/ring") telephone sets and other subassemblies that are not specifically designed for use in a covered system, even though a system may be adopted to use such nonproprietary equipment to provide some system functions; (2) telephone answering machines or facsmile machines integrated with telephone sets; and (3) adjunct software used on external data processing equipment.

We note that a number of ambiguities existed in the scope language previously published in the Notice of Initiation with regard to the definition of subassemblies. Therefore, in our preliminary determination, we clarified the language describing the subassemblies under investigation.

The Department continues to receive numerous inquiries regarding the inclusion of dual use subassemblies within the scope of this investigation. As noted in the preliminary determination notice, the Department defines dual use subassemblies as those subassemblies that function to their full capability when operated as part of a large business telephone system as well as a small business telephone system. Because dual use subassemblies by definition are not subassemblies "designed" for use in small business telephone systems, dual use subassemblies are excluded from the scope of the investigation.

In accordance with section 735(a) of the Act (19 U.S.C. 1673d(a)), on December 18, 1989, the Department made its final determination that certain small business telephone systems and subassemblies thereof from Korea are being sold at less than fair value (54 FR 53141, December 27, 1989). On January 31, 1990, in accordance with section 735(d) of the Act, the ITC notified the Department that such imports materially injure a U.S. industry.

Subsequent to the Department's final determination, Goldstar alleged that there were clerical errors in the model comparison programming, the currency conversion of indirect selling expenses on third country sales, and the calculation of U.S. credit expenses for one of the divisions of the related importer. The Department has reviewed these comments and hereby amends its final determination to correct these errors. These corrections change Goldstar's weighted-average dumping margin from 15.85 percent to 14.75 percent and the "all others" rate from 14.30 percent to 13.90 percent.

Therefore, in accordance with section 736 and 751 of the Act (19 U.S.C. 1673e and 1675), the Department will direct U.S. Customs officers to assess, upon further advice by the administering authority pursuant to section 736(a)(1) of the Act (19 U.S.C. 1673e(a)(1)), antidumping duties equal to the amount by which the foreign market value of the merchandise exceeds the United States price for all entries of SBTS from Korea. These antidumping duties will be assessed on all unliquidated entries of SBTS from Korea entered, or withdrawn from warehouse, for consumption on or after August 3, 1989, the date on which the Department published its "Preliminary Determination" notice in the Federal Register (54 FR 31980).

On or after the date of publication of this notice in the Federal Register, U.S. Customs officers must require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit equal to the estimated weighted-average antidumping duty margins as noted below:

Manufacturers/Producers/Exporters	Margin percentage
Goldstar Telecommunication Co., Ltd	14.75
Samsung Electronics Co., Ltd	13.40
All Others	13.90

This constitutes an amendment to the final determination and antidumping duty order with respect to SBTS from Korea, pursuant to sections 735(e) and 736(a) of the Act (19 U.S.C. 1673d(e) and 1673e(a)). Interested parties may contact the Central Records Unit, Room B–099 of

the Main Commerce Building, for copies of an updated list of antidumping duty orders currently in effect.

This order is published in accordance with section 736(a) of the Act (19 U.S.C. 1673e(a)) and § 353.21 of the Commerce Regulations (19 CFR 353.21).

Dated: January 31, 1990.

Lisa B. Barry,

Acting Assistant Secretary for Import Administration.

[FR Doc. 90-2791 Filed 2-6-90; 8:45 am]

BILLING CODE 3510-DS-M

[C-201-004]

Toy Balloons (Including Punchballs) and Playballs From Mexico; Final Results of Changed Circumstances Countervailing Duty Administrative Review and Revocation of Countervailing Duty Order

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of final results of changed circumstances countervailing duty administrative review and revocation of countervailing duty order.

SUMMARY: On November 30, 1989, the Department of Commerce published the preliminary results of its changed circumstances administrative review and intent to revoke the countervailing duty order on toy balloons (including punchballs) and playballs from Mexico. We have now completed that review and determine to revoke the countervailing duty order effective August 24, 1986.

EFFECTIVE DATE: February 7, 1990.

FOR FURTHER INFORMATION CONTACT: Patricia W. Stroup or Paul McGarr, Office of Countervailing Compliance, International Trade Administration U.S. Department of Commerce, Washington, DC 20230; telephone (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On November 30, 1989, the Department of Commerce ("the Department") published in the **Federal Register** (54 FR 49330) the preliminary results of its changed circumstances administrative review and intent to revoke the countervailing duty order on toy balloons (including punchballs) and playballs ("toy balloons") from Mexico (47 FR 57532; December 27, 1982). The Department has now completed that review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of Review

Imports covered by this review are shipments of Mexican toy balloons (including punchballs) and playballs. Balloons and punchballs are inflatable, thin-walled articles made by dipping non-porous forms (called "mandrels") in natural latex. Punchballs have slightly thicker walls than balloons and are sold packaged with bands. A playball is a hollow sphere produced from polyvinyl chloride (a thermoplastic resin) and other thermoplastics that will bounce when inflated with air and which yields diameters from 4 to 20 inches. Playballs are not nylon would or made of rubber, and are not to be confused with sportballs (used in athletic activities). Playballs are not an athletic product because they are lighter in weight and smaller in size; however, styles of the vinyl playballs include models resembling footballs, basketballs and other sports-oriented items.

Through 1988, such merchandise was classifiable under item numbers 735.097, 735.0995, 737.9536 and 737.9836 of the *Tariff Schedules of the United States Annotated.* This merchandise is currently classifiable under item number 9503.90.50 of the *Harmonized Tariff Schedule* (HTS). The HTS item number is provided for convenience and Customs purposes. The written description remains dispositive.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results and intent to revoke. We received one comment from the Hedstrom Corporation, a domestic manufacturer, importer and exporter of the merchandise, supporting the Department's preliminary determination to revoke the countervailing duty order. We received no other written comments.

Final Results of Review and Revocation

As a result of our changed circumstances administrative review, we are revoking the countervailing duty order on toy balloons from Mexico. The effective date of the revocation is August 24, 1986.

Therefore, the Department will instruct the Customs Service to terminate the suspension of liquidation requirement and refund any cash deposits of estimated countervailing duties made on any shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after August 24, 1986.

Further, as a consequence of this revocation, the administrative review of calendar year 1987, initiated on January 31, 1989 (54 FR 4871), is terminated.

This changed circumstances administrative review, revocation and notice are in accordance with sections 751 (b) and (c) of the Tariff Act (19 U.S.C. 1675 (b) and (c)) and 19 CFR 355.22 and 355.25.

Dated: January 29, 1990.

Lisa B. Barry,

Acting Assistant Secretary for Import Administration.

[FR Doc. 90-2793 Filed 2-6-90; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

National Fish and Seafood Promotional Council; Public Meeting

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

Time and Date: The meeting will convene at 10:00 a.m. on Monday, February 26, and adjourn approximately 12:30 p.m. on Tuesday, February 27, 1990.

Place: Mayflower Hotel, 1127 Connecticut Avenue NW., Washington, DC 20036.

Status: NOAA announces a meeting of the National Fish and Seafood Promotional Council (NFSPC). The NFSPC, consisting of 15 industry members and the Secretary of Commerce as a non-voting member, was established by the Fish and Seafood Promotion Act of 1986 to carry out programs to promote the consumption of fish and seafood and to improve the competitiveness of the U.S. fishing industry.

The NFSPC is required to submit an annual marketing plan and budget to the Secretary of Commerce for his approval that describes the marketing and promotion activities the NFSPC intends to carry out.

Funding for NFSPC activities is provided through Congressional appropriations.

Matters To Be Considered

Portion Opened to the Public.

February 26, 1990

10:00 a.m.-12:30 p.m.—Chairman's opening remarks; approval of minutes from last meeting; agenda for meeting; and presentation of the new advertising and public relations program targeting the restaurant foodservice and retail grocery trades. 12:30 p.m.-2:00 p.m—Lunch. 2:00 p.m.-5:00 p.m.—discussion and approval of the new advertising and public relations trade program.

February 27, 1990

9:00 a.m.–11:30 a.m.—Administrative Team Update; Long-range planning committee report and discussion; discussion of 1990 American Seafood Challenge; and other general business.

Portion Closed to the Public

February 27, 1990

11:30 a.m.–12:30 p.m.–Election of the new Chairman and Vice-Chairman.

FOR FURTHER INFORMATION CONTACT: Jeanne M. Grasso, Program Manager, Natinal Fish and Seafood Promotional Council, 1825 Connecticut Avenue, NW., Room 620, Washington, DC 20235. Telephone: (202) 673–5237.

Dated: January 30, 1990.

James E. Douglas, Jr.,

Deputy Assistant Administrator For Fisheries, National Marine Fisheries Service.

[FR Doc. 90–2823 Filed 2–6–90; 8:45 am]

BILLING CODE 3510–22–M

COPYRIGHT ROYALTY TRIBUNAL

[Docket No. CRT 90–4–90JL]

Determination of Negotiated Jukebox Licenses

AGENCY: Copyright Royalty Tribunal.

ACTION: Notice of proposed determination.

SUMMARY: The Tribunal has been informed that the Amusement and Music Operators Association (AMOA) and three performing rights societies have reached an agreement in principle for the licensing of music performed on jukeboxes. The Tribunal seeks comments whether this agreement, when final, would be sufficient to suspend the jukebox compulsory license.

DATES: Comments are due February 27, 1990.

ADDRESSES: An original and five copies should be filed with: The Chairman, Copyright Royalty Tribunal, Suite 450, 1111 20th Street, NW., Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Robert Cassler, General Counsel, Copyright Royalty Tribunal, Suite 450, 1111 20th Street, NW., Washington, DC 20036 (202–653–5175).

SUPPLEMENTARY INFORMATION: In October, 1988, Congress amended the Copyright Act to provide, among other things, for a procedure by which the jukebox compulsory license could be suspended if the owners and users of music on jukeboxes were to reach their own voluntary license agreement.

The new section 116A of the Copyright Act directs that the Copyright Royalty Tribunal, at the end of the one-year period beginning on the effective date of the Berne Convention Implementation Act of 1988 (March 1, 1989), shall determine whether or not sufficient negotiated licenses are in effect to suspend the jukebox compulsory license. A sufficient number of negotiated licenses would be reached if they provide "permission to use a quantity of musical works not substantially smaller than the quantity of such works performed on jukeboxes during the one-year period" before the new section went into effect.

The Tribunal has been informed that the Amusement and Music Operators Association (AMOA), the trade association which represents jukebox operators, and the three performing rights societies, the American Society of Composers, Authors and Publishers (ASCAP), Broadcast Music, Inc. (BMI) and SESAC, Inc. (SESAC), have reached "an agreement in principle as to substantive terms" concerning a voluntary jukebox license, to be finalized soon.

Aware that it must make a determination at the end of the specified one year period, the Tribunal believes that the public should have opportunity to comment on the agreement. The statute only requires a determination as to the amount of music covered and not as to the merits or terms of the agreement.

Thus, the Tribunal seeks comments as to whether the proposed agreement, if finalized, between AMOA and the three performing rights societies would cover a quantity of music not substantially smaller than the quantity of music performed on jukeboxes in the year ending March 1, 1989.

If the Tribunal can make such a determination, the jukebox compulsory license will be suspended for 1990 and for all other years covered by the negotiated jukebox license. If the Tribunal cannot make such a determination, the negotiated jukebox license will apply to those who are bound by it and the jukebox compulsory license will continue to be in operation for those who are not bound by it.

Comments are due by February 27, 1990. AMOA, and ASCAP, BMI and SESAC are directed to furnish the Tribunal with all relevant data.

Dated: February 1, 1990.

J.C. Argetsinger,

Chairman.

[FR Doc. 90–2720 Filed 2–6–90; 8:45 am]

BILLING CODE 1410–09–M

DEPARTMENT OF DEFENSE

Department of the Army

Availability of Draft Johnston Atoll Chemical Agent Disposal System; Second Supplemental Environmental Impact Statement (SEIS) for Storage and Ultimate Disposal of European Chemical Munition Stockpile

AGENCY: Department of the Army, DoD.

ACTION: Notice of availability.

SUMMARY: This announces the Notice of Availability of the Draft Second Supplemental Environmental Impact Statement (SEIS) covering the potential impacts of the on-island handling, transportation, storage and ultimate destruction of the U.S. Army's European stockpile of chemical munitions at facilities located on Johnston Atoll in the Pacific Ocean. The Draft Second SEIS also assesses alternative locations for the ultimate destruction of the munitions including the preferred alternative of destruction by incineration at the existing JACADS, the construction and operational impacts of which were addressed in an EIS issued in 1983. This Draft Second SEIS supplements the original 1983 JACADS EIS by evaluating potential incremental environmental impacts from handling, storage, and destruction of the additional chemical munitions. The "no-action" alternative is considered continued storage of the European stockpile at its present location in the European host nation. In a related action, the movement of the munitions from Europe to Johnston Atoll is addressed in a classified environmental review completed under the provisions of Executive Order 12114..

SUPPLEMENTARY INFORMATION: Movement of the Chemical munitions within Europe will be completed under the auspices of the host nation and are not addressed in this Draft Second SEIS. This Draft Second SEIS assesses the effects of on-island handling, transportation, storage and ultimate destruction of the United States' European stockpile of unitary chemical munitions at facilities located on Johnston Atoll in the Pacific Ocean. The preferred alternative for ultimate destruction is at the Army's JACADS facility.

The U.S. Army prepared an EIS in 1983 to assess construction and operation of the JACADS facility and prepared the first supplemental EIS (SEIS) in 1988 to examine the disposition of solid and liquid waste generated by the JACADS facility. This Draft Second

SEIS addresses the effects of the following proposed European stockpile activities:

(1) The transport of the European stockpile from the territorial limit (12 miles) to Johnston Atoll,

(2) The unloading of munitions from transportation ships,

(3) The on-island transportation and handling of these munitions,

(4) On-island storage of these munitions,

(5) The ultimate destruction of these munitions in the JACADS facility and,

(6) The disposal of the additional incineration wastes. This draft also updates information in the 1983 EIS and the 1988 SEIS as appropriate and assesses alternate destruction facilities and interim storage locations. The "no action" alternative is considered to be continued storage of the chemical munition stockpile in Europe.

Copies of the Draft Second SEIS are available from the Office of the Program Manager for Chemical Demilitarization, ATTN: SAIL–PMM (COL Ralph Carestia), Aberdeen Proving Ground, Maryland 21010–5401. This Draft Second SEIS will have a 45-day comment period from the date that EPA files a notice of availability in the **Federal Register**.

Lewis D. Walker,

Deputy Assistant Secretary of the Army (Environment, Safety and Occupational Health OASA(I,L&E).

[FR Doc. 90–2797 Filed 2–6–90; 8:45 am]

BILLING CODE 3710–08–M

Defense Logistics Agency

Cooperative Agreements Revised Procedures

AGENCY: Defense Logistics Agency, DoD.

ACTION: Cooperative Agreements; Proposed Revised Procedures.

SUMMARY: This proposed revised procedure implements chapter 142, title 10, United States Code, as amended, which authorizes the Secretary of Defense, acting through the Director, Defense Logistics Agency (DLA), to enter into cost sharing Cooperative Agreements to support procurement technical assistance programs established by state and local governments, private nonprofit organizations, Tribal Organizations and Indian-owned economic enterprises. Subpart III of this issuance establishes the administrative procedures proposed to be implemented by the DLA to enter into such agreements for this purpose.

DATES: Comments will be accepted until March 7, 1990. Proposed effective date: March 12, 1990.

FOR FURTHER INFORMATION CONTACT: Sim Mitchell, Program Manager, Office of Small and Disadvantaged Business Utilization (DLA–UM), Defense Logistics Agency, Alexandria, VA 22304–6100, Telephone (202) 274–6471.

I. Background Information

The Department of Defense (DoD) has developed programs designed to expand its industrial base and increase competition for its requirements for goods and services, thereby reducing the cost of maintaining a strong national security. Its efforts to increase competition among the private sector have been supplemented by many state and local governments and other entities where the interest in improving the business climate and economic development in their communities is compatible with these DoD objectives. To assist in furthering this mutual interest, a Cooperative Agreement Program was established in which DoD shares the cost of supporting existing procurement technical assistance programs (PTA) being conducted by state and local governments, private nonprofit entities, Tribal Organizations, and Indian Economic Enterprises to encourage the establishment of similar programs in their communities or on Indian reservations.

The Cooperative Agreement Program was established by the Fiscal Year (FY) 1985 DoD Authorization Act, Public Law 98–525. It amended title 10, United States Code, by adding chapter 142 and authorizing the Secretary of Defense, acting through the Director, Defense Logistics Agency (DLA), to enter into cost sharing cooperative agreements with state and local governments, other nonprofit entities, Tribal Organizations and Indian Economic Enterprises (hereinafter referred to as eligible entities as defined in section 3 of this procedure) to establish and conduct PTA programs during FY 85. The Cooperative Agreement Program continues under title 10, United States Code, as amended.

The Congress authorized a total of $9 million to support the program during FY 90. Of this total, $600,000 is available for an Indian program only.

In cases where the area being or to be serviced by the eligible entity encompasses more than one DCASR's area of geographic cognizance, eligible entities will submit their proposals to the one DCASR having cognizance over the preponderant part of the area being or to be serviced. Only one proposal will be accepted from a single eligible entity. The addresses and geographic areas under the cognizance of each of the DCASRs, together with the name of the Associate Director of Small Business who is designated the DCASR PTA Cooperative Agreement Program Manager, is at Encl. 1.

Additional limitations placed on these funds are:

(a) DoD cost sharing shall not exceed 50 percent of the net cost of a single program, excluding any Federal funds and other income, except that the DoD share may be increased up to 75 percent for an existing program or new start that qualifies solely as servicing a distressed area. In no event shall the DoD share of the net program cost exceed $150,000 for programs providing less than state-wide coverage and $300,000 for programs providing state-wide coverage. Funding limitations for the Indian Program will be announced in each year's solicitation.

(b) Eligible entities cannot subcontract more than 10 of their total program costs for private profit and/or nonprofit consulting services to support the program.

(c) These limitations may be modified by the Headquarters (HQs) DLA Policy Council as necessary to comply with legislative or other requirements.

The DoD presently provides procurement and technical assistance to business firms through its network of Small Business Specialists located in industrial centers around the country. The DCASR Associate Directors of Small Business, located in these industrial centers, will be available to: (1) Provide eligible entities such assistance as necessary to explain the solicitation requirements when issued; (2) provide general guidance in preparing proposals; and (3) provide training and other technical assistance to recipients of cooperative agreements.

Procurement technical assistance given to clients for marketing their goods and services to Federal Agencies other than DoD and/or state and local governments will not be considered when evaluating proposals. However, eligible entities are encouraged to consider supplementing their DoD program to include those marketing opportunities for business firms located in the area being or to be serviced.

The purpose of the proposed revised procedure is to make available to all eligible entities the prerequisites, policies and procedures which will govern the award of cooperative agreements by the DLA. Also, this procedure establishes the guidelines which will govern the administration of cooperative agreements.

Although this procedure will affect all eligible entities desiring to enter into a cooperative agreement with the DLA, the DLA has determined that this

procedure does not involve a substantial issue of fact or law, and that it is unlikely to have a substantial or major impact on the Nation's economy or large numbers of individuals or businesses. This determination is based on the fact that the proposed Cooperative Agreement Procedure implements policies already published by the Office of Management and Budget pursuant to chapter 63, title 31, United States Code, Using Procurement Contracts and Grant and Cooperative Agreements. In addition, DLA Cooperative Agreements will be entered into pursuant to the authorities and restrictions contained in the annual DoD Authorization and Appropriation Acts. Therefore, public hearings were not conducted.

II. Other Information

The language contained in the current Cooperative Agreement Procedure limited the period of coverage to the FY 89 Program in that it addressed the FY 89 Authorization Act requirements in specifit terms, including the exact dollar amounts of funding applicable to the Program. The proposed revision to the procedure will provide general guidance for cooperative agreements entered into by the DLA and will become a permanent document for the duration of the FY 90 programs.

Comments are invited on the procedure. Comments should be submitted to the Defense Logistics Agency, ATTN: DLA-UM, Cameron Station, Alexandria, VA 22304-6100. Comments received after 7 March 1990 may not be considered in formulating revisions to the Procedure.

Cooperative Agreement Procedure

General Program

III. Proposed Revision to DLA Procedure—Cooperative Agreements

3-1 Policy.

A. When proposals for cooperative agreements are obtained through the issuance of a Defense Logistics Agency (DLA) Solicitation for Cooperative Agreement Proposals, hereinafter referred to as a SCAP, the contents of this procedure shall be incorporated, in part or in whole, into the program solicitation for the purpose of establishing administrative requirements for the execution and administration of DLA awarded cooperative agreements. The SCAP may include additional administrative requirements when such requirements are required by program legislation or are not included in this procedure.

B. Cooperative agreements will be awarded on a competitive basis as a result of the issuance of a SCAP. It is DLA's policy to encourage open and fair competition when awarding these agreements. However, the Department of Defense (DoD), through DLA, reserves the right to make or deny an award to an applicant if competition for DoD goods and services would be enhanced. For example, an award may be denied in order to reduce or eliminate overlapping or duplicate coverage in selected geographic areas or where the best interest of the government will not be served.

C. SCAP inviting the submission of proposals shall be given the widest practical dissemination to all known eligible entities and to those that request copies subsequent to its issuance. All eligible entities that have advised the Defense Contract Administration Services Region (DCASR) of their interest in submitting a proposal under the SCAP will be invited to participate in presolicitation conferences. The presolicitation conferences will be held at the locations designated in the solicitation approximately 30 calendar days prior to the SCAP closing date.

D. Any solicitation issued in accordance with this procedure shall not be considered to be an offer made by DoD and will not obligate DLA to make any awards under this progam. The DoD is also not responsible for any monies expended or expense incurred by applicants prior to the award of a cost sharing cooperative agreement.

E. The DoD share of an eligible entity's proposal and award recipent's net program cost (NPC) shall not exceed 50%, unless the applicant/recipient proposes to cover a distressed area. If the applicant/recipient proposes to cover a distressed area (as defined in paragrpah 3-3, subparagraph H below), the DoD share may be increased to an amount not to exceed 75 percent. In no event is the DoD share of any single net program cost to exceed $150,000 for programs providing less than state-wide coverage, and $300,000 for programs providing state-wide coverage (defined in paragraph 3-3, subparagraph Z below) or servicing more than one Bureau of Indian Affairs (BIA) Service Area.

F. During each fiscal year (FY) for which funding is authorized for the Procurement Technical Assistance (PTA) program, at least one cooperative agreement for either an existing program or a new start shall be awarded within the geographic cognizance of each DCASRs. If the area being or to be serviced by an eligible entity encompasses more than one DCASR's area of geographic cognizance, the eligible entity should submit its application to the one DCASR having cognizance over the majority of the area it is servicing or proposes to service. Only one application will be accepted from a single eligible entity.

G. The award of a cooperative agreement shall not in any way obligate the DoD to enter into a contract or give preference for the award of a contract to a concern or firm which becomes a client of a DLA cooperative agreement recipient.

H. The period of performance for a cooperative agreement awarded under this program shall cover a twelve month period.

I. To assist DoD in achieving its socioeconomic goals, applicants and cooperative agreement recipients must give special emphasis to assisting small disadvantaged business firms participating in DoD contracting opportunities. A concerted effort must be made by each cooperative agreement recipient to identify small disadvantaged business firms and provide them with marketing and technical assistance, particularly where such firms are referred for assistance by a DoD component.

J. The Federal Acquisition Regulation (FAR) contains numerous clauses and provisions which provide operational guidance and spell out the rights and obligations of parties in Federal procurement transactions. Although the FAR is not applicable per se to cooperative agreements, some of the provisions contained in the FAR may be suitable for inclusion in cooperative agreement solicitations and award documents. Therefore, the clauses and provisions contained therein may be made a part of all cooperative agreement solicitations and award documents if not otherwise covered under the Office of Management and Budget (OMB) Circulars A-102 (Grants and Cooperative Agreements with State and Local Governments) and A-110 (Grants and Agreements with Institutions of Higher Education, Hospitals and other Non-profit Organizations). Where appropriate, the language of the clause(s) will be modified to change "contract" to "cooperative agreement" and "contractor" to "participant" as necessary. Clauses and provisions specified as mandatory will not be subject to negotiation. These clauses and provisions will only be used if the applicable FAR dollar threshold(s) are met. For example, if there is a prerequisite $100,000 threshold for applying the clause, that particular clause will only be used in the cooperative agreement solicitation or award document if the total program

cost of the cooperative agreement (including both the applicant's and DoD's share of total program costs) equals or exceed the $100,000 threshold.

K. Award recipients are not required to obtain or retain private profit and/or nonprofit consulting services. Any costs being proposed for such services shall not exceed 10% of the total program cost. Costs in excess of 10% included in the eligible entity's proposal will cause the proposal to be rejected.

L. Reasonable quantities of government publications, such as "Selling to the Military," may be furnished to award recipients at no cost, subject to availability.

M. For the purpose of executing cooperative agreements, the Headquarters (HQs) DLA Cooperative Agreement Program Manager (Program Manager) and DCASR Associate Director of Small Business (Associate Director) are delegated the authority to execute cooperative agreements.

N. Each cooperative agreement recipient's area of performance will be limited to the geographical area specified in its proposal.

O. To the extent that the annual DoD Authorization and Appropriation Acts provide for restricting some part of the total funds authorized to accommodate special socioeconomic requirements, any specific requirements related to the restricted funds which differ from these procedures and guidelines will be identified in the solicitation for cooperative agreement proposals.

3-2 Scope.

This procedure implements chapter 142 of title 10, United States Code, as amended, and establishes procedures and guidelines for the award and administration of Cost Sharing Cooperative Agreements entered into between DLA and eligible entities. Under these agreements, DoD financial assistance provided to recipients will cover the DoD share of the cost of establishing new or maintaining existing PTA Programs for furnishing assistance to business entities.

3-3 Definitions.

The following definitions apply for the purpose of this procedure.

A. *Civil Jurisdiction.* All cities with a population of at least 25,000 and all counties. Townships of 25,000 or more population are also considered as civil jurisdictions in four states (Michigan, New Jersey, New York, and Pennsylvania). In Connecticut, Massachusetts, Puerto Rico and Rhode Island where counties have very limited or no government functions, the classifications are done for individual towns.

B. *Client.* A recognized business entity, including corporations, partnerships, or sole proprietorships organized for profit, which are small and other than small, that have the potential or are seeking to market their goods or services to DoD.

C. *Cooperative Agreement.* A binding legal instrument which reflects a relationship between DLA and a cooperative agreement recipient for the purpose of transferring money, property, services or anything of value to the recipient for the accomplishment of the requirements described therein. The requirement shall be authorized by Federal statute and substantial involvement shall be anticipated between DLA and the recipient during performance of the agrement.

D. *Cooperative Agreement Offer/Application/Proposal.* An eligible entity's response to the SCAP describing their PTA program being operated or being planned. The offer binds the eligible entity to perform the services described therein if selected for an award, and upon the proposal being incorporated into the cooperative agreement award document.

E. *Cost Matching.* In general, cost matching represents that portion of the NPC not borne by the Federal Government. Usually, a maximum percentage for the Government's matching share is prescribed by program legislation.

F. *Cost Sharing.* A generic term denoting any situation wherein the Government does not fully fund the participant's total allowable costs required to accomplish the defined project or effort. The term encompasses concepts such as cost participation, cost matching, cost limitations (direct or indirect), and in-kind contributions/donations.

G. *Direct Cost.* Any cost that can be identified specifically with a particular final cost objective. No final cost objective shall have allocated to it as a direct cost any costs, if other costs incurred for the same purpose in like circumstances have been included in any indirect cost pool to be allocated to that or any other final cost objective.

H. *Distressed Area.* The geographic area being or to be serviced by an eligible entity in providing procurement technical assistance to business firms physically located within an area that:

(1) Has a per capita income of 80% or less of that State's average, or

(2) Has an unemployment rate of at least 1% above the national average for the most recent 24-month period in which statistics are available.

(3) Is a "Reservation" which includes Indian reservations, public domain Indian allotments, former Indian reservations in Oklahoma, and land held by incorporated Native groups, regional corporations, and village corporations under the provisions of the Alaska Native Claims Settlement Act.

I. *DoD Cooperative Agreement Program.* Provides assistance to eligible entities (defined by subparagraph K below) in establishing or maintaining PTA activities to help business firms market their goods and services to the DoD and other government activities.

J. *Duplicate Coverage.* A situation caused by two or more applicants offering to provide marketing and technical assistance to clients located within the same geographic area.

K. *Eligibile Entities.* These include:

(1) *State Government.* A State of the United States, the District of Columbia, a territory or possession of the United States, an agency or instrumentality of a State, and a multi-state, regional, or interstate entity having governmental duties and powers.

(2) *Local Government.* A unit of government in a State, a local public authority, a special district, an intrastate district, a council of governments, a sponsor group representative organization, an interstate entity, or another instrumentality of a local government.

(3) *Private, Non-profit Organizations.* Any corporation, trust, foundation, or institution which is exempt or entitled to exemption under section 501(c)(3)-(6) of the Internal Revenue Code, or which is not organized for profit and no part of the net earnings of which inure to the benefit of any private shareholder or individual.

(4) *Special Program Organizations.* Those organizations authorized by legislation to participate in programs set-aside for specifically designated groups. Such entities will be identified in the solicitation issued to cover that program.

L. *Existing Program.* Includes any PTA type program that is the recipient of a cooperative agreement with DLA during FYs 88 and/or 89 (excluding recipients of cooperative agreements awarded after 1 December 1989). Recipients of cooperative agreements after 1 December 1989 will be considered as New Starts.

M. *Indian.* A person who is a member of any Indian tribe, band, group, pueblo, or community which is recognized by the Federal Government as eligible for services from the BIA and any "Native" as defined in the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

N. *Indian Economic Enterprise.* Any Indian-owned (as defined by the Secretary of the Interior) commercial, industrial, or business activity established or organized, whether or not such economic enterprise is organized for profit or nonprofit purposes; provided, that such Indian ownership shall constitute not less than 51 per centum of the enterprise.

O. *Indian Tribe.* Any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. section 1601 et seq.) which is recognized by the Federal Government as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

P. *Indirect Cost.* Any cost not directly identified with a single, final cost objective, but identified with two or more final cost objectives or an intermediate cost objective. An indirect cost is not subject to treatment as a direct cost.

Q. *In-kind Contributions/Donations.* Represent the value of noncash contributions provided by the eligible entity and non-Federal parties. Only when authorized by Federal legislation may property or services purchased with Federal funds be considered as in-kind contributions/donations. In-kind contributions/donations may be in the form of charges for real property and nonexpendable personal property and the value of goods and services directly benefiting and specifically identifiable to the project or program.

R. *Net Program Cost.* Total program cost (including all authorized sources) less any program income and/or other federal funds not authorized to be shared.

S. *New Start.* An eligible entity that is not an existing program (see subparagraph L above for definition of an existing program). This includes recipients of cooperative agreements during FYs 87 and prior years. First time recipients of cooperative agreements after 1 December 1989 are also considered as New Starts.

T. *Per Captial Income.* The estimated average amount per person of total money income received during a calendar year for all persons residing in a given political jurisdiction as published by the U.S. Department of Commerce, Bureau of the Census.

U. *Private Consultant Services.* Services offered by private profit and nonprofit seeking individuals, organizations or otherwise qualified business entities to provide marketing and technical assistance either directly to cooperative agreement recipients or indirectly through recipients to business firms seeking contracts with Federal, State and local government organizations.

V. *Procurement Technical Assistance.* Program organized to generate employment and improve the general economy of a locality by assisting business firms in obtaining defense contracts. It's objective is to provide detailed counseling assistance, information and personal instructions to business firms for the purpose of enhancing their opportunities to sell their products or services to the Defense Department as prime contractors or as subcontractors under contract with DoD, other government agencies and the private sector.

W. *Reservation.* Includes Indian reservations, public domain Indian allotments, former Indian reservations in Oklahoma, and land held by incorporated Native groups, regional corporations, and village corporations under the provisions of the Alaska Native Claims Settlement Act (43 U.S.C., section 1601 et seq.).

X. *Solicitation for Cooperative Agreement Proposals.* A document issued by the DLA/DCASRs containing provisions and evaluation factors applicable to all applicants that apply for a PTA cooperative agreement.

Y. *Special Program.* A program by which funds are targeted by legislation for the purpose of sharing the cost of providing PTA to specifically designated groups.

Z. *State-wide Coverage.* A PTA program whch proposes to service at least 50 percent of a State's civil jurisdictions and 75 percent of a state's labor force.

AA. *Total Program Cost.* All allowable costs (as set forth in OMB Circulars Nos. A–21, A–87 and A–122, as applicable) from all sources including in-kind contributions/donations and all income received from all sources as a result of operating the program. Any federal funds proposed for use in establishing or conducting the program must be approved prior to such use.

AB. *Tribal Organization.* The recognized governing body of any Indian Tribe; any legally established organization of Indians which is controlled, sanctioned, or chartered by such governing body or which is democratically elected by the adult members of the Indian community to be served by such organization and which includes the maximum participation of Indians in all phases of its activities. Provided, that in any case where a cooperative agreement is awarded to an organization to perform services benefiting more than one Indian tribe, the approval of each such Indian tribe shall be a prerequisite to the award.

3–4 Program Description.

A. The objective of the PTA Program is to assist eligible entities in providing marketing and technical assistance to businesses, hereinafter referred to as clients, in selling their goods and services to DoD. Thus, the PTA program assists DoD in its acquisition goals. At the same time, it enhances the business climate and economies of the communities being served. Specific program requirements to accomplish this objective will vary depending on locations, the types of industries and business firms within the community, the level of economic activity in the community, and many other factors.

B. A comprehensive PTA Program should generally include the following minimum features:

(1) *Personnel.* Professional personnel qualified to counsel and advise clients regarding DoD procurement policies and procedures as they apply to both prime and subcontract opportunities. The areas of consideration should relate to marketing techniques and strategies, pricing policies and procedures, preaward procedures, postaward contract administration, quality assurance, production and manufacturing, financing, subcontracting requirements, bid and proposal preparation, and specialized acquisition requirements for such areas as construction, research and development, and data processing.

(2) *Counseling Tools.* Should include, as a minimum, the Commerce Business Daily, FAR, DoD FAR Supplement, commodity listings from DoD contracting activities, Federal and military specifications and standards, and other Federal Government publications.

(3) *Method for Providing PTA.* Should include networking throughout the area being or to be serviced. Examples of networking include: (a) Locating assistance offices in areas of industrial concentration; (b) establishing data links with other organizations; and (c) creating data exchanges.

(4) *Fees and Service Charges.* In the event the applicant presently charges or plans to charge clients a fee or service charge, details as to the basis for the amount of the fee to be charged must be described. Also, recipients shall not charge a commission, percentage, brokerage or other fee that is contingent upon the success of the client securing a Government contract. Any fees earned

under the program are to be included as part of the total program cost.

(5) *Performance Measurement.* Cooperative agreement programs shall include a means of periodically measuring effectiveness in achieving their goals and objectives. Factors to consider in establishing time phased goals and techniques for measuring performance against proposed goals shall include as a minmum: (a) The number of counseling sessions and procurement outreach conferences/seminars to be held; (b) the number and types of clients to be assisted, including size (small business and other than small business) and socioeconomic status, e.g., small disadvantaged and woman-owned businesses; (c) types of assistance to be rendered, such as marketing and accounting; (d) the number of proposed additions to DoD and other Federal Agency bidders mailing lists, (e) the Minority Vendor Profile System of the Minority Business Development Agency, (f) the Procurement Automated Source System (PASS) of the Small Business Administration; and (g) the number and dollar value of DoD prime and subcontract awards received by clients, including size (small businesses and other than small businesses) and socioeconomic status (small disadvantaged and woman-owned businesses) resulting from assistance received through the program.

3-5 Procedures.

A. The Program Manager will develop and prepare the SCAP. He/she will be responsible for assuring that adequate funds are made available to the DCASRs.

B. The SCAP will be approved by the HQs DLA Cooperative Agreement Policy Council (Policy Council) and will be issued by HQs DLA or through each DCASR. The Policy Council will be comprised of representatives from the HQs DLA Offices of General Counsel, Contracting, Comptroller, Congressional Affairs and Small Business. The Policy Council will be responsible for reviewing the evaluations and recommendations of the Program Manager and the evaluation panel.

C. The Staff Director, Small and Disadvantaged Business Utilization shall serve as the Policy Council Chairman and final appeal authority for disagreements between the Program Manager, Associate Director and the eligible entity and/or cooperative agreement recipient.

D. For special programs, the Policy Council will be the review and approval authority for award selections, if the awards are made by the Program Manager.

E. The evaluation of proposals submitted in response to the SCAP and the selection of award recipients will be conducted as detailed below:

(1) Proposals will be evaluated by a specially constituted evaluation panel established at HQs DLA. The Evaluation Panel will be comprised of representatives from the DCASR offices of small business, contract management, comptroller and other offices deemed appropriate by the Policy Council. However, the Program Manager and the Associate Director, who are delegated the authority to execute cooperative agreements, shall not serve as panel members. A member of the Office of Counsel, HQs DLA, will be appointed to the panel, but will serve in an advisory capacity only.

(2) The Associate Director will make an initial evaluation of each proposal received to determine if each proposal contains sufficient technical, cost and other information; has been signed by a responsible official authorized to bind the eligible entity; and generally meets all requirements of the SCAP. If the proposal does not meet all of these requirements, no further evaluation will be made. In such case, a prompt notice will be sent to the applicant indicating the reason for its proposal not being accepted for further evaluation. The proposal will be retained with other unsuccessful proposals by the Associate Director. The Associate Director will forward all accepted proposals, along with his/her recommendations, to the Program Manager at HQs DLA.

(3) Under existing programs only, the applicant's PTA Performance Report (RCS Number DLA (Q) 2545) will be attached to the proposal by the cognizant Associate Director if it is not included in the application.

(4) Revised proposals will not be accepted from applicants whose proposals are not considered for further evaluation, unless the revised proposal is postmarked or is hand delivered prior to the closing date of the SCAP. Any proposal which is unsigned or otherwise rejected will not be given additional evaluation consideration and will be retained with other unsuccessful applications by the Associate Director.

(5) For an otherwise acceptable proposal, the Associate Director will conduct a review to verify the accuracy of the classfication of the proposal concerning the entity's stated program status as existing or a new start. In the event the Associate Director considers the proposal status misclassified, he/she will review the matter with the applicant. If there is a disagreement, the Associate Director's determination of the application's classification will be final and is not subject to further review.

(6) Proposals which pass the initial evaluation will be subjected to a comprehensive evaluation by the Evaluation Panel. The purpose of the comprehensive evaluation is to assess the relative merits of the proposals to determine which offer the greatest likelihood of achieving the stated program objectives, considering technical, quality, personnel qualifications, estimated cost, and other relevant factors. Each proposal will be evaluated by the Evaluation Panel in accordance with stated criteria and ranked in order of excellence to determine which will best further specific program goals. All findings and recipient selections will be documented, signed by the panel members, and retained to provide an adequate record to support the panel's decisions. Upon completion of its review, the Evaluation Panel will submit the evaluation results and its recommendations to the Program Manager.

(7) The Program Manager will determine whether sufficient funds have been allocated to the DCASRs to cover the DoD share of costs and will review the Evaluation Panel's recommendations and results for completeness. Upon completion of the fund analysis and review of the evaluation results, the Program Manager will forward the evaluation results with recommendations and comments (if any) to the Policy Council for review.

(8) The Policy Council will review the recommendations of the Program Manager and Evaluation Panel. The results of the Policy Council's review and its recommendations will be submitted to the appropriate DCASR Commander for approval. In developing its recommendations, the Policy Council may consider additional factors necessary to fully protect the interest of the Government. These factors may include, but are not limited to: Economic downturns that effect national security in selected geographic areas; terminations of major DoD contracts; availability of funds; the potential for increasing competition for selected goods and services required by the DoD the existence of other PTA programs in the area; and compliance with any legislative requirement imposed on program funds.

F. After approval of the award selections by the DCASR Commander and congressional notification is provided, the cooperative agreement(s) will be executed by the Associate Director.

3-6 Evaluation Factors.

A. The evaluation factors for new starts and existing programs, with their relative importance, will be specified in the SCAP.

B. The following evaluation factors (which may be subject to change) will be considered:

(1) Program development, performance and effectiveness. (Existing Programs only.)

(2) Types and qualifications of personnel assigned or to be assigned to the program. (Existing Programs and New Starts.)

(3) Quality of the PTA Program being planned for developing clients, and any program being established to identify and provide extraordinary assistance to small disadvantaged business firms. (New Starts only.)

(4) Potential number of clients in the geographic area being or to be serviced. (Existing Program and New Starts.)

(5) The amount and percentage of net program costs to be shared by DoD. (Existing Programs and New Starts.)

(6) The level of unemployment in the area being or to be serviced. (Existing Programs and New Starts.)

(7) The amount of subcontracting to private consultants. (Existing Programs only.)

C. As this program applies both to existing PTA Programs and to those being proposed, certain of these evaluation factors will be evaluated based upon stated implementing policy for programs being planned. For example, the types and qualifications of personnel assigned will require applicants that do not presently have established but are planning programs to identify the standards to be used in selecting the personnel.

D. The amount of subcontracting to private consultants is limited to no more than 10 percent of total program costs for both existing programs and new starts. In evaluating this factor for existing programs, more weight will be given to the smaller amounts of such subcontracting. In the case of new starts, all offers will be weighted equally subject only to the 10 percent limitation.

3-7 DoD Funding.

A. Any funds authorized by Congress for the PTA program will be allocated equitably among the DCASRs to cover the DoD share of the PTA program cost for existing programs and for new starts. The SCAP will identify the total amount of funds authorized for the related fiscal year.

B. If there is an insufficient number of satisfactory proposals in a DCASR to allow effective use of the funds allocated, the Program Manager will reallocate the funds among the DCASRs based upon the DCASR Commander's approval of the award recommendations made by the Evaluation Panel and Policy Council.

3-8 Cost Sharing Criteria and Limitations.

A. The DoD share of net program costs shall not exceed 50 percent, except in a case where an eligible entity meets the criteria of a distressed area. When the prerequisite conditions to qualify as a distressed area are met, the DoD share may be increased to an amount not to exceed 75 percent.

B. In no event shall the DoD share of net program costs exceed $150,000 for all programs providing less than state-wide coverage and $300,000 for programs providing state-wide coverage or servicing more than one BIA Service Area.

C. Cost contributions may be to either direct or indirect costs, provided such costs are otherwise allowable in accordance with the cost principles applicable to the award. Allowable costs which are absorbed by the eligible entity as its share of costs may not be charged directly or indirectly or may not have been charged in the past to the Federal Government under other contracts, agreements, or grants.

D. The SCAP will require applicants to submit an annualized estimated budget, which may include cash contributions, in-kind contributions/donations, any fees and service charges to be earned under the program, and any other Federal Agency funding (including grants, loans, and cooperative agreements) authorized to be used for this program.

E. The type and value of in-kind contributions/donations will be limited to no more than 25 percent of the total program costs.

F. Any fees, service charges or Federal funds provided under another Federal financial assistance award, including loans (but not including loan guarantee agreements since these do not provide for disbursement of Federal funds) are not acceptable for calculating cost contributions of the eligible entity. Although the fees, service charges and other authorized federal funds must be included in the annualized estimated budget, they cannot be included for cost sharing purposes. Inclusion of other Federal funds in the program is subject to the terms of the award instrument containing such funds or written advice being obtained from the awarding Agency(s) authorizing such use. Any method used by the eligible entity in providing the required funds which relies upon Federal funds must be disclosed and identified in the eligible entity's proposal.

G. In those cases where distressed area funding (greater than 50) is requested and where the geographic area being or to be serviced includes both distressed areas and non-distressed areas, the budget must: (1) Be divided based on a reasonable and logical distribution of total program cost between these two distinct areas; and (b) submitted as a single proposal. In such cases, the recipient's accounting system must be capable of segregating and accumulating costs in each of the two budget areas.

H. Recipients of cooperative agreements will be required to maintain records adequate to reflect the nature and extent of their costs and to insure that the required cost participation is achieved.

I. The SCAP will also provide that indirect costs are not to exceed 100 percent of direct costs.

J. In the event the applicant charges or plans to charge a fee or service charge for PTA given to clients, or to receive any other income as a result of operating the PTA Program, the estimated amount of such reimbursement is to be clearly identified in the proposed budget and shall be included as part of the total program costs.

K. The Federal cost principles as stated in the OMB Circulars listed below will be used as guidelines to determine allowable costs in performance of the program:

(1) OMB Circular No. A-21, Costs Principles for Educational Institutions;

(2) OMB Circular No. A-87, Cost Principles for State and Local Governments; and

(3) OMB Circular No. A-122, Cost Principles for Non-profit Organizations.

3-9 Duplicate Coverage Limitation.

To be considered for an award, an applicant's proposal shall not duplicate more than 25 percent of the geographic area of coverage proposed by a higher ranked applicant as established by the Evaluation Panel.

3-10 Administration.

A. Cooperative Agreements will be assigned to the cognizant DCASR for postaward administration.

B. The Associate Director at the cognizant DCASRs will be responsible for reviewing recipients' performance at least twice during the effective period of each cooperative agreement, to include a review of budgeted versus actual expenditures, performance factors, and quarterly performance report data. The

results of the periodic reviews will be furnished to the recipient and a copy will be provided to the Program Manager no later than 30 calendar days after completion of each review.

C. For eligible entities covered by OMB Circular No. A–102, Grants and Cooperative Agreements with State and Local Governments, or OMB Circular No. A–110, Grants and Agreements with Institutions of Higher Education, Hospitals and other Non-profit Organizations, the administrative requirements specified in those circulars will apply.

DCASR Procurement Technical Assistance Cooperative Agreement Program Managers

Addresses and geographic areas under the cognizance of each of the DCASRs, together with the name of the Associate Director for Small Business who is designated the Procurement Technical Assistance Cooperative Agreement Program Manager follow:

State or area	DCASR	Associate director for small business
Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, Tennessee, Puerto Rico.	DCASR Altanta, 805 Walker Street, Marietta, GA 30060–2789.	Mr. Harold O. Watson, Telephone (404) 429–6195, Toll Free 1–800–331–6415, (GA Only) 1–800–551–7801, Room Number 104.
Connecticut (except Fairfield County), Maine, New Hampshire, Massachusetts, New York (All Counties except Bronx, Dutchess, Kings, New York, Nassau, Orange, Putnam, Queens, Richmond, Rockland, Suffolk, and Westchester), Rhode Island, Vermont.	DCASR Boston, 495 Summer Street, Boston, MA 02210–2184.	Mr. Edward J. Fitzgerald, Telephone (617) 451–4318, Toll Free 1–800–321–1861, Located on 8th Floor.
Illinois, Indiana, Wisconsin	DCASR Chicago, O'Hare Int'l Airport, PO Box 66475, Chicago, IL 60666–0475.	Mr. James L. Kleckner, Telephone (312) 694–6020, Toll Free 1–800–637–3848, (IL Only): 1–800–826–1046, Room Number 107.
Kentucky, Michigan, Ohio, Pennsylvania, (Crawford, Erie, and Mercer Counties only).	DCASR Cleveland, Federal Office Building, 1240 East 9th Street, Cleveland, OH 44199–2063.	Ms. Wilma R. Combs, Telephone (216) 552–5122, Toll Free 1–800–551–2785, Room Number 1849.
Arizona, Arkansas, Louisiana, New Mexico, Oklahoma, Texas	DCASR Dallas, 1200 Main Street, Dallas, TX 75202–4399.	Mr. Robert Sever (Acting), Telephone (214) 670–9205, Room Number 640.
Alaska, California, Hawaii, Idaho, Montana, Nevada, Oregon, Washington.	DCASR Los Angeles, 222 N. Sepulveda Boulevard, El Segundo, CA 90245–4320.	Ms. Renee Deavens, Telephone (213) 335–3260, Toll Free 1–800–624–7372, (Alaska, Hawaii, Idaho, Montana, Nevada, Oregon, and Washington, (CA Only): 1–800–251–5285, Room Number 302.
Connecticut (Fairfield County Only), New Jersey, (Northern 12 Counties), New York, (Bronx, Dutchess, Kings, New York, Nassau, Orange, Putnam, Queens, Richmond, Rockland, Suffolk, Ulster, and Westchester Counties Only).	DCASR New York, 201 Varick Street, New York, NY 10014–4811.	Mr. John E. Mulreany, Telephone (212) 807–3050, Toll Free 1–800–251–6969, Room Number 1061.
Delaware, District of Columbia, Maryland, New Jersey (Except for Northern 12 Counties), Pennsylvania, (All Counties except Crawford, Erie and Mercer), Virginia, West Virginia.	DCASR Philadelphia, 2800 South 20th St., P.O. Box 7478, Philadelphia, PA 19101–7478.	Mr. Thomas B. Corey, Telephone (215) 952–4006, Toll Free 800–258–9503, (New Jersey, Delaware, Maryland, Virginia, West Virginia, and District of Columbia, (PA Only) 800–843–7694, Room Number 129.
Colorado, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, Utah, Wyoming.	DCASR St. Louis, 1136 Washington Ave., St. Louis, MO 63101–1194.	Mr. David M. Miner, Telephone (314) 331–5002, Toll Free 800–325–3419, (MO Only) 800–377–2125, Third Floor.

[FR Doc. 90–2804 Filed 2–6–90; 8:45 am]
BILLING CODE 3620–01–M

DEPARTMENT OF EDUCATION

[CFDA No. 84.086A]

Reopening the Closing Date for Transmittal of Applications for Training of Educators of Students With Multiple Handicaps That Include Auditory and Visual Impairments Under the Programs for Severely Handicapped Children for Fiscal Year 1990

Purpose: On September 14, 1989, the Office of Special Education and Rehabilitative Services (OSERS), published in the **Federal Register** a Consolidated Application Package (CAP) at 52 FR 38160 establishing October 27, 1989 as the deadline for the transmittal of applications for FY 1990 awards under the Program for Severely Handicapped Children, Priority 1: Training of Educators of Students with Multiple Handicaps that Include Auditory and Visual Impairments (CFDA 84.086A).

On January 10, 1990 a review panel was convened to evaluate the single application that was submitted under this competition. The panel recommended disapproval of the application. In order to meet the critical need of this priority, the Secretary is reopening the competition and announcing a new date for transmittal of applications. Only the deadline data for this Priority 1: Training of Educators of Students with Multiple Handicaps that Include Auditory and Visual Impairments has been changed through this announcement. Potential applicants should use the application forms included in the Consolidated Application Package (CAP) which was published in the **Federal Register** on September 14, 1989 at 54 FR 38177.

Deadline for Transmittal of Applications: March 30, 1990.

Available Funds: $450,000.

Estimated Number of Awards: 1.

Project Period: Up to 48 months.

Applicable Regulations: (a) The regulations for the Program for Severely Handicapped Children, 34 CFR part 315, as amended August 24, 1987 (52 FR 31958); (b) the Education Department General Administrative Regulations, (EDGAR), 34 CFR parts 74, 75, 77, 79, 80, 81, and 85; and (c) the annual funding priority for this program.

For Applications or Information Contact: Joseph Clair, Office of Special Education and Rehabilitative Services, Division of Educational Services, 400 Maryland Avenue, SW., room 4622.

Switzer Building, Washington, DC 20202. Telephone: (202) 732–4503.

(Authority: 20 U.S.C. 1424)

Dated: February 1, 1990.

Robert R. Davila,

Assistant Secretary, Office of Special Education, and Rehabilitative Services.

(Catalog of Federal Domestic Assistance No. 84.086; Program for Severely Handicapped Children)

[FR Doc. 90–2749 Filed 2–6–90; 8:45 am]

BILLING CODE 4000–01–M

Indian Education National Advisory Council; Meeting

AGENCY: National Advisory Council on Indian Education.

ACTION: Notice of closed and partially closed meetings.

SUMMARY: This notice sets forth the schedule and proposed agenda of forthcoming meetings of the National Advisory Council on Indian Education and its Search Committee. This notice also describes the functions of the Council. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act.

DATES: February 22–24, 1990, 9 a.m. until conclusion of business each day at approximately 5 p.m.: February 22 and 23 (closed); February 24 (open).

ADDRESSES: Ramada Inn Central, 1430 Rhode Island Avenue, NW., Washington, DC 20005 (202/462–7777).

FOR FURTHER INFORMATION CONTACT: Jo Jo Hunt, Executive Director, National Advisory Council on Indian Education, 330 C Street, SW., Room 4072, Switzer Building, Washington, DC 20202–7556 (202/732–1353).

SUPPLEMENTARY INFORMATION: The National Advisory Council on Indian Education is established under section 5342 of the Indian Education Act of 1988 (25 U.S.C. 2642). The Council is established to, among other things, assist the Secretary of Education is carrying out responsibilities under the Indian Education Act of 1988 (part C, title V, Pub. L. 100–297) and to advise Congress and the Secretary of Education with regard to federal education programs in which Indian children or adults participate or from which they can benefit.

In addition, the Council is required under section 5342(b)(6) of the Indian Education Act of 1988 to submit to the Secretary of Education a list of nominees for the position of Director of the Office of Indian Education whenever a vacancy in such position occurs. There is currently such a vacancy. The Secretary appoints the Director of the Office of Indian Education from this list of nominees submitted by the Council.

On February 22, 1990, the Search Committee of the Council will meet in closed session starting at approximately 9 a.m. and will end at the conclusion of business at approximately 5 p.m. The agenda will consist of a review of the process of selection of nominees, review of the applications of candidates and their qualifications for the position, and preparation of questions and guidelines to be used in interviews of the candidates.

On February 23, 1990, the Council will meet in closed session starting at approximately 9 a.m. and will end at the conclusion of business at approximately 5 p.m. The agenda will consist of discussion of the Search Committee's recommendations regarding the candidates and questions and guidelines to be used in the interviews, actual interviewing of the candidates, and development of the Council's list of nominees to be submitted to the Secretary of Education.

On February 24, 1990, the full Council will meet in open session beginning at 9 a.m. for a general business session, including reports of the Chairman and Executive Director, action on previous minutes, reports on White House Conference planning activities, and other business. The Council standing committees will then meet and subsequently report any recommendations back to the full Council for action. The business meeting will end at 5 p.m. or conclusion of business for the day.

The closed portions of the meetings of the National Advisory Council on Indian Education and its Search Committee will touch upon matters that relate solely to the internal personnel rules and practices of an agency and will disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy if conducted in open session. Such matters are protected by exemptions (2) and (6) of section 552b(c) of the Government in the Sunshine Act (Pub. L. 94–409; 5 U.S.C. 552b(c)).

A summary of the activities of the closed and partially closed meetings and related matters which are informative to the public consistent with the policy of title 5 U.S.C. 552b will be available to the public within 14 days of the meeting.

Records shall be kept of all Council proceedings and shall be available for public inspection of the Office of the National Advisory Council on Indian Education located at 330 C Street, SW., Room 4072, Washington, DC 20202–7556.

Dated: February 2, 1990.

Jo Jo Hunt,

Executive Director, National Advisory Council on Indian Education.

[FR Doc. 90–2878 Filed 2–6–90; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Assistant Secretary for International Affairs and Energy Emergencies

Agreement for Cooperation Between Government of the United States and the Government of Japan; Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation between the Government of the United States of America and the Government of Japan concerning Peaceful Uses of Nuclear Energy, and the Additional Agreement for Cooperation between the Government of the United States of America and the European Atomic Energy Community (EURATOM) concerning Peaceful Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above-mentioned agreements involves approval of the following retransfer: RTD/EU(JA)–112, for the transfer from Japan to France of approximately 22 kilograms of uranium, enriched to approximately 93 percent in the isotope uranium-235, for cold scrap recovery at COGEMA. The material is to be shipped in Category II quantities as described in Annex II of the Convention on the Physical Protection of Nuclear Material.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: January 24, 1990.

Thad Grundy, Jr.,

Deputy Assistant Secretary for International Affairs.

[FR Doc. 90–2838 Filed 2–6–90; 8:45 am]

BILLING CODE 6450–01–M

Agreement for Cooperation Between Government of United States and the Government of Sweden; Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2260), notice is hereby given to a proposed "subsequent arrangement" under the Agreement for Cooperation between the Government of the United States of America and the Government of Sweden concerning Peaceful Uses of Nuclear Energy, and the Agreement for Cooperation between the Government of the United States of America and the Government of Norway concerning Peaceful Uses of Nuclear Energy.

The subsequent arrangement to be carried out under the above-mentioned agreements involves approval of the following retransfer:

RTD/NO(SW)–19, for the retransfer from Sweden to Norway of 10 kilograms of uranium, enriched to approximately 5 percent in the isotope uranium-235 for use as samples for safeguards and control analysis. After use, the samples will be disposed of as waste.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publications of this notice.

For the Department of Energy.

Dated: February 1, 1990.

Thad Grundy, Jr.,

Deputy Assistant Secretary for International Affairs.

[FR Doc. 90–2839 Filed 2–6–90; 8:45 am]

BILLING CODE 6450–01–M

Office of Fossil Energy

[FE Docket Nos. 89–84–NG and 89–83–LNG]

Louis Dreyfus Energy Corp.; Application for Blanket Authorization To Import Natural Gas and Liquefied Natural Gas

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of application for blanket authorizaton to import natural gas and liquefied Natural Gas.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on November 30, 1989, of two applications filed by Louis Dreyfus Energy Corp. (L.D. Energy), for blanket authorizations to import up to a total of 50 Bcf of natural gas from Canada over a two-year period beginning on the date of first delivery and up to 250 Bcf of liquefied natural gas (LNG) from overseas producers and suppliers over a five-year period beginning on the date of first delivery. L.D. Energy would import LNG for individual contract terms of greater than two years only with specific authorization from DOE. L.D. Energy intends to utilize existing pipeline and LNG facilities for the processing and transportation of the volumes to be imported and to submit quarterly reports detailing each transaction.

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

DATES: Protests, motions to intervene, or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed at the address listed below no later than 4:30 p.m., e.s.t., March 9, 1990.

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

FOR FURTHER INFORMATION:

Robert M. Stronach, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, Room 3F–070, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9622.

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

SUPPLEMENTARY INFORMATION: L.D. Energy, a Delaware corporation with its principal place of business in Wilton, Connecticut, is a wholly-owned subsidiary of Louis Dreyfus Corporation, a New York corporation engaged in the international and domestic merchandising of energy, cotton, sugar, textiles, meat, livestock and government securities, and also develops and manages real estate investments in the U.S. and Canada. Under the blanket authority sought, L.D. Energy contemplates becoming active in the trading and marketing of natural gas and LNG procured from both domestic and foreign sources.

In support of its application, L.D. Energy asserts that the natural gas and LNG would be imported at prices that will be competitive with domestic gas supplies available to L.D. Energy. The prices of the natural gas and LNG would be determined by market conditions which, in turn, will be influenced by the price and availablity of competing fuels, including domestic natural gas supplies. L.D. Energy states that, because its supply arrangements will be based on prevailing market pricing and gas supply conditions, the natural gas and LNG it imports will be needed and that the price of such gas will be competitive.

The decision on L.D. Energy's application for import authority will be made consistent with the DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Other matters that may be considered in making a public interest determination include need for gas and security of the supply. Parties that may oppose this application should comment in their responses on the issues of competitiveness, need for the gas, and security of supply as set forth in the policy guidelines. The applicant asserts that this import arrangement is in the public interest because the price of the gas is competitive, the gas is needed and its suppliers are reliable. Parties opposing the import arrangement bear the burden of overcoming these assertions.

All parties should be aware that if the requested import is approved, the authorization would be conditioned on the filing of quarterly reports indicating volumes imported and the purchase price. All parties should also be aware that, in accordance with its present policy and past practice of limiting an applicant to one blanket authorization for a two-year term, if FE approves the blanket authorization, it will issue one authorization for a two-year period.

NEPA Compliance:

The DOE has determined that compliance with the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.*, can be accomplished by means of a categorical exclusion. On March 27, 1989, the DOE published in the **Federal Register** (54 FR 12474) a notice of amendments to its guidelines for compliance with NEPA. In that notice, the DOE added to its list of categorical exclusions the approval or disapproval of an import/export authorization for natural gas in cases not involving new construction. Application of the categorical exclusion

in any particular case raises a rebuttable presumption that the DOE's action is not a major Federal action under NEPA. Unless it appears during the proceeding on this application that the grant or denial of the authorization would significantly affect the quality of the human environment, the DOE expects that no additional environmental review will be required.

Public Comment Procedures:

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590.

It is intended that a decisional record will be developed on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in-dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the applications and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of each of L.D. Energy's applications is available for inspection and copying in the Office of Fuels Programs Docket Room, Room 3F–056, at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, February 1, 1990.

Clifford P. Tomaszewski,

Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 90–2840 Filed 2–6–90; 8:45 am]

BILLING CODE 6450–01

[FE Docket No. 88–52–NG]

Southeastern Michigan Gas Co.; Order Granting Long Term Authorization To Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of an order granting long term authorization to import natural gas from canada.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Southeastern Michigan Gas Company (Southeastern) long-term authorization to import from Canada up to a maximum of 15,000 Mcf of natural gas per day on a firm basis, and up to an additional 40,000 Mcf per day on an interruptible basis, for a 15-year term beginning when gas is first delivered to Southeastern.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, January 31, 1990.

Clifford P. Tomaszewski,

Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 90–2841 Filed 2–6–90; 8:45 am]

BILLING CODE 6450–01

Federal Energy Regulatory Commission

[Project No. 3572–001]

North Stratford Equipment Corp.; Public Meetings To Discuss the Draft Environmental Impact Statement for the Livermore Falls Hydroelectric Project

January 31, 1990.

The Commission staff has prepared a draft environmental impact statement (DEIS) for the proposed Livermore Falls Hydroelectric Project in Grafton County, New Hampshire. The major findings, conclusions, and recommendations of this DEIS will be discussed at two public meetings. These meetings, which were originally scheduled for March 15, 1990, will be held instead on Thursday, February 15, 1990. Prior to this date a copy of the DEIS will be mailed to all interested parties. This document will be discussed during the public meetings and subsequently revised to reflect any new information provided at the subject meeetings.

The first public meeting will be held from 2 p.m. to 4 p.m., at the classroom in the State Armory, located at 7 Armory Road, Plymouth, New Hampshire, 03264–1510. The second meeting will be held from 7 p.m. to approximately 8:45 p.m, at the Plymouth Area High School cafeteria, located at Old Ward Bridge Road, Plymouth, New Hamphire, 03264.

Interested persons who are unable to attend the subject meetings may still provide written comments and recommendations for the public record. All correspondence regarding the subject DEIS should be filed with the Commission on or before March 12, 1990, and should be addressed to Lois D. Cashell, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. All correspondence should clearly show the following caption on the first page: Livermore Falls Hydroelectric Project, New Hamphire, Docket No. 3572–001.

For further information, please contact the FERC EIS Coordinator, James Haimes at (202 357–0780.

Lois D. Cashell,

Secretary.

[FR Doc. 90–2754 Filed 2–6–90; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP90-75-000]

Mississippi River Transmission Corp.; Proposed Changes in FERC Gas Tariff

January 31, 1990.

Take notice that on January 26, 1990, Mississipi River Transmission Corporation (MRT) field, pursuant to section 4 of the Natural Gas Act (NGA) and the Regulations of the Federal Energy Regulatory Commission (Commission) thereunder, changes in its FERC Gas Tariff, Second Revised Volume No. 1 which are proposed to become effective April 1, 1990, as more fully described in its tariff filing which is on file and available for public inspection.

MRT states that the purpose of the subject filing is to provide MRT's small general service (SGS) firm sales customers with the same flexibilities in receiving existing services which are afforded MRT's larger sale-for-resale customers when such customers opt to utilize transportation service to satisfy portions of their natural gas requirements with supplies from alternative sources. MRT states that Rate Schedule SGS-2 and the revisions to Rate Schedule SGS-1 which are proposed in the filing will allow SGS customers to utilize transportation services on the MRT system without changing their current classification (i.e., as SGS customers) for sales purposes, an ability not presently available under either MRT's existing tariff or that proposed in its pending rate proceeding at Docket No. RP89-248-000.

MRT further states that tariff changes proposed in the subject filing will not modify in any respect MRT's present delivery obligations but, rather, will provide MRT's smaller sales customers with the ability to utilize transportation authorized under MRT's open access certificate without losing their SGS customer classification.

Because of the similarity of issues as between the filing in the above-captioned docket and those concerning MRT's general rate filing pending at Docket No. RP89-248-000, MRT has requested that the two proceedings be consolidated.

Copies of the filing have been served upon MRT's jurisdictional customers, the State Commissions of Arkansas, Illinois and Missouri, and all parties to the proceedings at Docket No. RP89-248-000.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure: 18 CFR 385.211 and 385.214 (1986). All such motions or protests should be filed on or before February 7, 1990. Protests will be considered by the Commisison 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 Mississippi's filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-2752 Filed 2-6-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES90-24-000]

Westchester Resco Company, L.P.; Application

February 1, 1990.

Take notice that on January 26, 1990, Westchester Resco Company, L.P. ("Applicant") filed an application with the Federal Energy Regulatory Commission ("Commission"), seeking authority pursuant to section 204 of the Federal Power Act, to incur liability for the payment of lease payments to the County of Westchester Industrial Development Agency ("Agency"), which payments will be used by the Agency to make payments of principal and interest on the Agency's $40 million Letter of Credit Bonds (Westchester Resco Company Project—1982 Series C) issued to refund bonds originally issued by the Agency to provide funds to pay a portion of the costs of constructing Applicant's solid waste disposal, resource recovery and electric generating facility located in the City of Peekskill, New York, and to incur liability by way of a guaranty of the payment of such Bonds.

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 February 15, 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. 90-2755 Filed 2-6-90; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3721-5]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before March 9, 1990.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202) 382-2740.

SUPPLEMENTARY INFORMATION:

Office of Pesticides and Toxic Substances

Title: Foreign Purchaser Acknowledgement Statement of Unregistered Pesticides. (EPA ICR # 0161.03; OMB # 2070-0027). This ICR requests renewal of the existing clearance without changing the method of collection.

Abstract: Under section 17(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), an exporter of a pesticide which is not registered under FIFRA section 3 or sold under FIFRA 6(a)(1), must obtain a signed statement from the foreign purchaser. In the statement, foreign purchasers must acknowledge their awareness that the exported product is unregistered and prohibited from sale or use in the United States. EPA transmits a copy of the signed statement to an appropriate government official in the importing country.

Burden Statement: The public reporting burden for this collection of information is estimated to average 45 minutes per response. This estimate includes the time for reviewing instructions, searching existing data

sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Respondents: Pesticide Exporters.

Estimated No. of Respondents: 244.

Estimated Total Annual Burden on Respondents: 183 hours.

Frequency of Collection: On occasion.

Send comments regarding the burden esitmate, or any other aspect of this collection of information, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM–223), 401 M Street, SW., Washington, DC 20460,

and

Tim Hunt, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Telephone: (202) 395–3084.

Dated: January 23, 1990.

Paul Lapsley, Director,

Information and Regulatory Systems Division.

[FR Doc. 90–2813 Filed 2–6–90; 8:45 am]

BILLING CODE 6560–50–M

[OPP-180820; FRL 3661-7]

Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted specific exemptions for the control of various pests to the eight States as listed below. Six crisis exemptions were initiated by various States, and one by the California Department of Food and Agriculture for the month of July. A quarantine exemption was also granted to the United States Department of Agriculture/APHIS. These exemptions, issued during the month of August, are subject to application and timing restrictions and reporting requirements designed to protect the environment to the maximum extent possible. Information on these restrictions is available from the contact persons in EPA listed below.

DATES: See each specific, crisis, and quarantine exemption for its effective date.

FURTHER INFORMATION CONTACT: See each emergency exemption for the name of the contact person. The following information applies to all contact persons: By mail: Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 716, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-1806).

SUPPLEMENTARY INFORMATION: EPA has granted specific exemptions to the:

1. Arkansas State Plant Board for the use of paraquat on grain sorghum to control regrowth vegetation; August 18, 1989, to November 1, 1989. (Robert Forrest)

2. California Department of Food and Agriculture for the use of fenamiphos on walnuts to control nematodes; August 24, 1989, to May 15, 1990. (Libby Pemberton)

3. Florida Department of Agriculture and Consumer Services for the use of bromoxynil on sugarcane to control broadleaf weeds; August 22, 1989, to June 1, 1990. (Jim Tompkins) .

4. Florida Department of Agriculture for the use of triflumizole on spathipyllum sp. to control Cylindrocladium root and petiole rot; August 2, 1989, to July 1, 1990. (Susan Stanton)

5. Florida Department of Agriculture and Consumer Services for the use of malathion on sugar apples and atemoya to control annona seed borers; August 16, 1989, to December 31, 1989. (Rebecca Cool)

6. Louisiana Department of Agriculture and Forestry for the use of paraquat on grain sorghum to control regrowth vegetation; August 18, 1989, to November 1, 1989. (Robert Forrest)

7. Mississippi Department of Agriculture for the use of permethrin on southern peas to control cowpea curculio; August 4, 1989, to October 31, 1989. (Robert Forrest)

8. Oregon Department of Agriculture for the use of oxyfluorfen on grasses grown for seed to control various weeds; August 30, 1989, to January 15, 1990. A notice of receipt was published in the **Federal Register** of July 12, 1989 (54 FR 29383); no comments were received. The exemption was granted on the basis that there are no registered alternative pesticides which will provide adequate control of these weeds in unburned fields of grasses grown for seed. A significant economic loss may result if an effective pesticide is not made available. This loss may be as great as $63 million. Residues of oxyfluorfen and its metabolites containing the diphenyl ether linkage will not exceed 0.05 ppm in or on grass screenings. This residue level can be toxicologically supported and will not pose a threat to the public health. This use will not raise the current percent ADI occupied (30.08%). With measures to protect the Bradshaw's lomatium as a condition for this approval, this use should not pose an unreasonable hazard to non-target species or the environment. Rohm and Haas indicates it will pursue registration of the proposed use, and the registration should be submitted within the 3-year period specified in the section 18 regulation. (Libby Pemberton)

9. Pennsylvania Department of Agriculture for the use of chlorothalonil on mushrooms to control verticillium diseases; August 2, 1989, to July 31, 1990. (Susan Stanton)

10. Texas Department of Agriculture for the use of sethoxydim on snap beans to control Johnsongrass; August 8 1989, to September 1, 1989. (Susan Stanton)

Crisis exemptions were initiated by the:

1. California Department of Food and Agriculture on July 28, 1989, for the use of sethoxydim on dry beans to control Johnsongrass. This program has ended. (Susan Stanton)

2. Florida Department of Agriculture and Consumer Services on August 21, 1989, for the use of avermectin B_1 on tomatoes to control leafminers. This program is expected to last until August 21, 1990. (Libby Pemberton)

3. Michigan Department of Agriculture on August 2, 1989, for the use of avermectin B_1 on pears to control pear psylla. This program has ended. (Libby Pemberton)

4. North Dakota, Office of the Governor on August 2, 1989, for the use of methyl bromide on bee hives to control varroa mites. This program has ended. (Libby Pemberton)

5. Oklahoma Department of Agriculture on August 15, 1989, for the use of propiconazole (Tilt) on peanuts to control southern blight. This program has ended. (Jim Tompkins)

6. Texas Department of Agriculture on August 28, 1989, for the use of fenvalerate on sorghum grown for seed to control sorghum headworms and sorghum midge. This program has ended. (Jim Tompkins)

7. Wisconsin Department of Agriculture on August 17, 1989, for the use of propiconazole on celery to control late blight. This program has ended. (Libby Pemberton)

EPA has granted a quarantine exemption to the United States Department of Agriculture/APHIS for the use of methyl bromide on imported chayote, plantains, and melons to control various imported plant pests not currently established in the United States; August 18, 1989, to April 17, 1992. USDA had initiated a crisis exemption for this use. (Libby Pemberton)

Authority: 7 U.S.C. 136.

Dated: January 24, 1990.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 90–2815 Filed 2–6–90; 8:45 am]

BILLING CODE 6560–50–D

[OPP-180822; FRL-3684-5]

Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted specific exemptions for the control of various pests to the three States as listed below. Three crisis exemptions were initiated by various States. Two quarantine exemptions were also granted to the California Department of Food and Agriculture and the Hawaii Department of Agriculture. These exemptions, issued during the month of September, are subject to application and timing restrictions and reporting requirements designed to protect the environment to the maximum extent possible. EPA has denied a specific exemption request from the Washington Department of Agriculture. Information on these restrictions is available from the contact persons in EPA listed below.

DATES: See each specific, crisis, and quarantine exemption for its effective date.

FURTHER INFORMATION CONTACT: See each emergency exemption for the name of the contact person. The following information applies to all contact persons: By mail: Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 716, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-1806).

SUPPLEMENTARY INFORMATION: EPA has granted specific exemptions to the:

1. Arizona Office of the State Chemist for the use of avermectin B_1 on head lettuce to control serpentine leafminers; September 29, 1989, to June 15, 1990. (Libby Pemberton)

2. Arkansas State Plant Board for the use of dicamba on fallow land to be used for cotton production to control redvine; September 20, 1989, to December 1, 1989. (Susan Stanton)

3. Mississippi Department of Agriculture for the use of dicamba on fallow land to be used for cotton production; September 20, 1989, to December 1, 1989. (Susan Stanton)

Crisis exemptions were initiated by the:

1. Florida Department of Agriculture and Consumer Services on September 6, 1989, for the use of metalaxyl on blueberries to control phytophthora root rot. This program has ended. (Susan Stanton)

2. Florida Department of Agriculture and Consumer Services on September 6, 1989, for the use of propiconazole on sweet corn to control southern leaf blight. This program is expected to last until August 31, 1990. (Jim Tompkins)

3. Texas Department of Agriculture on September 1, 1989, for the use of cyromazine on peppers (bell, chili, and jalapeno) to control vegetable leafminer. This program is expected to last until September 15, 1990. (Jim Tompkins)

EPA has granted quarantine exemptions to:

1. California Department of Food and Agriculture for the use of carbaryl on home garden crops to control Gypsy moth and Japanese beetles; September 20, 1989, to July 31, 1992. (Susan Stanton)

2. Hawaii Department of Agriculture for the use of glyphosate, picloram, and diazinon on bananas to control banana aphids and bunchy top disease; September 20, 1989, to September 20, 1990. Hawaii had initiated a crisis exemption for this use. (Robert Forrest)

EPA has denied a specific exemption request from the Washington Department of Agriculture on September 12, 1989, for the use of phosphamidon on hops to control hop aphids. The Agency denied this request because the Agency is unable to assess risks to human health, nontarget organisms, and the environment. This denial is also based on a lack of progress toward registration. (Susan Stanton)

Authority: 7 U.S.C. 136.

Dated: December 21, 1989.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 90-2817 Filed 2-6-90; 8:45 am]

BILLING CODE 6560-50-D

[OPTS-59881; FRL 3708-8]

Toxic and Hazardous Substances; Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the **Federal Register** of May 13,1983 48 FR 21722). In the **Federal Register** of November 11, 1984, (49 FR 46066) (40 CFR 723.250), EPA published a rule which granted a limited exemption from certain PMN requirements for certain types of polymers. Notices for such polymers are reviewed by EPA within 21 days of receipt. This notice announces receipt of 46 such PMN(s) and provides a summary of each.

DATES: Close of review periods:

Y 90-37, December 24, 1989.

Y 90-38, December 27, 1989.

Y 90-39, December 21, 1989.

Y 90-40, 90-41, 90-42, 90-43, 90-44, 90-45, 90-46, 90-47, 90-48, 90-49, 90-50, 90-51, December 24, 1989.

Y 90-52, December 31, 1989.

Y 90-53, 90-54, 90-55, January 1, 1990.

Y 90-56, January 8, 1990.

Y 90-57, 90-58, 90-59, 90-60, 90-62, 90-66, 90-67, 90-68, 90-69, 90-70, 90-71, 90-72, 90-73, 90-74, 90-75, 90-76, 90-77, 90-78, 90-79, 90-80, 90-81, 90-82, 90-83, January 11, 1990.

Y 90-84, 90-85, 90-86, January 16, 1990.

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Director, Environmental Assistance Division (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-545, 401 M Street, SW., Washington, DC 20460, (202) 554-1404, TDD (202) 554-0551.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete nonconfidential document is available in the Public Reading Room NE-G 004 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

Y 90-37

Manufacturer. Interplastic Corporation.

Chemical. (G) Unsaturated polyester resin.

Use/Production. (S) Molding resin.

Prod. range: 1,000,000-20,000,000 kg/yr.

Y 90-38

Importer. Liochem Incorporated.

Chemical. (G) Polyester resin.

Use/Import. (S) Additive for over print varnish.

Import range: 120,000-300,000 kg/yr.

Y 90-39

Manufacturer. S.C. Johnson & Son, Inc.

Chemical. (G) Solid styrene/acrylic copolymer flake.

Use/Production. (G) A resin to be formaulated into a thermosetting powder coating.

Prod. range: Confidential.

Y 90-40

Manufacturer. S.C. Johnson & Son, Inc.

Chemical. (G) Aqueous acrylic copolymer and its salts.

Use/Production. (G) Aqueous emulsion polymer.
Prod. range: Confidential.
Y 90–41
Manufacturer. S.C. Johnson & Son, Inc.
Chemical. (G) Aqueous acrylic copolymer and its salts.
Use/Production. (G) Aqueous emulsion polymer.
Prod. range: Confidential.
Y 90–42
Manufacturer. S.C. Johnson & Son, Inc.
Chemical. (G) Aqueous acrylic copolymer and its salts.
Use/Production. (G) Aqueous emulsion polymer.
Prod. range: Confidential.
Y 90–43
Manufacturer. S.C. Johnson & Son, Inc.
Chemical. (G) Aqueous acrylic copolymer and its salte.
Use/Production. (G) Aqueous emulsion polymer.
Prod. range: Confidential.
Y 90–44
Manufacturer. S.C. Johnson & Son, Inc.
Chemical. (G) Aqueous acrylic copolymer and its salts.
Use/Production. (G) Aqueous emulsion polymer.
Prod. range: Confidential.
Y 90–45
Manufacturer. S.C. Johnson & Son, Inc.
Chemical. (G) Aqueous acrylic copolymer and its salts.
Use/Production. (G) Aqueous emulsion polymer.
Prod. range: Confidential.
Y 90–46
Manufacturer. S.C. Johnson & Son, Inc.
Chemical. (G) Aqueous acrylic copolymer and its salts.
Use/Production. (G) Aqueous emulsion polymer.
Prod. range: Confidential.
Y 90–47
Manufacturer. S.C. Johnson & Son, Inc.
Chemical. (G) Aqueous acrylic copolymer and its salts.
Use/Production. (G) Aqueous emulsion polymer.
Prod. range: Confidential.
Y 90–48
Manufacturer. S.C. Johnson & Son, Inc.
Chemical. (G) Aqueous acrylic copolymer and its salts.
Use/Production. (G) Aqueous emulsion polymer.
Prod. range: Confidential.
Y 90–49
Manufacturer. S.C. Johnson and Son, Inc
Chemical. (G) Aqueous acrylic copolymer and its salts.
Use/Production. (G) Aqueous emulsion polymer.
Prod. range: Confidential.
Y 90–50
Manufacturer. S.C. Johnson & Son, Inc.
Chemical. (G) Aqueous acrylic copolymer and its salt.
Use/Production. (G) Aqueous emulsion polymer.
Prod. range: Confidential.
Y 90–51
Manufacturer. S.C. Johnson and Son, Inc.
Chemical. (G) Aqueous acrylic copolymer and its salt.
Use/Production. (G) Aqueous emulsion polymer.
Prod. range: Confidential.
Y 90–52
Manufacturer. Confidential.
Chemical. (G) Modified soya fatty solid isophthalate alkyd.
Use/Production. (S) Binder for general metal coatings.
Prod. range: Confidential.
Y 90–53
Manufacturer. Confidential.
Chemical. (G) Copolymer of styrene, ethylene oxide, and an acrylate ester.
Use/Production. (G) Polymeric component of coatings.
Prod. range: Confidential.
Y 90–54
Manufacturer. Confidential.
Chemical. (G) Saturated polyester resin.
Use/Production. (G) General metals coil coating polyester.
Prod. range: Confidential.
Y 90–55
Importer. Unichema Chemicals, Inc.
Chemical. (G) Alkanedibasic acid, propanediol, n-alkanol polyester.
Use/Import. (S) Processing aid.
*Import range:*Confidential.
Y 90–56
Manufacturer. Mazer Chemical, Division of PPG Inc.
Chemical. (G) Siloxanes and silicones, methyl alkyl.
Use/Production. (S) Lubricant/grease industry.
Prod. range: Confidential.
Y 90–57
Manufacturer. S.C. Johnson & Son, Inc.
Chemical. (G) Aqueous acrylic copolymer and salts thereof.
Use/Production. (G) Aqueous emulsion polymer.
Prod. range: Confidential.
Y 90–58
Manufacturer. S.C. Johnson & Son, Inc.
Chemical. (G) Aqueous acrylic copolymer and salts thereof.
Use/Production. (G) Aqueous emulsion polymer.
Prod. range: Confidential.
Y 90–59
Manufacturer. S.C. Johnson & Son, Inc.
Chemical. (G) (G) Aqueous acrylic copolymer and salts thereof.
Use/Production. (G) Aqueous emulsion polymer.
Prod. range: Confidential.
Y 90–60
Manufacturer. S.C. Johnson & Son, Inc.
Chemical. (G) Aqueous acrylic copolymer and salts thereof.
Use/Production. (G) Aqueous emulsion polymer.
Prod. range: Confidential.
Y 90–62
Manufacturer. S.C. Johnson & Son, Inc.
Chemical. (G) Aqueous acrylic copolymer and salts thereof.
Use/Production. (G) Aqueous emulsion polymer.
Prod. range: Confidential.
Y 90–66
Manufacturer. S.C. Johnson & Son, Inc.
Chemical. (G) Aqueous acrylic copolymer and salts thereof.
Use/Production. (G) Aqueous emulsion polymer.
Prod. range: Confidential.
Y 90–67
Manufacturer. S.C. Johnson & Son, Inc.
Chemical. (G) Aqueous acrylic copolmer and salts thereof.
Use/Production. (G) Aqueous emulsion polymer.
Prod. range: Confidential.
Y 90–68
Manufacturer. S.C. Johnson & Son, Inc.
Chemical. (G) Aqueous acrylic copolymer and salts thereof.
Use/Production. (G) Aqueous emulsion polymer.
Prod. range: Confidential.
Y 90–69
Manufacturer. S.C. Johnson & Son, Inc.
Chemical. (G) Aqueous acrylic copolymer and salts thereof.
Use/Production. (G) Aqueous emulsion polymer.
Prod. range: Confidential.
Y 90–70
Manufacturer. S.C. Johnson & Son, Inc.
Chemical. (G) Aqueous acrylic copolymer and salts thereof.
Use/Production. (G) Aqueous emulsion polymer.
Prod. range: Confidential.
Y 90–71

Manufacturer. S.C. Johnson & Son, Inc.
Chemical. (G) Aqueous acrylic copolymer and salts thereof.
Use/Production. (G) Aqueous emulsion polymer.
Prod. range: Confidential.
Y 90–72
Manufacturer. S.C. Johnson & Son, Inc.
Chemical. (G) Aqueous acrylic copolymer and salts thereof.
Use/Production. (G) Aqueous emulsion polymer.
Prod. range: Confidential.
Y 90–73
Manufacturer. S.C. Johnson & Son, Inc.
Chemical. (G) Aqueous acrylic copolymer and salts thereof.
Use/Production. (G) Aqueous emulsion polymer.
Prod. range: Confidential.
Y 90–74
Manufacturer. S.C. Johnson & Son, Inc.
Chemical. (G) Aqueous acrylic copolymer and salts thereof.
Use/Production. (G) Aqueous emulsion polymer.
Prod. range: Confidential.
Y 90–75
Manufacturer. S.C. Johnson & Son, Inc.
Chemical. (G) Aqueous acrylic copolymer and salts thereof.
Use/Production. (G) Aqueous emulsion polymer.
Prod. range: Confidential.
Y 90–76
Manufacturer. S.C. Johnson & Son, Inc.
Chemical. (G) Aqueous acrylic copolymer and salts thereof.
Use/Production. (G) Aqueous emulsion polymer.
Prod. range: Confidential.
Y 90–77
Manufacturer. S.C. Johnson & Son, Inc.
Chemical. (G) Aqueous acrylic copolymer and salts thereof.
Use/Production. (G) Aqueous emulsion polymer.
Prod. range: Confidential.
Y 90–78
Manufacturer. S.C. Johnson & Son Inc.
Chemical. (G) Aqueous acrylic copolymer and salts thereof.
Use/Production. (G) Aqueous emulsion polymer.
Prod. range: Confidential.
Y 90–79
Manufacturer. S.C. Johnson & Son, Inc.
Chemical. (G) Aqueous acrylic copolymer and salts thereof.
Use/Production. (G) Aqueous emulsior polymer.
Prod. range: Confidential.
Y 90–80
Manufacturer. S.C. Johnson & Son, Inc.
Chemical. (G) Aqueous acrylic copolymer and salts thereof.
Use/Production. (G) Aqueous emulsion polymer.
Prod. range: Confidential.
Y 90–81
Manufacturer. S.C. Johnson & Son, Inc.
Chemical. (G) Aqueous acrylic copolymer and salts thereof.
Use/Production. (G) Aqueous emulsion polymer.
Prod. range: Confidential.
Y 90–82
Manufacturer. S.C. Johnson & Son, Inc.
Chemical. (G) Aqueous acrylic copolymer and salts thereof.
Use/Production. (G) Aqueous emulsion polymer.
Prod. range: Confidential.
Y 90–83
Manufacturer. S.C. Johnson & Son, Inc.
Chemical. (G) Aqueous acrylic copolymer and salts thereof.
Use/Production. (G) Aqueous emulsion polymer.
Prod. range: Confidential.
Y 90–84
Manufacturer. Allied-Signal, Inc.
Chemical. (G) Poly plefin.
Use/Production. (S) Component in wax blender dispersion oil for ink application for plastics additive.
Prod. range: Confidential.
Y 90–85
Manufacturer. Allied-Signal, Inc.
Chemical. (G) Toluene diisocyanate, ethylene oxide, propylene oxide polymer blocked with amine.
Use/Production. (S) Plastic lubricant, used in solvent dispersivesfor paint used in emulsions for polishes textile.
Prod. range: Confidential.
Y 90–86
Manufacturer. Allied-Signal, Inc.
Chemical. (G) Ethylene-vinyl acetate copolymer.
Use/Production. (S) Component of adhesives, dispersive aid for coloring plastics and solvent for automotive paint.
Prod. range: Confidential.

Dated: January 29, 1990.

Steven Newburg-Rinn,

Acting Director, Information Management Division, Office of Toxic Substances.

[FR Doc. 90–2818 Filed 2–6–90; 8:45am]

BILLING CODE 6560–50–D

FEDERAL COMMUNICATIONS COMMISSION

[Gen. Docket No. 89–478; DA 90–22]

Mississippi Region Public Safety Plan

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The FCC is accepting the Mississippi area's (Region 23's) plan for public safety. By accepting this plan, the FCC enables the licensing of the 821–824/866–869 MHz spectrum for public safety to begin.

EFFECTIVE DATE: January 17, 1990.

FOR FURTHER INFORMATION CONTACT: Maureen Cesaitis, Private Radio Bureau, Policy and Planning Branch, Washington, DC 20554, (202) 632–6497.

SUPPLEMENTARY INFORMATION: 1. On September 18, 1989, the Mississippi Area (Region 23) submitted its public safety plan to the Commission for review. The plan sets forth the guidelines to be followed in allotting spectrum to meet current and future mobile communications requirements of the public safety and special emergency entities operating in its region.

2. The Region 23 plan was placed on Public Notice for comments on October 26, 1989, 54 FR 46298 (Nov. 2, 1989). The Commission received no comments in the proceeding.

3. We have reviewed the plan submitted for Region 23 and find that it conforms with the National Public Safety Plan. The plan includes all the necessary elements specified in the *Report and Order* in Gen. Docket No. 87–112, 3 FCC Rcd 905 (1987), and satisfactorily provides for the current and projected mobile communications requirements of the public safety and special emergency entities in Mississippi.

4. Accordingly, It is ordered that the Public Safety Radio Plan for Region 23 is accepted. Furthermore, licensing of the 821–824/866–869 MHz band in Region 23 may commence immediately.

List of Subjects in the Public Safety Plan

Public safety, Special emergency Trunking, Land mobile.

Federal Communications Commission.

Beverly G. Baker,

Deputy Chief, Private Radio Bureau.

Thomas P. Stanley,

Chief Engineer.

[FR Doc. 90–2780 Filed 2–6–90; 8:45 am]

BILLING CODE 6712–01–M

[Report No. 1806]

Petitions for Reconsideration of Actions in Rulemaking Proceedings

February 2, 1990.

Petitions for reconsideration have been filed in the Commission rule making proceeding listed in this Public Notice and published pursuant to 47 CFR 1.429(e). The full text of these documents are available for viewing and copying in room 239, 1919 M Street, NW., Washington, DC, or may be purchased from the Commission's copy contractor International Transcription Service (202–857–3800). Oppositions to these petitions must be filed February 23, 1990. See section 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Petition to Amend the Radio Control (R/C) Radio Service Rules to Permit Model Surface Craft Channels to be Used for Remote Control of Industrial Cranes. (RM–6665)

Number of petitions filed: 1

Subject: Amendment of Section 73.202(b) Table of Allotments FM Broadcast Stations. (Vacaville and Middleton, California) (MM Docket No. 88–491, RM–6371 and 6650)

Number of petitions filed: 1

Subject: Amendment of Part 90 of the Commission's Rules to Implement a Conditional Authorization Procedure for Proposed Private Land Mobile Radio Service Stations. (PR Docket No. 88–567)

Number of petitions filed: 3

Subject: Amendment of Sec. 73.202(b) Table of Allotments FM Broadcast Stations (Dickson, Tennessee; Benton, Calvert City, Kentucky). (MM Docket No. 88–613, RM–6483 and 6712).

Number of petitions filed: 1

Subject: Amendment of Sec. 73.202(b) Table of Allotments FM Broadcast Stations (Quincy, Shingle Springs and Sutter Creek, California). (MM Docket No. 89–62, RM–6522).

Number of petitions filed: 3

Subject: Amendment of section 73.606(b) Table of Allotments, TV Broadcast Stations. (Clermont and Cocoa, Florida). (MM Docket No. 89–68 RM–6382).

Number of petitions filed: 1

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 90–2781 Filed 2–6–90; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 202–011242–003.

Title: North Europe-USA Rate Agreement.

Parties:

Atlantic Container Line BV ("ACL")
P&O Containers (TFL) Limited
Sea-Land Service, Inc.
Compagnie Generale Maritime (CGM)
Hapag Lloyd AG
Nedlloyd Lijnen BV
Incotrans BV

Synopsis: The proposed amendment would modify the Agreement to reflect the changed relationship between Wallenius Lines ("Wallenius") and ACL in that Wallenius is no longer a shareholder of ACL and therefore the two companies are no longer related.

By Order of the Federal Maritime Commission.

Dated: February 1, 1990.

Joseph C. Polking,

Secretary.

[FR Doc. 90–2743 Filed 2–6–90; 8:45 am]

BILLING CODE 6730–01–M

Notice of Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, 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.: 224–200319.

Title: Tampa Port Authority/Itel Containers International Corporation Terminal Agreement.

Parties:

Tampa Port Authority, Inc. (Authority)
Itel Containers International Corporation (Itel)

Filing Party: Mr. H.E. Welch, Director of Traffic, Tampa Port Authority, P.O. Box 2192, 811 Wynkoop Road, Tampa, FL 33601.

Synopsis: The Agreement provides for the leasing of marine containers by Itel to the Authority or the Authority's agent for approximately a one-year period, with terms and conditions extending until all containers leased to the Authority are redelivered to Itel.

Agreement No.: 224–200320.

Title: Tampa Port Authority/Tampa Bay International Terminals, Inc. Terminal Agreement.

Parties:

Tampa Port Authority (Authority)
Tampa Bay International Terminals, Inc. (TBIT)

Filing Party: Mr. H.E. Welch, Director of Traffic, Tampa Port Authority, P.O. Box 2192, 811 Wynkoop Road, Tampa, FL 33601.

Synopsis: The Agreement appoints TBIT as sole agent of the Authority to lease marine containers and chassis from Itel Containers International Corporation. Under the Agreement TBIT may lease the marine containers and chassis to Cayman Islands Shipping, Limited, or to others subject to the approval of the Authority.

Agreement No.: 224–200321.

Title: Tampa Bay International Terminals, Inc./Cayman Island Shipping Ltd. Terminal Agreement.

Parties:

Tampa Bay International Terminals, Inc. (TBIT)
Cayman Island Shipping Ltd. (Cayman)

Synopsis: The Agreement provides for the leasing of marine containers by TBIT to Cayman for appoximately a one-year period, with terms and conditions extending until all containers leased to Cayman are redelivered to TBIT.

By Order of the Federal Maritime Commission.

Dated: February 1, 1990.

Joseph C. Polking,

Secretary.

[FR Doc. 90–2760 Filed 2–6–90; 8:45 am]

BILLING CODE 6730–01–M

[Docket No. 90–4]

Worldwide Shippers Association, Inc., v. Asia North America Eastbound Rate Agreement, et al.; Notice of Filing of Complaint and Assignment

Notice is given that a complaint filed by Worldwide Shippers Association, Inc. ("Complainant") against Asia North America Eastbound Rate Agreement ("ANERA"), American President Lines, Ltd., Sea-Land Service, Inc., Neptune Orient Lines, Ltd., A.P. Moller (Maersk Lines), Kawasaki Kisen Kaisha, Ltd., Nippon Yusen Kaisha Line, Mitsui O.S.K. Lines, Ltd. and Nippon Liner System, Inc. (hereinafter collectively referred to as "Respondents") was served February 1, 1990. Complainant alleges that Respondents have violated, and are continuing to violate, sections 8(c), 10(b)(5), 10(b)(10), 10(b)(11), 10(b)(12), 10(c)(1) and 10(c)(3) of the Shipping Act of 1984, 46 U.S.C. app. 1707(c), 1709(b)(5), (b)(10), (b)(11), (b)(12), (c)(1) and (c)(3), through ANERA's entering into service contracts which impose an additional $300.00 charge and/or provide a lower discount on shipments for which the shipper is neither the legal or equitable owner of nor otherwise has the legal right to buy or sell the cargo at time of shipment.

This proceeding has been assigned to Administrative Law Judge Joseph N. Ingolia ("Presiding Officer"). Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the Presiding Officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record. Pursuant to the further terms of 46 CFR 502.61, the initial decision of the Presiding Officer in this proceeding shall be issued by February 1, 1991, and the final decision of the Commission shall be issued by June 3, 1991.

Joseph C. Polking,

Secretary.

[FR Doc. 90–2742 Filed 2–6–90; 8:45 am]

BILLING CODE 6730–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 90N–0048]

Drug Export: Abbott HCV EIA Test Kit

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Abbott Laboratories, Inc., has filed an application requesting approval for the export of the biological product Abbott HCV EIA, Hepatitis C (rDNA) Antigen, test kits to Australia, Belgium, and Canada.

ADDRESSES: Relevant information on this application may be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, and to the contact person identified below. Any future inquiries concerning the export of human biological products under the Drug Export Amendments Act of 1986 should also be directed to the contact person.

FOR FURTHER INFORMATION CONTACT: Boyd Fogle, Jr., Inspections and Surveillance Staff (HFB–120), Center for Biologics Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–295–8191.

SUPPLEMENTARY INFORMATION: The drug export provisions in section 802 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 382) provide that FDA may approve applications for the export of drugs that are not currently approved in the United States. Section 802(b)(3)(B) of the act sets forth the requirements that must be met in an application for approval. Section 802(b)(3)(C) of the act requires that the agency review the application within 30 days of its filing to determine whether the requirements of section 802(b)(3)(B) have been satisfied. Section 802(b)(3)(A) of the act requires that the agency publish a notice in the **Federal Register** within 10 days of the filing of an application for export to facilitate public participation in its review of the application. To meet this requirement, the agency is providing notice that Abbott Laboratories, Inc., Abbott Park, IL 60064, has filed an application requesting approval for the export of the biological product Abbott HCV EIA, Hepatitis C (rDNA) Antigen, test kits to Australia, Belgium, and Canada. Abbott HCV EIA is an in vitro qualitative enzyme immunoassay for the detection of antibody to Hepatitis C Virus (HCV) in human serum and plasma. The application was received and filed in the Center for Biologics Evaluation and Research on January 18, 1990, which shall be considered the filing date for purposes of the act.

Interested persons may submit relevant information on the application to the Dockets Management Branch (address above) in two copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. These submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

The agency encourages any person who submits relevant information on the application to do so by February 20, 1990, and to provide an additional copy of the submission directly to the contact person identified above, to facilitate consideration of the information during the 30-day review period.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 802 (21 U.S.C. 382)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Biologics Evaluation and Research (21 CFR 5.44).

Dated: January 25, 1990.

Thomas S. Bozzo,

Director, Office of Compliance Center for Biologics Evaluation and Research.

[FR Doc. 90–2786 Filed 2–6–90; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 90N–0047]

Drug Export: ICON® Anti-HIV-1 Test Kit

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Hybritech Inc. has filed an application requesting approval for the export of the biological product ICON® Anti-HIV-1 test kit to Australia, Austria, Belgium, Canada, Denmark, The Federal Republic of Germany, France, Iceland, Ireland, Italy, Luxembourg, The Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, and The United Kingdom.

ADDRESSES: Relevant information on this application may be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, and to the contact person

identified below. Any future inquiries concerning the export of human biological products under the Drug Export Amendments Act of 1986 should also be directed to the contact person.

FOR FURTHER INFORMATION CONTACT: Boyd Fogle, Jr., Center for Biologics Evaluation and Research (HFB–120), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–295–8191.

SUPPLEMENTARY INFORMATION: The drug export provisions in section 802 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 382) provide that FDA may approve applications for the export of drugs that are not currently approved in the United States. Section 802(b)(3)(B) of the act sets forth the requirements that must be met in an application for approval. Section 802(b)(3)(C) of the act requires that the agency review the application within 30 days of its filing to determine whether the requirements of section 802(b)(3)(B) have been satisfied. Section 802(b)(3)(A) of the act requires that the agency published a notice in the **Federal Register** within 10 days of the filing of an application for export to facilitate public participation in its review of the application. To meet this requirement, the agency is providing notice that Hybritech Inc., P.O. Box 269006, San Diego, CA, 92126–9006, has filed an application requesting approval for the export of the biological product ICON® Anti-HIV–1 test kit, to Australia, Austria, Belgium, Canada, Denmark, The Federal Republic of Germany, France, Iceland, Ireland, Italy, Luxembourg, The Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, and The United Kingdom. ICON® Anti-HIV-1 test kit is indicated for the detection of antibodies to Human Immunodeficiency Virus Type 1 (HIV-1) in human serum, plasma, or whole blood. The application was received and filed in the Center for Biologics Evaluation and Research on December 21, 1989, which shall be considered the filing date for purposes of the act.

Interested persons may submit relevant information on the application to the Dockets Management Branch (address above) in two copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. These submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

The agency encourages any person who submits relevant information on the application to do so by February 20, 1990, and to provide an additional copy of the submission directly to the contact person identified above, the facilitate consideration the information during the 30-day review period.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 802 (21 U.S.C. 382)) and under authority delegated to the Commissioner of Foods and Drugs (21 CFR 5.10) and redelegated under 21 CFR 5.44.

Dated: January 20, 1990.

Thomas S. Bozzo,

Director, Office of Compliance Center for Biologics Evaluation and Research.

[FR Doc. 90–2787 Filed 2–6–90; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 90N–0046]

Drug Export; Recombinant Human Erythropoietin

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Ortho Biologics, Inc., has filed an application requesting approval for the export of the biological product Recombinant Human Erythropoietin to Canada.

ADDRESS: Relevant information on this application may be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, and to the contact person identified below. Any future inquiries concerning the export of human biological products under the Drug Export Amendments Act of 1986 should also be directed to the contact person.

FOR FURTHER INFORMATION CONTACT: Boyd Fogle, Jr., Center for Biologics Evaluation and Research (HFB–120), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–295–8191.

SUPPLEMENTARY INFORMATION: The drug export provisions in section 802 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 382) provide that FDA may approve applications for the export of drugs that are not currently approved in the United States. Section 802(b)(3)(B) of the act sets forth the requirements that must be met in an application for approval. Section 802(b)(3)(C) of the act requires that the agency review the application within 30 days of its filing to determine whether the requirements of section 802(b)(3)(B) have been satisfied. Section 802(b)(3)(A) of the act requires that the agency publish a notice in the **Federal Register** within 10 days of the filing of an application for export to facilitate public participation in its review of the application. To meet this requirement, the agency is providing notice that Ortho Biologics, Inc., U.S. Route 202, P.O. Box 300, Raritan, NJ 00869, has filed an application requesting the approval for the export of the biological product Recombinant Human Erythropoietin, to Canada. Recombinant Human Erythropoietin is indicated in the treatment of anemia associated with renal failure. The application was received and filed in the Center for Biologics Evaluation and Research on January 16, 1990, which shall be considered the filing date for purposes of the act.

Interested persons may submit relevant information on the application to the Dockets Management Branch (address above) in two copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. These submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

The agency encourages any person who submits relevant information on the application to do so by February 20, 1990, and to provide an additional copy of the submission directly to the contact person identified above, to facilitate consideration of the information during the 30-day review period.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 802 (21 U.S.C. 382)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated under 21 CFR 5.44.

Dated: January 22, 1990.

Thomas S. Bozzo,

Director, Office of Compliance Center for Biologics Evaluation and Research.

[FR Doc. 90–2788 Filed 2–6–90; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 90N–0044]

Bolar Pharmaceutical Co., Inc.; Withdraw of Approval of Abbreviated New Drug Applications for Nitrofurantoin Capsules (Macrocrystalline)

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of abbreviated new drug applications (ANDA's) for nitrofuran'oin

(macrocrystalline) 50 milligrams (mg) and 100 mg capsules held by Bolar Pharmaceutical Co., Inc., 33 Ralph Ave., Copiague, NY 11726–0030 (Bolar). Bolar has requested that approval of the applications be withdrawn and has waived its opportunity for a hearing. This action stems from discoveries by FDA that the application contain untrue statements of material fact.

EFFECTIVE DATE: February 7, 1990.

FOR FURTHER INFORMATION CONTACT: John H. Hazard, Jr., Center for Drug Evaluation and Research (HFD–366), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–295–8041.

SUPPLEMENTARY INFORMATION: Recently, FDA became aware of the submission of false data in support of the approval of ANDA's 70–248 and 70–249 held by Bolar for, respectively, 50 mg and 100 mg nitrofurantoin (macrocrystalline) capsules. Bolar's products are generic version of Macrodantin Capsules manufactured by Norwich Eaton Pharmaceuticals, Inc. The false submission include the results of bioequivalence studies purportedly performed on a Bolar product that were actually performed on another firm's product. Bolar has ceased marketing these products and has recalled them to the retail level. In addition, Bolar has requested, by letter dated December 7, 1989, that approval of its applications be withdrawn and has waived its opportunity for hearing (see 21 CFR 314.150(d)).

Therefore, under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) and under authority delegated to the Director of the Center for Drug Evaluation and Research (21 CFR 5.82), approval of abbreviated new drug applications 70–248 and 70–249, and all amendments and supplements thereto, is hereby withdrawn, effective February 7, 1990.

Dated: January 31, 1990.

Carl C. Peck,

Director, Center for Drug Evaluation and Research.

[FR Doc. 90–2744 Filed 2–6–90; 8:45 am]

BILLING CODE 4160–01–M

Health Care Financing Administration

Notice of Hearing; Reconsideration of Disapproval of Arkansas State Plan Amendment (SPA)

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of Hearing.

SUMMARY: This notice announces an administrative hearing on March 21, 1990, in room 1945, 1200 Main Tower Building, Dallas, Texas to reconsider our decision to disapprove Arkansas State Plan Amendment 89-5.

CLOSING DATE: Requests to participate in the hearing as a party must be received by the Docket Clerk (within 15 days after publication).

FOR FURTHER INFORMATION CONTACT: Docket Clerk, HCFA Hearing Staff, 300 East High Rise, 6325 Security Boulevard, Baltimore, Maryland 21207, Telephone: (301) 966-4471.

SUPPLEMENTARY INFORMATION: This notice announces an administrative hearing to reconsider our decision to disapprove Arkansas State Plan amendment (SPA) number 89–5.

Section 1116 of the Social Security Act (the Act) and 42 CFR part 430 establish Department procedures that provide an administrative hearing for reconsideration of a disapproval of a State plan or plan amendment. HCFA is required to publish a copy of the notice to a State Medicaid Agency that informs the agency of the time and place of the hearing and the issues to be conisdered. (If we subsequently notify the agency of additional issues that will be considered at the hearing, we will also publish that notice.)

Any individual or group that wants to participate in the hearing as a party must petition the Hearing Officer within 15 days after publication of this notice, in accordance with the requirements contained at 42 CFR 430.76(b)(2). Any interested person or organization that wants to participate as *amicus curiae* must petition the Hearing Officer before the hearing begins in accordance with the requirements contained in 42 CFR 430.76(c).

If the hearing is later rescheduled, the Hearing Officer will notify all participants.

Arkansas SPA 89–5 would include rehabilitative services for the developmentally disabled. The amendment would allow the State to provide general supportive services to persons with mental retardation and developmental disabilities under the rehabilitative services benefit at 42 CFR 440.130(d).

The issues in this matter are whether: (1) The description of rehabilitation services offered in the State Plan and in the supporting materials supplied by the State is sufficient to demonstrate that the services are covered under Medicaid as required by section 1905(a), and (2) the proposed amendment would violate the comparability requirement at section 1902(a)(10)(B) of the Act and 42 CFR 440.240(b).

Medicaid pays for medical assistance as defined in section 1905(a) of the Act, which includes a number of specified services and any services recognized by State law and specified by the Secretary. (Services specified by the Secretary have been included in regulation and are listed at 42 CFR 440.170.) In addition, States may be granted a home and community-based services waiver under section 1915(c) of the Act to provide services (listed under 42 CFR 440.180) to persons who would, but for the waiver, be institutionalized.

Arkansas SPA 89–5 would include "rehabilitative services to the developmentally disabled;" however, the amendment provides little guidance on the exact nature of these services. Furthermore, the State's Medicaid Manual definitions of rehabilitative services and habilitative services are essentially identical. The services are defined as "planned experiences in all of the following life areas (bodies, clothes, communications, foods, pastimes, shelters, natural environment, and transportaton carriers) where there is an assessed need." The description of rehabilitative services offered in the State Plan and in the supporting materials supplied by the State is insufficient to demonstrate that the services are covered under Medicaid. Since it is not clear what, if any, covered services would be provided under the amendment, HCFA disapproved the amendment.

HCFA believes that, while it is not clear what services the State wants to provide pursuant to its amendment, it appears that the services may be designed to assist individuals in acquiring the self-help and adaptive skills necessary to reside in home and community-based settings. Such services are sometimes referred to as "habilitation services" and are only covered under Medicaid in two contexts. Habilitation services as defined in section 1915(c)(5) of the Act can be provided pursuant to a section 1915(c) home and community-based services waiver. In addition, habilitation services are generally provided as part of the services provided in an Intermediate Care Facility for the Mentally Retarded (ICF/MR). In the ICF/MR context, the services are generally described in the regulations in connection with the conditions of participation for facilities, where they are covered in the overall context of an institutional program of active treatment.

The amendment would also limit the proposed services to persons with mental retardation or developmental disabilities. By so limiting the proposed services, HCFA believes the amendment would violate comparability requirements at section 1902(a)(10)(B) of the Act and 42 CFR 440.240(b).

The notice to Arkansas announcing an administrative hearing to reconsider the disapproval of its State plan amendment reads as follows:

February 1, 1990.

Mr. Kenny Whitlock,

Deputy Director, Division of Economic and Medical Services, Arkansas Department of Human Services, Post Office Box 1437, Little Rock, Arkansas 72203–1437

Dear Mr. Whitlock: I am advising you that your request for reconsideration of the decision to disapprove Arkansas State Plan Amendment (SPA) 89–5 was received on January 3, 1990.

Arkansas SPA 89–5 would include rehabilitative services for the developmentally disabled. The amendment would allow the State to provide general supportive services to persons with mental retardation and developmental disabilities under the rehabilitative services benefit at 42 CFR 440.130(d).

The issues in this matter are whether: (1) The description of rehabilitation services offered in the State plan and in the supporting materials supplied by the State is sufficient to demonstrate that the services are covered under Medicaid as required by section 1905(a) of the Social Security Act (the Act), and (2) the proposed amendment violates the comparability requirements at section 1902(a)(10)(B) of the Act and 42 CFR 440.240(b).

I am scheduling a hearing on your request to be held on March 21, 1990, at 10 a.m. in Room 1945, 1200 Main Tower Building, Dallas, Texas. If this date is not acceptable, we would be glad to set another date that is mutually agreeable to the parties. The hearing will be governed by the procedures prescribed in 42 CFR part 430.

I am designating Mr. Stanley Krostar as the presiding officer. If these arrangements present any problems, please contact the Docket Clerk. In order to facilitate any communication which may be necessary between the parties to the hearing, please notify the Docket Clerk of the names of the individuals who will represent the State at the hearing. The Docket Clerk can be reached at (301) 966–4471.

Sincerely,

Louis B. Hays,

Acting Administrator.

Authority: Sec. 1116 of the Social Security Act (42 U.S.C. 1316); 42 CFR 430.18).

(Catalog of Federal Domestic Assistance Program No. 13.714, Medicaid Assistance Program)

Dated: February 1, 1990.

Louis B. Hays,

Acting Administrator, Health Care Financing Administration.

[FR Doc. 90–2784 Filed 2–6–90; 8:45 am]

BILLING CODE 4120–03–M

Notice of Hearing: Reconsideration of Disapproval of Nebraska State Plan Amendment (SPA)

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of Hearing.

SUMMARY: This notice announces an administrative hearing on March 27, 1990, in room 215, New Federal Office Building, 601 East 12th Street, Kansas City, Missouri to reconsider our decision to disapprove Nebraska State Plan Amendment 89–02.

CLOSING DATE: Requests to participate in the hearing as a party must be received by the Docket Clerk (within 15 days after publication).

FOR FURTHER INFORMATION CONTACT: Docket Clerk, HCFA Hearing Staff, 300 East High Rise, 6325 Security Boulevard, Baltimore, Maryland 21207, Telephone: (301) 966–4471.

SUPPLEMENTARY INFORMATION: This notice announces an administrative hearing to reconsider our decision to disapprove Nebraska State plan amendment (SPA) number 89–02.

Section 1116 of the Social Security Act (the Act) and 42 CFR part 430 establish Department procedures that provide an administrative hearing for reconsideration of a disapproval of a State plan or plan amendment. HCFA is required to publish a copy of the notice to a State Medicaid Agency that informs the agency of the time and place of the hearing and the issues to be considered. (If we subsequently notify the agency of additional issues that will be considered at the hearing, we will also publish that notice.)

Any individual or group that wants to participate in the hearing as a party must petition the Hearing Officer within 15 days after publication of this notice, in accordance with the requirements contained at 42 CFR 430.76(b)(2). Any interested person or organization that wants to participate as *amicus curiae* must petition the Hearing Officer before the hearing begins in accordance with the requirements contained at 42 CFR 430.76(c).

If the hearing is later rescheduled, the Hearing Officer will notify all participants.

Nebraska SPA 89–02 proposes to implement, based on the authority in section 1902(r)(2) of the Act, two resources policies that are more liberal than the policies in the cash assistance programs.

The issues in this matter are whether: (1) The exclusion from the amendment's methodology (for determining when an individual meets the resource standard) of individuals who dispose of excess resources for less than fair market value has the effect of making those individuals ineligible for all services for the month and therefore violates section 1902(a)(51)(B) of the Act, (2) the proposal is approvable under section 1902(r)(2) of the Act, (3) the proposal violates section 1902(a)(34) of the Act which limits retroactively to 3 months before the month that application for eligibility is made, (4) the proposal violates the requirement of section 1902(a)(4) of the Act for the use of methods of administration that are necessary for the proper and efficient operation of the State plan, and (5) the proposal violates section 1902(a)(19) of the Act which requires safeguards to ensure that eligibility will be determined in a manner consistent with simplicity of administration.

Under one policy, the State, with respect to Medical Assistance-Only (MAO) clients with excess resources, would begin Medicaid eligibility with the first day of the month in which the person reduces his or her resources to or below the allowable limit by spending the excess on expenses incurred in that month.

The State's proposal, in beginning Medicaid eligibility in the same month that excess resources are used up, is a more liberal methodology. The exclusion from the amendment's methodology who dispose of excess resources for less than fair market value has the effect of making those individuals ineligible for all services for the month and therefore violates section 1902(a)(51)(B) of the Act. Section 1902(a)(51)(B) provides that a State plan must meet the requirement relating to transfers of assets in section 1917(c) of the Act. Section 1917(c)(4) bars a State from making a person ineligible for transferring resources except as provided for in section 1917(c), and section 1917(c) provides for ineligibility for nursing facility and certain other services when a person disposes of resources for less than fair market value. Thus, because the exclusion of a person who disposes of excess resources for less than fair market value has the effect of making such a person ineligible for all services for the month in which the disposal occurred and because such an effect violates section 1902(a)(51)(B), HCFA

determined that the proposal was not approvable.

Under the second policy, the State, in certain cases of MAO clients were excess resources, would begin Medicaid eligibility with a prior month if bills incurred in the prior month, when paid in a later month, reduced resources to or below the allowable lilmit. Eligibility would begin with the first day of the prior month in which the most recent of such bills was incurred. The proposal applies only to maintenance needs or medical bills incurred by the client, the client's spouse, or a dependent child(ren).

The second proposal also is more liberal than cash assistance policies. (Under the cash assistance programs, a person with excess resources in a prior month cannot become eligible for the prior month based upon meeting the resources limit in a later month.) However, HCFA believes the effect of the State's proposal is to implement a resources spenddown and lengthen the budget period because it would permit eligibility for a month in a closed budget period based upon expenses incurred but not paid in the month/budget period. HCFA disapproved the proposal under section 1902(r)(2) authority becuase:

- The spenddown process and the retroactivity of eligibility are not methodologies covered under section 1902(r)(2) authority; and
- A budget period does not constitute a methodology and, therefore, cannot be liberalized under section 1902(r)(2).

With respect to the spenddown process and retroactive eligibility, section 1902(r)(2) permits States to use more liberal methodologies in determining eligibility based upon income and resources. However, neither the spenddown nor retroactivity is an income or resources eligibility determination methodology. Rather, a spenddown operates after the amount of an individual's income (in this case, the amount of the person's countable resources) has been determined. Retroactivity operates after the amounts of both income and resources have been determined. Because neither a resources spenddown nor an extension of retroactivity is a methodology for determining eligibility based upon resources, neither can be implemented under section 1902(r)(2) of the Act.

With respect to lengthening the budget period, the proposed spenddown budget period is not an income or resources eligibility determination methodology. Rather, it merely defines the time period to which such determinations apply and within which such methodologies operate. Thus, a spenddown budget period is not subsumed within the term "methodology." This position was upheld by the United States Supreme Court in the case of *Atkins* v. *Rivera* No. 85–632 (June 23, 1986). In that case, the Supreme Court ruled that the length of the spenddown period is not subsumed under the term "methodology" for purposes of following cash assistance methodologies in Medicaid. Because a spenddown budget period is not a methodology for determining eligibility based upon resources, HCFA has determined it cannot be implemented under section 1902(r)(2).

HCFA determined the proposal also is not approvable for three other reasons. First, it would permit retroactive eligibility for more than 3 months before the month that the application for medical assistance is made when section 1902(a)(34) of the Act limits retroactivity to 3 months before the month that application is made.

Additionally, HCFA determined the proposal would not meet the requirement of section 1902(a)(4) of the Act for the use of methods of administration that are necessary for the proper and efficient operation of the State plan. The use of a resources spenddown, which would make it difficult, if not impossible, for a quality control reviewer to determine whether an individual is eligible based upon excess resources, would impede proper and efficient administration of the plan. The proposal provides no time limit on when an individual could pay bills for prior months that might make the individual retroactively eligible. Section 1903(u)(1)(D)(ii) of the Act contemplates that there may be "erroneous excess payments for medical assistance to an ineligible individual or family * * * (based on an erroneous determination of) the resources of such individual or family." Consequently, HCFA believes a proposal that could make it impossible to determine with finality whether there is an eligibility error based upon excess resources would be contrary to the quality control system established by Congress and, thus, contrary to section 1902(a)(4) of the Act.

Finally, section 1902(a)(19) of the Act requires that the State plan provide "such safeguards as may be necessary to ensure that eligibility for care and services under the plan will be determined * * * in a manner consistent with simplicity of administration." Moreover, section 1902(a)(19) of the Act provides that the State plan must provide that medical assistance be furnished with reasonable promptness to all eligible individuals. HCFA believes an amendment, which makes it possible for eligibility determinations to be made years beyond the date for which eligibility is claimed, would be contrary to the mandate of section 1902(a)(19) that requires safeguards to ensure that eligibility will be determined in a manner consistent with simplicity of administration.

The notice to Nebraska announcing an administrative hearing to reconsider the disapproval of its State plan amendment reads as follows:

February 1, 1990.

Mr. Kermit R. McMurry,
Director, Department of Social Services, P.O. Box 95026, Lincoln, Nebraska 68509–5026

Dear Mr. McMurry: I am advising you that your request for reconsideration of the decision to disapprove Nebraska State plan amendment (SPA) 89–02 was received on January 4, 1990. Nebraska SPA 89–02 would implement, based on the authority in section 1902(r)(2) of the Social Security Act (the Act), two resources policies that are more liberal than the policies in the cash assistance programs.

The issues in this matter are whether: (1) The exclusion from the amendment's methodology (for determining when an individual meets the resource standard) of individuals who dispose of excess resources for less than fair market value has the effect of making those individuals ineligible for all services for the month and therefore violates section 1902(a)(51)(B) of the Act, (2) the proposal is approvable under section 1902(r)(2) of the Act, (3) the proposal violates section 1902(a)(34) of the Act which limits retroactively to 3 months before the month that application for eligibility is made, (4) the proposal violates the requirement of section 1902(a)(4) or the Act for the use of methods of administration that are necessary for the proper and efficient operation of the State plan, and (5) the proposal violates section 1902(a)(19) of the Act which requires safeguards to ensure that eligibility will be determined in a manner consistent with simplicity of administration.

I am scheduling a hearing on your request to be held on March 27, 1990, at 10 a.m. in room 215, New Federal Office Building, 601 East 12th Street, Kansas City, Missouri. If this date is not acceptable, we would be glad to set another date that is mutually agreeable to the parties. The hearing will be governed by the procedures prescribed at 42 CFR part 430.

I am designating Mr. Stanley Krostar as the presiding officer. If these arrangements present any problems, please contact the Docket Clerk. In order the facilitate any communication which may be necessary between the parties to the hearing, please notify the Docket Clerk of the names of the individuals who will represent the State at the hearing. The Docket Clerk can be reached at (301) 966–4471.

Sincerely,

Louis B. Hays,
Acting Administrator.

Authority: Section 1116 of the Social Security Act (42 U.S.C. 1316); 42 CFR 430.18.

(Catalog of Federal Domestic Assistance Program No. 13.714, Medicaid Assistance Program)

Dated: February 1, 1990.

Louis B. Hays,

Acting Administrator, Health Care Financing Administration.

[FR Doc. 90-2785 Filed 2-6-90; 8:45 am]

BILLING CODE 4120-03-M

Office of Human Development Services

Federal Allotments to States for Social Services Expenditures Pursuant to the Title XX—Social Services Block Grant; Revised Promulgation for Fiscal Year 1991

AGENCY: Office of Human Development Services, Department of Health and Human Services.

ACTION: Notification of Revised State Allotments under Title XX—Social Services Block Grant for Fiscal Year 1991.

SUMMARY: This issuance sets forth the revised Fiscal Year 1991 State allotments under Title XX of the Social Security Act (Act), as amended. This revision is required by the Omnibus Budget Reconciliation Act of 1989, which increased the amount available for Title XX allotments to $2.8 billion.

FOR FURTHER INFORMATION CONTACT: HDS Regional Administrators.

SUPPLEMENTARY INFORMATION: Section 2003 of the Act allocates $2.8 billion for Fiscal Year 1991 as follows:

(1) Puerto Rico, Guam, the Virgin Islands, and the Northern Mariana Islands each receives an amount which bears the same ratio to $2.8 billion as its allocation for Fiscal Year 1981 bore to $2.9 billion.

(2) American Samoa receives an amount which bears the same ratio to the amount allotted to the Northern Mariana Islands as the population of American Samoa bears to the population of the Northern Mariana Islands determined on the basis of the most recent data available at the time such allotment is determined.

(3) The remainder of the $2.8 billion is allotted to each State in the same proportion as the State's population is to the population of all States, based upon the most recent data available from the Department of Commerce. For Fiscal Year 1991, the allotments are based upon the Bureau of Census population statistics contained in its publications "Current Population Reports" (Series P-26, No. 88-A issued August 1989) and "Estimates of the Population of Puerto Rico and the outlaying Areas: 1980 to 1987" (Series P-25, No. 1049 issued October 1989), which was the most recent satisfactory data available from the Department of Commerce at the time of the Department's initial promulgation.

EFFECTIVE DATE: The allotments are effective October 1, 1990

FISCAL YEAR 1991 FEDERAL ALLOTMENTS TO STATES FOR TITLE XX—BLOCK GRANTS TO STATES FOR SOCIAL SERVICES

	Initial FY 91 allotment	Revised FY 91 allotment
Total	$2,700,000,000	$2,800,000,000
Alabama	44,815,730	46,475,572
Alasaka	5,723,481	5,935,462
American Samo	173,471	179,896
Arizona	38,087,363	39,498,006
Arkansas	26,159,803	27,128,685
California	309,264,584	320,718,827
Colorado	36,055,746	37,391,144
Connecticut	35,313,004	36,620,893
Delaware	7,208,965	7,475,964
Dist. of Col.	6,739,290	6,988,893
Florida	134,731,180	139,721,224
Georgia	69,271,596	71,837,211
Guam	465,517	482,758
Hawaii	11,993,096	12,437,285
Idaho	10,955,442	11,361,199
Illinois	126,866,854	131,565,626
Indiana	60,686,375	62,934,019
Iowa	30,954,857	32,101,333
Kansas	27,262,993	28,272,734
Kentucky	40,697,882	42,205,211
Louisiana	48,147,145	49,930,373
Maine	13,172,744	13,660,623
Maryland	50,484,598	52,354,398
Massachusetts	64,334,548	66,717,309
Michigan	100,925,505	104,663,487
Minnesota	47,043,955	48,786,324
Mississippi	28,617,405	29,677,309
Missouri	56,153,465	58,233,223
Montana	8,792,752	9,118,409
Nebraska	17,498,123	18,146,202
Nevada	11,512,498	11,938,887
New Hampshire	11,851,101	12,290,031
New Jersey	84,333,963	87,457,443
New Mexico	16,460,469	17,070,116
New York	195,614,162	202,859,131
North Carolina	70,855,384	73,479,658
North Dakota	7,285,423	7,555,253
No. Mariana Island	93,103	96,551
Ohio	118,565,623	122,956,942
Oklahoma	35,411,308	36,722,838
Oregon	30,223,038	31,342,410
Pennsylvania	131,093,929	135,949,260
Puerto Rico	13,965,517	14,482,758
Rhode Island	10,846,215	11,247,927
South Carolina	37,890,755	39,294,116
South Dakota	7,787,866	8,076,305
Tennessee	53,466,488	55,446,728
Texas	183,905,056	190,716,354
Utah	18,459,318	19,142,996
Vermont	6,083,929	6,309,260
Virgin Islands	465,517	482,758
Virginia	65,699,882	68,133,211
Washington	50,768,587	52,648,905
West Virginia	20,501,858	21,261,186
Wisconsin	53,029,581	54,993,640
Wyoming	5,231,961	5,425,737

Dated February 1, 1990.

Linda G. Eischeid,

Director, Office of Policy, Planning, and Legislation.

Approved: February 1, 1990.

Mary Sheila Gall,

Assistant Secretary for Human Development Services.

[FR Doc. 90-2470 Filed 2-6-90; 8:45 am]

BILLING CODE 4130-01-M

Federal Allotments to States for Social Services Expenditures Pursuant to the Title XX—Social Services Block Grant; Revised Promulgation for Fiscal Year 1990

AGENCY: Office of Human Development Services, Department of Health and Human Services.

ACTION: Notification of Revised State Allotments under Title XX—Social Services Block Grant for Fiscal Year 1990.

SUMMARY: This issuance sets forth the revised Fiscal Year 1990 State allotments under Title XX of the Social Security Act (Act), as amended. This revision is required by the Omnibus Budget Reconciliation Act of 1989 (OBRA), which increased the amount available for title XX allotments to $2.8 billion. These revised allotments have been reduced by the sequestration formula under the OBRA.

FOR FURTHER INFORMATION CONTACT: HDS Regional Administrators.

SUPPLEMENTARY INFORMATION: Section 2003 of the Act allocates $2.8 billion for Fiscal Year 1990 as follows:

(1) Puerto Rico, Guam, the Virgin Islands, and the Northern Mariana Islands each receives an amount which bears the same ratio to $2.8 billion as its allocation for Fiscal Year 1981 bore to $2.9 billion.

(2) American Samoa receives an amount which bears the same ratio to the amount allotted to the Northern Mariana Islands as the population of American Samoa bears to the population of the Northern Mariana Islands determined on the basis of the

most recent data available at the time such allotment is determined.

(3) The remainder of the $2.8 billion is allotted to each State in the same proportion as that State's population is to the population of all States, based upon the most recent data available from the Department of Commerce. For Fiscal Year 1990, the allotments are based upon the Bureau of Census population statistics contained in its publications "Current Population Reports" (Series P–25, No. 1017 issued October 1988) and "Estimates of the Population of Puerto Rico and the outlaying Areas: 1980 to 1987" (Series P–25, No. 1030 issued August 1988), which was the most recent satisfactory data available from the Department of Commerce at the time of the Department's initial promulgation.

EFFECTIVE DATE: The allotments are effective October 1, 1989.

FISCAL YEAR 1990 FEDERAL ALLOTMENTS TO STATES FOR TITLE XX—BLOCK GRANTS TO STATES FOR SOCIAL SERVICES

	Initial FY 90 allotment	Revised FY 90 allotment	Revised FY 90 allotment after sequestration
Total	$2,700,000,000	$2,800,000,000	$2,762,200,000
Alabama	45,041,206	46,709,399	46,078,822
Alaska	6,057,982	6,282,352	6,197,540
American Samoa	176,117	182,640	180,174
Arizona	38,731,719	40,166,227	39,623,983
Arkansas	26,243,966	27,215,965	26,848,549
California	306,988,787	318,358,741	314,060,900
Colorado	36,632,202	37,988,950	37,476,099
Connecticut	35,374,679	36,684,853	36,189,607
Delaware	7,096,806	7,359,650	7,260,295
Dist. of Col.	6,746,886	6,996,770	6,902,314
Florida	133,942,640	138,903,479	137,028,282
Georgia	69,808,949	72,394,465	71,417,140
Guam	465,517	482,758	476,241
Hawaii	12,039,419	12,485,324	12,316,772
Idaho	11,033,401	11,442,046	11,287,578
Illinois	126,670,874	131,362,388	129,588,996
Indiana	60,481,406	62,721,458	61,874,718
Iowa	30,650,765	31,785,979	31,356,868
Kansas	27,085,960	28,089,143	27,709,940
Kentucky	40,874,976	42,388,864	41,816,614
Louisiana	49,283,980	51,109,313	50,419,337
Maine	13,045,438	13,528,602	13,345,966
Maryland	50,289,999	52,152,592	51,448,532
Massachusetts	63,958,731	66,327,573	65,432,151
Michigan	100,940,853	104,679,403	103,266,231
Minnesota	46,703,324	48,433,077	47,779,230
Mississippi	29,097,997	30,175,701	29,768,329
Missouri	56,118,347	58,196,804	57,411,147
Montana	8,868,273	9,196,728	9,072,572
Nebraska	17,419,432	18,064,596	17,820,724
Nevada	11,164,620	11,578,125	11,421,820
New Hampshire	11,897,264	12,337,904	12,171,342
New Jersey	84,811,749	87,952,925	86,765,560
New Mexico	17,025,773	17,656,357	17,417,996
New York	194,150,671	201,341,436	198,623,327
North Carolina	71,208,627	73,845,984	72,849,063
North Dakota	7,315,505	7,586,450	7,484,033
N. Mariana Is.	93,103	96,551	95,248
Ohio	117,868,211	122,233,700	120,583,545
Oklahoma	35,954,233	37,285,871	36,782,512
Oregon	29,885,316	30,992,179	30,573,785
Pennsylvania	129,688,930	134,492,224	132,676,579
Puerto Rico	13,965,517	14,482,758	14,287,241
Rhode Island	10,814,701	11,215,246	11,063,840
South Carolina	37,878,790	39,281,708	38,751,405
South Dakota	7,731,035	8,017,369	7,909,135
Tennessee	53,483,015	55,463,867	54,715,105
Texas	187,994,274	194,957,025	192,325,105
Utah	18,830,045	19,527,454	19,263,833
Vermont	6,036,112	6,259,672	6,175,166
Virgin Islands	465,517	482,758	476,241
Virginia	65,358,409	67,779,091	66,864,073
Washington	49,907,275	51,755,693	51,056,991
West Virginia	20,623,383	21,387,212	21,098,485
Wisconsin	52,455,126	54,397,909	53,663,537
Wyoming	5,522,168	5,726,692	5,649,382

Dated: February 1, 1990.

Linda G. Eischeid,

Director, Office of Policy, Planning, and Legislation.

Approved: February 1, 1990.

Mary Sheila Gall,

Assistant Secretary for Human Development Services.

[FR Doc. 90-2741 Filed 2-6-90; 8:45 am]

BILLING CODE 4130-01-M

National Institutes of Health

National Cancer Institute; Meeting (Division of Cancer Treatment Board of Scientific Counselors)

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, DCT, National Cancer Institute, National Institutes of Health, February 12-13, 1990, Building 31C, Conference Room 6, 9000 Rockville Pike, Bethesda, Maryland 20892.

This meeting will open to the public on February 12 from 8:30 a.m. to approximately 3:30 p.m., and again on February 13 from approximately 9 a.m. until adjournment, to review program plans, concepts of contract recompetitions and budget for the DCT program. In addition, there will be scientific reviews by several programs in the Division. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sec. 552(c)(6), title 5, U.S.C. and sec. 10(d) of Publ. L. 92-463, the meeting will be closed to the public on February 12 from 3:30 p.m. to approximately 5:45 p.m., and again on February 13 from 8 a.m. to approximately 9 a.m., for the review, discussion and evaluation of individual programs and projects conducted by the National Institutes of Health, including consideration of personnel qualifications and performance, the competence of individual investigators, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, 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. Bruce A. Chabner, Director, Division of Cancer Treatment, National Cancer Institute, Building 31, Room 3A52, National Institutes of Health, Bethesda, Maryland 20892 (301-496-4291) will furnish substantive program information.

Dated: February 2, 1990.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 90-2980 Filed 2-6-90; 8:45 am]

BILLING CODE 4140-01-M

National Institute on Deafness and Other Communication Disorders; Meeting of the National Deafness and Other Communication Disorders Advisory Council

Pursuant to Pub. L. 92-463, notice is hereby given of the second meeting of the National Deafness and other Communication Disorders Advisory Council on February 12-13, 1990. The meeting will take place from 9 a.m. to 4:30 p.m., Building 31C, Conference Room 10 at the National Institutes of Health, Bethesda, MD.

The meeting on February 12 will be open to the public and will include reports from the Council subcommittees, the former Acting Director and the newly appointed Director of the National Institute on Deafness and Other Communication Disorders. 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 Pub. L. 92-463, the meeting will be closed to the public on February 13 from 8:30 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 disclosures of which could constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than 15 days before the meeting due to scheduling difficulties.

The Acting Executive Officer, Geoffrey Grant, NIDCD, Building 31, Room 1B62, Bethesda, Maryland 20892, (301) 496-7243, will furnish the meeting agenda, roster of council members, and substantive program information upon request.

Dated: February 2, 1990.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 90-2981 Filed 2-6-90; 8:45 am]

BILLING CODE 4140-01-M

Public Health Service

Agency for Health Care Policy and Research; Filing of Annual Reports of Federal Advisory Committees

Notice is hereby given that, pursuant to section 13 of Public Law 92-463, the Annual Reports for the following Office of the Assistant Secretary for Health Federal Advisory Committees have been filed with the Library of Congress:

Health Care Technology Study Section;

Health Services Research and Developmental Grants Review Committee;

National Advisory Council on Health Care Technology Assessment.

Copies are available to the public for inspection at the Library of Congress, Special Forms Reading Room, Main Building, on weekdays between 9 a.m. and 4:30 p.m. and at the Department of Health and Human Services, Department Library, HHS Building, Room G400, 330 Independence Avenue, Southwest, Washington, DC 20201, telephone (202) 245-6791.

Copies may be obtained from Mr. James E. Owens, Agency for Health Care Policy and Research, Room 18A20, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland, 20857, telephone (301) 443-3091.

Dated: January 31, 1990.

J. Jarrett Clinton,

Acting Administrator, Agency for Health Care Policy and Research.

[FR Doc. 90-2799 Filed 2-6-90; 8:45 am]

BILLING CODE 4160-17-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. N-90-3009]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to:

John Allison, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 755–6050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Cristy.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total numbers of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatment, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: January 30, 1990.

John T. Murphy,

Director, Information Policy and Management Division.

Proposal: 24 CFR Part 570 Community Development Block Grant/ Miscellaneous Revisions of part 570.

Office: Community Planning and Development.

Description of the Need for the Information and its Proposed Use: This proposed rule would revise the CDBG program to implement certain changes in the Housing and Community Development Act of 1987. The proposed changes would implement the following sections of the 1987 Act: Section 508—Citizen Participation; section 510—Limited New Construction of Housing; section 511—Availability of CDBG Funds for Uniform Emergency Telephone Number Systems; and the section of the Appropriations Act at 102 Stat 1014, Page 1019, which amends section (105)c(2) of the HCD Act of 1974.

Form Number: None.

Respondents: State or Local Governments.

Frequency of Submission: Annually.

Reporting Burden:

	Number of respondents	x	Frequency of response	x	Hours per response	=	Burden hours
Report Forms	843		3		95.6		241.766
Recordkeeping	843		1		172		145,154

Total Estimated Burden Hours: 386,920.

Status: Revision.

Contact: James R. Broughman, HUD (202) 755–5977, John Allison, OMB, (202) 395–6880.

Dated January 30, 1990.

[FR Doc. 90–2756 Filed 2–6–90; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Meeting, Klamath Fishery Management Council

AGENCY: Department of the Interior.

ACTION: Notice of meetings.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. app. I), this notice announces a meeting of the Klamath Fishery Management Council, established under the authority of the Klamath River Basin Fishery Resources Restoration Act (16 U.S.C. 460ss et seq.). The meeting is open to the public.

DATES: The Klamath Fishery Management Council will meet from 1 p.m. to 5 p.m. Monday, February 5, 1990 and from 8 a.m. to 5:15 p.m. on Tuesday, February 6, 1990.

Place: The meeting will be held in the conference room of the Best Western Brookings Inn, 1143 Chetco Avenue (N. Hwy 101), Brookings, Oregon.

FOR FURTHER INFORMATION CONTACT: Dr. Ronald A. Iverson, Project Leader, U.S. Fish and Wildlife Service, P.O. Box 1006 (1030 South Main), Yreka, California 96097–1006, telephone (916) 842–5763.

SUPPLEMENTARY INFORMATION: For background information on the Management Council, please refer to the notice of their initial meeting that appeared in the **Federal Register** on July 8, 1987 (52 FR 25639).

The Klamath Council will hear reports on 1989 salmon fisheries and fall chinook salmon spawning escapement, and on law enforcement and harvest monitoring of 1989 anadromous fish runs to the Klamath River basin. The Council will begin discussion of 1990 fisheries with reports on projected ocean stock sizes, and review of proposed plans for 1990 fisheries.

Dated: January 18, 1990.

Robert P. Smith,

Acting Regional Director, U.S. Fish and Wildlife Service.

[FR Doc. 90–2763 Filed 2–6–90; 8:45 am]

BILLING CODE 4310–55–M

Bureau of Land Management

[AA–310–00–4230–2410]

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contracting the Bureau's Clearance Officer at the phone number listed below. Comments and suggestions on the proposal should be made directly to the Bureau Clearance Officer and to the Office of Management and Budget, Paperwork Reduction

Project (1004–0026), Washington, DC 20503, telephone 202–395–7340.

Title: Alaska Townlot Deed Application, 43 CFR 2565.

OMB approval number: (1004–0026).

Abstract: Non-Native individuals, groups and businesses, and incorporated State of Alaska municipalities use the Alaska Townlot Deed Application to obtain title to Alaska Townsites (43 U.S.C. 732) from the Alaska Townsite Trustee. Applications are filed on each of the 79 townsites in rural communities. The municipal governments in Alaskan villages are the principal applicants for townlot deeds using this application.

Bureau form number: AK 2564–19.

Frequency: On Occasion.

Description of respondents: Non-Native individuals, groups and businesses, and incorporated Alaskan municipalities.

Estimated completion time: 30 minutes.

Annual responses: 200.

Annual burden hours: 100.

Bureau Clearance Officer: Alternate: Gerri Jenkins, 202–653–8853.

John S. Boyles,

Assistant Director, Land and Renewable Resources (Acting).

[FR Doc. 90–2826 Filed 2–6–90; 8:45 am]

BILLING CODE 4310–84–M

[CO–050–4830–12]

Canon City District Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given in accordance with Public Law 94–579 that the Canon City District Advisory Council (DAC) Meeting will be held Wednesday, March 7, 1990, 8:30 a.m. to 5 p.m. at the Canon City District Office, 3170 East Main, Canon City, Colorado.

The meeting agenda will include:

1. Orientation for new DAC members;
2. Update on Arkansas Headwaters Recreation Area;
3. Update on San Luis Resource Management Plan;
4. Update on Royal Gorge Resource Management Plan;
5. Briefing on Recreation 2000;
6. Public presentations to the council (open invitation).

The meeting is open to the public. Persons interested may make oral presentations to the council at 3 p.m., or they may file written statements for the council's consideration. The District Manager may limit the length of oral presentations depending on the number of people wishing to speak.

ADDRESSES: Anyone wishing to make an oral or written presentation to the council should notify the District Manager, Bureau of Land Management, P.O. Box 2200, 3170 East Main, Canon City, Colorado 81215, by March 6, 1990.

FOR FURTHER INFORMATION CONTACT: Ken Smith (719) 275–0631.

SUPPLEMENTARY INFORMATION: Summary of minutes of the meeting will be available for public inspection and reproduction during regular working hours at the District Office approximately 30 days following the meeting.

Stuart L. Freer,

Associate District Manager.

[FR Doc. 90–2827 Filed 2–6–90; 8:45 am]

BILLING CODE 4310–JB–M

[CO–920–90–4111–15; COC41724]

Colorado; Proposed Reinstatement

Notice is hereby given that a petition for reinstatement of oil and gas lease COC41724 for lands in Rio Blanco County, Colorado, was timely filed and was accompanied by all the required rentals and royalties accruing from July 1, 1989, the date of termination.

The lessee has agreed to new lease terms for rentals and royalties at rates of $5 and 16⅔ percent, respectively.

The lessee has paid the required $500 administrative fee for the lease and has reimbursed the Bureau of Land Management for the estimated cost of this **Federal Register** notice.

Having met all the requirements for reinstatement of the lease as set out in section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920, as amended (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease effective July 1, 1989, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Questions concerning this notice may be directed to J.E. Broskey of the Colorado State Office at (303) 236–1772.

Diana L. Mantey,

Acting Chief, Fluid Minerals Adjudication Section.

[FR Doc. 90–2828 Filed 2–6–90; 8:45 am]

BILLING CODE 4310–JB–M

National Park Service

National Capital Memorial Commission, Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the National Capital Memorial Commission will be held on Thursday, February 22, 1990, at 1:30 p.m., in the Executive Conference Room at the National Capital Planning Commission, 1325 G Street, NW., Washington, DC.

The Commission was established by Public Law 99–652, for the purpose of advising the Secretary of the Interior or the Administrator of the General Services Administration, depending on which agency has jurisdiction over the lands involved in the matter, on policy and procedures for establishment of (and proposals to establish) commemorative works in the District of Columbia or its environs, as well as such other matters concerning commemorative works in the Nation's Capital as it may deem appropriate. The Commission evaluates each memorial proposal and makes recommendations to the Secretary or the Administrator with respect to appropriateness, site location and design, and serves as an information focal point for those seeking to erect memorials on Federal land in Washington, DC, or its environs.

The members of the Commission are as follows:

James Ridenour, Chairman, Director, National Park Service, Washington, DC.

George M. White, Architect of the Capitol, Washington, DC.

Honorable Andrew J. Goodpaster, Chairman, American Battle Monuments Commission, Washington, DC.

J. Carter Brown, Chairman, Commission of Fine Arts, Washington, DC.

Glen Urquhart, Chairman, National Capital Planning Commission, Washington, DC.

Honorable Marion S. Barry, Jr., Mayor of the District of Columbia, Washington, DC.

Richard G. Austin, Acting Administrator, General Services Administration, Washington, DC.

Honorable Richard B. Cheney, Secretary of Defense, Washington, DC.

The purpose of the meeting will be review and take action on the following:

I. Review Legislative Proposals.

(a) H.R. 240, authorizing the Raoul Wallenberg Tribute Committee to establish a work to honor Raoul Wallenberg;

(b) H.R. 2807, to provide for a memorial to members of the Armed Forces who served in World War II;

(c) S. 1232 and H.R. 2775, to designate U.S. 303 A & B across from the Chinese Embassy as "Tiananmen Square Park;"

(d) H.R. 2912, Providing for the design and construction of a statue to be

designated "the Goddess of Democracy;"

(e) S. 1543 and H. R. 3687, to authorize the Colonial Dames at Gunston Hall to establish a memorial to George Mason;

II. Memorial to Honor Women of the Armed Forces of the United States who served in the Republic of Vietnam during the Vietnam era (Public Law 100–660; Public Law 101–187)

—Review of Proposed Siting of the Memorial

III. Black Revolutionary War Patriots Memorial (Public Law 99–558; Public Law 100–265)

—Review of Preliminary Design

IV. Old Business

—Letters of Appointment

Dated: January 31, 1990.

Robert Stanton,

Regional Director, National Capital Region.

[FR Doc. 90–2748 Filed 2–6–90; 8:45 am]

BILLING CODE 4310–70–M

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before January 27, 1990. Pursuant to § 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, DC 20013–7127. Written comments should be submitted by February 22, 1990.

Carol D. Shull,

Chief of Registration, National Register.

ALABAMA

Jefferson County

Orlando Apartments, 2301 Fifteenth Ave. S., Birmingham, 90000309

COLORADO

El Paso County

Colorado Springs Day Nursery, 104 E. Rio Grande St., Colorado Springs, 90000304

FLORIDA

Broward County

Deerfield High School, 651 NE. 1st S., Deerfield Beach, 90000319

Clay County

Budington, Frosard W., House (Middleburg MPS), 3916 Main St., Middleburg, 90000317

Chalker, George A., House (Middleburg MPS), 2160 Wharf St., Middleburg 90000315

Frisbee, George Randolph, Jr., House (Middleburg MPS), 2125 Palmetto St., Middleburg 90000316

Haskell-Long House (Middleburg MPS), 3858 Main St., Middleburg 90000314

Methodist Episcopal Church at Black Creek (Middleburg MPS), 3925 Main St., Middleburg 90000318

Middleburg Historic District (Middleburg MPS), 3881–3895 Main St. and 2145 Wharf St., Middleburg, 90000313

Princess Mound (8CL85), Address Restricted, Green Cove Springs vicinity 90000311

Duval County

Title & Trust Company of Florida Building, 200 E. Forsyth St., Jacksonville, 90000312

St. Lucie County

Harmond, Captain, House, 5775 Citrus Ave., White City, 90000310

INDIANA

Dubois County

Evangelische Lutherische Emanuels Kirche, Co. Rd. 445 E., 1 mi. S of IN 56, Dubois vicinity, 90000329

Elkhart County

Downtown Mappanee Historic District, Main and Market Sts., Mappanee, 90000324

Rohrer, Joseph J., Farm, 24394 Co. Rd. 40, Goshen vicinity, 90000330

Marion County

Cottage Home Historic District, Dorman and St. Clair Sts., Indianapolis, 90000328

Meridian Park Historic District, Bounded by 34th St., Washington Blvd., 30th St., and Pennsylvania St., Indianapolis, 90000326

Reserve Loan Life Insurance Company, 429 N. Pennsylvania St., Indianapolis, 90000331

Porter County

Valparaiso Downtown Commercial District, Roughly bounded by Jefferson, Morgan, Indiana, and Napoleon, Valparaiso, 90000327

Putnam County

Appleyard, Address Restricted, Greencastle vicinity, 90000325

KANSAS

Douglas County

Chicken Creek Bridge (Masonry Arch Bridges of Kansas TR), Over Chicken Creek, SE of Lone Star, Lone Star vicinity, 90000298

KENTUCKY

Henderson County

North Main Street Historic District, N. Main St. from Fifth to Eighth Sts., Henderson, 90000297

LOUISIANA

Ascension Parish

Rome House, LA 1 at Delany Ln., Smoke Bend, 90000323

MASSACHUSETTS

Essex County

Abbot-Stinson House (First Period Buildings of Eastern Massachusetts TR), 6 Stinson Rd., Andover, 90000190

Adams, Abraham, House (First Period Buildings of Eastern Massachusetts TR), 8 Pearson Dr., Newbury, 90000245

Adams-Clarke House (First Period Buildings of Eastern Massachusetts TR), 93 W. Main St., Georgetown, 90000211

Beverly Grammar School (First Period Buildings of Eastern Massachusetts TR), 50 Essex St., Beverly, 90000198

Blanchard-Upton House (First Period Buildings of Eastern Massachusetts TR), 62 Osgood St., Andover, 90000192

Brown House (First Period Buildings of Eastern Massachusetts TR), 76 Bridge St., Hamilton, 90000223

Brown, Austin, House (First Period Buildings of Eastern Massachusetts TR), 1028 Bay Rd., Hamilton, 90000222

Burnham, James, House (First Period Buildings of Eastern Massachusetts TR), 37 Heartbreak Rd., Ipswich, 90000236

Carlton—Frie—Tucker House (First Period Buildings of Eastern Massachusetts TR), 140 Mill Rd., North Andover, 90000251

Chase, Samuel, House (First Period Buildings of Eastern Massachusetts TR), 154 Main St., West Newbury, 90000273

Coker, Benjamin, House (First Period Buildings of Eastern Massachusetts TR), 172 State St., West Newburyport, 90000247

Conant, Exercise, House (First Period Buildings of Eastern Massachusetts TR), 634 Cabot St., Beverly, 90000199

Corning, Samuel, House (First Period Buildings of Eastern Massachusetts TR), 87 Hull St., Beverly, 90000196

Davis, Ephraim, House (First Period Buildings of Eastern Massachusetts TR), Merrimack Rd., N of jct. with Amesbury Line Rd., Haverhill, 90000228

Davis—Freeman House (First Period Buildings of Eastern Massachusetts TR), 302 Essex St., Gloucester, 90000214

Dickinson—Pillsbury—Witham House (First Period Buildings of Eastern Massachusetts TR), 170 Jewett St., Georgetown, 90000210

Dustin House (First Period Buildings of Eastern Massachusetts TR), 665 Hilldale Ave., Haverhill, 90000227

Dyke—Wheeler House (First Period Buildings of Eastern Massachusetts TR), 144 Wheeler St., Gloucester, 90000215

Emerson House (First Period Buildings of Eastern Massachusetts TR), 5–9 Pentucket St., Haverhill, 90000229

Foster, Phineas, House (First Period Buildings of Eastern Massachusetts TR), 15 Old Topsfield Rd., Boxford, 90000193

Foster, Stephen, House (First Period Buildings of Eastern Massachusetts TR), 109 North St., Topsfield, 90000262

Foster, William, House (First Period Buildings of Eastern Massachusetts TR), 96 Central St., Andover, 90000191

Fowler, Rea Putnam, House (First Period Buildings of Eastern Massachusetts TR), 4 Elerton Pl., Danvers, 90000202

French—Andrews House (First Period Buildings of Eastern Massachusetts TR), 86 Howlett Rd., Topsfield, 90000263

Friend, James, House (First Period Buildings of Eastern Massachusetts TR), 114 Cedar St., Wenham, 90000268

Frye, Samuel, House (First Period Buildings of Eastern Massachusetts TR), 920 Turnpike St., North Andover, 90000252

Fuller, Joseph, House (First Period Buildings of Eastern Massachusetts TR), 161 Essex St., Middleton, 90000244
Fuller, Lieut. Thomas, House (First Period Buildings of Eastern Massachusetts TR), Old S. Main St. between Mt. Vernon and Boston Sts., Middleton, 90000242
Giddings, George, House and Barn (First Period Buildings of Eastern Massachusetts TR), 66 Choate St., Essex, 90000206
Giddings—Burnham House (First Period Buildings of Eastern Massachusetts TR), 37 Argilla Rd., Ipswich, 90000233
Goodale, Isaac, House (First Period Buildings of Eastern Massachusetts TR), 141 Argilla Rd., Ipswich, 90000232
Gott House (First Period Buildings of Eastern Massachusetts TR), Gott Ave. at Gott Ln., Rockport, 90000255
Gould, Capt. Joseph, House (First Period Buildings of Eastern Massachusetts TR), 129 Washington St., Topsfield, 90000259
Gould, Zaccheus, House (First Period Buildings of Eastern Massachusetts TR), 73 Prospect St., Topsfield, 90000261
Hardy, Joseph, House (First Period Buildings of Eastern Massachusetts TR), 93 King St., Groveland, 90000219
Harraden, Edward, House (First Period Buildings of Eastern Massachusetts TR), 12—14 Leonard St., Gloucester, 90000212
Harris Farm (First Period Buildings of Eastern Massachusetts TR), 3 Manataug Trail, Marblehead, 90000241
Hart House (First Period Buildings of Eastern Massachusetts TR), 172 Chestnut St., Lynnfield, 90000239
Haskell, William, House (First Period Buildings of Eastern Massachusetts TR), 11 Lincoln St., Gloucester, 90000217
Hastings—Morse House (First Period Buildings of Eastern Massachusetts TR), 595 E. Broadway, Haverhill, 90000225
Hazen—Kimball—Aldrich House (First Period Buildings of Eastern Massachusetts TR), 225 E. Main St., Georgetown, 90000209
Hazen—Spiller House (First Period Buildings of Eastern Massachusetts TR), 8 Groveland St., Haverhill, 90000226
Henfield House (First Period Buildings of Eastern Massachusetts TR), 300 Main St., Lynnfield, 90000240
Herrick, Ella Proctor, House (First Period Buildings of Eastern Massachusetts TR), 189 Concord St., Gloucester, 90000213
Hopkinson, George, House (First Period Buildings of Eastern Massachusetts TR), 362 Main St., Groveland, 90000220
House at 922 Dale Street (First Period Buildings of Eastern Massachusetts TR), 922 Dale St., North Andover, 90000248
House on Labor-in-Vain Road (First Period Buildings of Eastern Massachusetts TR), Labor-in-Vain Rd., Ipswich, 90000234
Howe Barn (First Period Buildings of Eastern Massachusetts TR), 403 Linebrook Rd., Ipswich, 90000230
Humphreys, Sir John, House (First Period Buildings of Eastern Massachusetts TR), 99 Paradise Rd., Swampscott, 90000258
Johnson, Capt. Tomothy, House (First Period Buildings of Eastern Massachusetts TR), 18—20 Stevens St., North Andover, 90000249
Kimball, Solomon, House (First Period Buildings of Eastern Massachusetts TR), 26 Maple St., Wenham, 90000264
Lake, Stanley, House (First Period Buildings of Eastern Massachusetts TR), 95 River Rd., Topsfield, 90000260
Lambert, Thomas, House (First Period Buildings of Eastern Massachusetts TR), 142 Main St., Rowley, 90000256
Larch Farm (First Period Buildings of Eastern Massachusetts TR), 38 Larch Rd., Wenham, 90000266
Livermore, William, House (First Period Buildings of Eastern Massachusetts TR), 271 Essex St., Beverly, 90000197
Low, Thomas, House (First Period Buildings of Eastern Massachusetts TR), 36 Heartbreak Rd., Ipswich, 90000237
March, Samuel, House (First Period Buildings of Eastern Massachusetts TR), 444 Main St., West Newbury, 90000272
Morse, Timothy, House (First Period Buildings of Eastern Massachusetts TR), 628 Main St., West Newbury, 90000271
Murray, William, House (First Period Buildings of Eastern Massachusetts TR), 39 Exxes St., Salem, 90000257
Newman—Fiske—Dodge House (First Period Buildings of Eastern Massachusetts TR), 162 Cherry St., Wenham, 90000267
Noyes, James, House (First Period Buildings of Eastern Massachusetts TR), 7 Parker Rd., Newbury, 90000246
Old Farm (First Period Buildings of Eastern Massachusetts TR), 9 Maple St., Wenham, 90000265
Old Garrison House (First Period Buildings of Eastern Massachusetts TR), 188 Granite St., Rockport, 90000254
Osborne, Prince, House (First Period Buildings of Eastern Massachusetts TR), 273 Maple St., Danvers, 90000203
Osgood, Col. John, House (First Period Buildings of Eastern Massachusetts TR), 547 Osgood St., North Andover, 90000250
Paine—Dodge House (First Period Buildings of Eastern Massachusetts TR), 49 Jeffrey's Neck Rd., Ipswich, 90000231
Patch, Emeline, House (First Period Buildings of Eastern Massachusetts TR), 918 Bay Rd., Hamilton, 90000221
Perkins, John, House (First Period Buildings of Eastern Massachusetts TR), 75 Arbor St., Wenham, 90000269
Proctor, John, House (First Period Buildings of Eastern Massachusetts TR), 348 Lowell St., Peabody, 90000253
Putnam, Deacon Edward, Jr., House (First Period Buildings of Eastern Massachusetts TR), 4 Gregory St., Middleton, 90000243
Putnam, James, Jr., House (First Period Buildings of Eastern Massachusetts TR), 42 Summer St., Danvers, 90000205
Ross Tavern (First Period Buildings of Eastern Massachusetts TR), 52 Jeffrey's Neck Rd., Ipswich, 90000235
Sawyer House (First Period Buildings of Eastern Massachusetts TR), 21 Endicott Rd., Boxford, 90000194
Smith House (First Period Buildings of Eastern Massachusetts TR), 142 Argilla Rd., Ipswich, 90000238
Smith, Hazadiah, House (First Period Buildings of Eastern Massachusetts TR), 337 Cabot St., Beverly, 90000200
Thorndike, Capt. John, House (First Period Buildings of Eastern Massachusetts TR), 184 Hale St., Beverly, 90000195
Titcomb, Benaiah, House (First Period Buildings of Eastern Massachusetts TR), 189 John Wise Ave., Essex, 90000208
Tufts, Rev. John, House (First Period Buildings of Eastern Massachusetts TR), 750 Main St., West Newbury, 90000270
White—Ellery House (First Period Buildings of Eastern Massachusetts TR), 244 Washington St., Gloucester, 90000216
White—Preston House (First Period Buildings of Eastern Massachusetts TR), 592 Maple St., Danvers, 90000204
Whittemore House (First Period Buildings of Eastern Massachusetts TR), 179 Washington St., Gloucester, 90000218
Woodberry—Quarrels House (First Period Buildings of Eastern Massachusetts TR), 180 Bridge St., Hamilton, 90000224
Woodbury, Peter, House (First Period Buildings of Eastern Massachusetts TR), 82 Dodge St., Beverly, 90000201

Middlesex County

Bacon, Stephen, House (First Period Buildings of Eastern Massachusetts TR), 105 N. Main St., Natick, 90000174
Bickford, John, House (First Period Buildings of Eastern Massachusetts TR), 235 Elm St., North Reading, 90000177
Brewer, Moses, House (First Period Buildings of Eastern Massachusetts TR), 88 Concord Rd., Sudbury, 90000184
Brown—Stow House (First Period Buildings of Eastern Massachusetts TR), 172 Harvard Rd., Stow, 90000182
Browne, Abraham, House (First Period Buildings of Eastern Massachusetts TR), 562 Main St., Watertown, 90000186
Buck, Ephraim, House (First Period Buildings of Eastern Massachusetts TR), 216 Wildwood St., Wilmington, 90000189
Bullard, Isaac, House (First Period Buildings of Eastern Massachusetts TR), 77 Ashland St., Holliston, 90000171
Foster, Samuel, House (First Period Buildings of Eastern Massachusetts TR), 288 Grove St., Reading, 90000178
Gardner, Addington, House (First Period Buildings of Eastern Massachusetts TR), 128 Hollis St., Sherborn, 90000179
Green House (First Period Buildings of Eastern Massachusetts TR), 391 Vernon St., Wakefield, 90000185
Hammond House (First Period Buildings of Eastern Massachusetts TR), 9 Old Orchard Rd., Newton, 90000175
Hapgood House (First Period Buildings of Eastern Massachusetts TR), 76 Treaty Elm Ln., Stow, 90000180
Hill, Abraham, House (First Period Buildings of Eastern Massachusetts TR), 388 Pleasant St., Belmont, 90000164
Hill, Beacon Samuel, House (First Period Buildings of Eastern Massachusetts TR), 33 Riverhurst Rd., Billerica, 90000165
Hopestill Bent Tavern (First Period Buildings of Eastern Massachusetts TR), 252 Old Connecticut Path, Wayland, 90000188
Hosmer, Joseph, House (First Period Buildings of Eastern Massachusetts TR), 572 Main St., Concord, 90000170
Jaquith, Abraham, House (First Period Buildings of Eastern Massachusetts TR), 161 Concord Rd., Billerica, 90000166

Mason, John, House (First Period Buildings of Eastern Massachusetts TR), 1303 Massachusetts Ave., Lexington, 90000172
Meeting House of the Second Parish in Woburn (First Period Buildings of Eastern Massachusetts TR), 12 Lexington St., Burlington, 90000167
Noves—Parris House (First Period Buildings of Eastern Massachusetts TR), 204 Old Connecticut Path, Wayland, 90000187
Page, Christopher, House (First Period Buildings of Eastern Massachusetts TR), 50 Old Billerica Rd., Bedford, 90000163
Putnam, Rev. Daniel, House (First Period Buildings of Eastern Massachusetts TR), 27 Bow St., North Reading, 90000176
Robbins, George, House (First Period Buildings of Eastern Massachusetts TR), 523 Curve St., Carlisle, 90000168
Spaulding, Zeb, House (First Period Buildings of Eastern Massachusetts TR), 1044 Lowell Rd., Carlisle, 9000169
Tenney Homestead (First Period Buildings of Eastern Massachusetts TR), 156 Taylor Rd., Stow, 90000181
Upham, Phineas, House (First Period Buildings of Eastern Massachusetts TR), 255 Uphan St., Melrose, 90000173
Walcott-Whitney House (First Period Buildings of Eastern Massachusetts TR), 137 Tuttle Ln., Stow, 90000183

Suffolk County

Winthrop, Deane, House (First Period Buildings of Eastern Massachusetts TR), 540 Shirley St., Winthrop, 90000162

NORTH CAROLINA

Jackson County

Moore, Walter E., House, Main St., Webster, 90000322

OREGON

Clackamas County

Bailey, Lawrence D., House, 13908 SE. Fair Oaks Ave., Milwaukee vicinity, 90000290
Jantzen, Carl C., Estate, 1850 N. Shore Rd., Lake Oswego, 90000277

Hood River County

DeHart, Edward J., House, 3820 Westcliff Dr., Hood River vicinity, 90000276

Jackson County

Bowne, Walter, House, 1845 Old Stage Rd., Jacksonville vicinity, 90000279
Grainger, G. M. and Kate, House, 35 Granite St., Ashland, 90000289
Taylor-Phipps Building, 221–225 E. Main St., Medford, 90000280

Josephine County

Voorhies, Amos E., House, 421 NW. B St., Grants Pass, 90000282

Marion County

Cusick, Dr. William A., House, 415 Lincoln St. S., Salem, 90000281

Multnomah County

Chown, Francis R., House, 2030 SW. Main St., Portland, 90000296
Gangware, Roy and Leola, House, 4848 SW. Humphrey Blvd., Portland vicinity, 90000284
Gaston-Strong House, 1130 SW. King Ave., Portland, 90000292
Inman, Clarissa McKeyes, House, 2884 NW. Cumberland, Portland, 90000275
Irving Street Bowman Apartments, 2004–2018 NW. Irving St., Portland, 90000291
Kingsley, Edward D., House, 2132 SW. Montgomery Dr., Portland, 90000283
Lewis, William H., Model House, 2877 NW. Westover Rd., Portland, 90000274
Reed, Rosamond Coursen and Walter R., House, 2036 SW. Main St., Portland, 90000288
Stettler, Frank C., House, 2606 NW. Lovejoy St., Portland, 90000287
Trinity Place Apartments, 117 NW. Trinity Pl., Portland, 90000294
Weist Apartments, 209 NW. 23rd Ave., Portland, 90000293
Wells-Guthrie House, 6651 SE. Scott Dr., Portland, 90000278
Wheeler, Cora Bryant, House, 1841 SW. Montgomery Dr., Portland, 90000295

Wasco County

Mosier, Jefferson, House, 704 3rd Ave., Mosier, 90000286

Yamhill County

Cate, Asa F., Farm Ensemble, 16900 NW. Baker Creek Rd., McMinnville vicinity, 90000285

TENNESSEE

Claiborne County

Cumberland Gap Historic District, Roughly bounded by Colwyn, Cumberland, Pennlyn, and the L & N Railroad tracks, Cumberland Gap, 90000321

Hamilton County

Walnut Street Bridge, Walnut St., over the Tennessee River, Chattanooga, 90000300

Hickman County

Bon Aqua Springs Historic District, Old Hwy. 46, SE of Bon Aqua, Bon Aqua, 90000303

Lawrence County

Lawrenceburg No. 1 Hydroelectric Station (Pre-TVA Hydroelectric Development in Tennessee, 1901–1933 MPS), Glen Spring Rd. at Horseshoe Bend of Little Shoal Creek, Lawrenceburg vicinity, 90000308

Shelby County

Allen, Walter Granville, House, 8504 Macon Rd., Cordova, 90000320
Collierville Historic District (Collierville MPS), Roughly N. and S. Rowlett, Poplar, and Walnut Sts., Collierville, 90000305
Goodwyn Street Historic District, Goodwyn St. from Central to Southern Aves., Memphis, 90000302
Zion Cemetery, S. Pky. E. at Pillow St., Memphis, 90000301

Warren County

McMinnville Hydroelectric Station (Pre-TVA Hydroelectric Development in Tennessee, 1901–1933 MPS) TN 56 at Calfkiller River, McMinnville, 90000307

White County

Sparta Hydroelectric Station (Pre-TVA Hydroelectric Development in Tennessee, 1901–1933 MPS), TN 111 at Calfkiller River, 90000306

TEXAS

Bexar County

Meyer Pottery Archeological Complex (41BX128), Address Restricted, Atascosa vicinity, 90000299

[FR Doc. 90–2761 Filed 2–6–90;8:45am]
BILLING CODE 4310–70–M

Bureau of Reclamation

Proposed bridge or other traffic crossing of the American River at Folsom, California

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of intent to prepare a draft environmental impact report/environmental impact statement (EIR/EIS).

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, as amended, the Council of Environmental Quality Guidelines (40 CFR part 1500), and section 21002 of the California Environmental Quality Act, the Bureau of Reclamation (Reclamation) and the city of Folsom, California, propose to prepare a joint EIR/EIS. The basic purposes of the project are to provide additional cross-river transportation facilities to service present and future needs in the area and to alleviate traffic congestion on the current two-lane Rainbow Bridge. Reclamation involvement stems from the necessity to locate any structure on Reclamation administered land.

The city of Folsom has prepared an administrative draft EIR and detailed initial study of several alternative bridge sites. The combined EIR/EIS will expand on this information to include regional information and impacts.

Meetings have been scheduled to solicit public input, determine alternatives, determine the scope of the EIR/EIS, and identify significant issues related to the proposed action.

DATES: The meetings will be held on February 27, 1990, at 2 p.m. and 7 p.m. in Folsom, California.

ADDRESSES: Council Chambers, City Hall, 50 Natoma Street, Folsom, California.

FOR FURTHER INFORMATION CONTACT: Mr. Chip Bruss, Environmental Specialist, Bureau of Reclamation (Code MP–750), 2800 Cottage Way, Sacramento CA 95825; Telephone: (916) 978–5130; Mr. Brad Kortick, Director, Community Development Department, city of Folsom, 300 D Persifer Street, Folsom CA 95630, Telephone: (916) 355–7200; or Mr. Michael Melanson, Environmental

Coordinator, city of Folsom, 300 D Persifer Street, Folsom CA 95630, Telephone: (916) 355–7200.

SUPPLEMENTARY INFORMATION: The city of Folsom proposes to construct a bridge or tunnel crossing the American River that will reduce traffic congestion on the existing Rainbow Bridge and on bridge approach roadways particularly in the Folsom Historic District and the Sutter Street Commercial Area. The city recognizes that the EIR/EIS must address local and regional transportation problems and related environmental concerns.

The existing Rainbow Bridge is presently carrying approximately double the number of vehicles for which it was designed. Traffic demands on the bridge are expected to increase from about 30,000 vehicles per day in 1989 to over 65,000 vehicles per day by the year 2010. These anticipated increases in traffic volumes were derived from the city's updated General Plan and anticipated growth in the surrounding communities.

The EIR/EIS will cover both the city of Folsom and the adjoining portions of Sacramento County. Particular emphasis will be palced on discussion of all of the alternatives considered in the design and review process, the impacts of the alternatives on the regional and local environment, and on the cumulative effects of this project. While all environmental aspects will be addressed, emphasis will be placed on traffic, air quality, and noise because of the importance of these issues in the general region.

Anyone interested in more information concerning the proposed project or who has suggestions or comments related to potential significant environmental issues should contact the people listed above.

Dated: February 2, 1990.

Donald R. Glaser,

Assistant Commissioner.

[FR Doc. 90–2830 Filed 2–6–90; 8:45 am]

BILLING CODE 4310–09–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–427 (Final)]

Certain Telephone Systems and Subassemblies Thereof From Korea

Determination

On the basis of the record [1] developed in the subject investigation, the Commission determines,[2] pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the act), that an industry in the United States is materially injured by reason of imports from Korea of certain small business telephone systems and subassemblies thereof,[3] provided for in subheadings 8504.40.00, 8517.10.00, 8517.30.20, 8517.30.25, 8517.30.30, 8517.81.00, 8517.90.10, 8517.90.15, 8517.90.30, 8517.90.40, and 8518.30.10 of the Harmonized Tariff Schedule of the United States (previously in items 682.60, 684.57, 684.58, and 684.59 of the former Tariff Schedules of the United States), that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

Background

The Commission instituted this investigation effective August 2, 1989, following a preliminary determination by the Department of Commerce that imports of certain small business telephone systems and subassemblies thereof from Korea were being sold at LTFV within the meaning of section 735 of the act (19 U.S.C. 1673d(a)). Notice of the institution of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of August 16, 1989 (54 FR 33783). The hearing was held in Washington, DC, on October 31, 1989, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on January 31, 1990. The views of the Commission are contained in USITC Publication 2254 (January 1990), entitled "Certain Telephone Systems and Subassemblies Thereof from Korea: Determination of the Commission in Investigation No. 731–TA–427 (Final) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigation."

By order of the Commission.

Dated: February 1, 1990.

Kenneth R. Mason,

Secretary.

[FR Doc. 90–2829 Filed 2–6–90; 8:45 am]

BILLING CODE 7020–02–M

[1] The record is defined in § 207.2(h) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(h)).

[2] Chairman Brunsdale, Vice Chairman Cass, and Commissioner Lodwick dissenting.

[3] For the purposes of this investigation, "certain small business telephone systems and subassemblies thereof" are telephone systems, whether complete or incomplete, assembled or unassembled, the foregoing with intercom or internal calling capability and total nonblocking port capacities of between 2 and 256 ports, and discrete subassemblies designed for use in such systems. A subassembly is "designed" for use in a small business telephone system if it functions to its full capability only when operated as part of such a system. These subassemblies are defined as follows: Control and switching equipment, whether denominated as a key service unit, control unit, or cabinet/switch; circuit cards and modules, including power supplies; and telephone sets and consoles, consisting of proprietary corded telephone sets or consoles.

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 31505 (Sub-No. 17)]

Kansas City Southern Railway Co. Application; Trackage Rights

AGENCY: Interstate Commerce Commission.

ACTION: Application accepted for consideration.

SUMMARY: The Commission is accepting for consideration the application of The Kansas City Southern Railway Company (KCS) seeking the modification of certain trackage rights sought by the Soo Line Railroad Company (Soo) in Finance Docket No. 31505 *et al.*, and the designation of KCS as Soo's successor to those rights, so modified, should Soo ever abandon service thereunder.

DATES: Written comments and all evidence must be filed with the Commission by February 15, 1990. Rebuttal is due March 19, 1990.

ADDRESSES: An original and 20 copies of all comments referring to Finance Docket No. 31505 (Sub-No. 17) should be filed with: Interstate Commerce Commission, Office of the Secretary, Case Control Branch, Attn: Finance Docket No. 31505, Washington, DC 20423.

Written comments shall be concurrently served by first class mail on the United States Secretary of Transportation at 400 Seventh Street, SW., Washington, DC 20590, and the Attorney General of the United States at 555 4th Street, NW., Room 9104, Washington, DC 20530, and on:

(1) Applicant's representatives: Robert E. Zimmerman, Robert K. Dreiling, William J. Wochner, 114 West 11th Street, Kansas City, MO 64105, (806) 556–0392.

(2) Primary Applicants' Representatives: George W. Mayo, Jr., Hogan & Hartson, 555 Thirteenth Street, NW., Washington, DC 20004–1109.

Terence M. Hynes, Sidley & Austin, 1722 Eye Street, NW., Washington, DC 20006.

Five copies of all comments should also be sent to: Interstate Commerce Commission, Rail Section, Room 2144, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275–7245.

[TDD for hearing impaired: (202) 275–1721].

SUPPLEMENTARY INFORMATION:

In Finance Docket No. 31505 and Sub-Numbers thereunder, Rio Grande Industries, Inc. (RGI), Southern Pacific Transportation Company (SPT), The Denver and Rio Grande Western Railroad Company (DRGW), St. Louis Southwestern Railway Company (SSW), and SKCC Acquisition Corporation (SKCC) (collectively, the RGI applicants), and Soo Line Railroad Company (Soo), filed an application seeking Commission approval under 49 U.S.C. 11341–11345 for SKCC to acquire Soo's line between Kansas City, MO, and Chicago, IL, and appurtenant branch lines to Janesville, WI, Albany, IL, and Eldrige, IA (application). In written comments filed January 9, 1990, The Kansas City Southern Railway Company (KCS) and its wholly owned subsidiary, Louisiana & Arkansas Railway Company (L&A) sought the imposition of two conditions: (1) that certain trackage rights sought by Soo be modified to remove the restriction which limits Soo's use of those rights to instances where the traffic has had an immediately prior or subsequent movement on the Soo system; and (2) that KCS be designated as Soo's successor to those rights, so modified, should Soo ever abandon that service. The contingent trackage rights described in (2) are the subject of this application.

The application substantially complies with the applicable regulations and, therefore, is accepted. The application and exhibits are available for inspection in the Public Docket Room at the offices of the Interstate Commerce Commission in Washington, DC.

The application is consolidated for disposition with the applications in Finance Docket No. 31505, *et al.* Service of an initial decision will be waived, and determination of the merits of the applications will be made in the first instance by the entire Commission. 49 U.S.C. 11345.

Participation in the Proceedings: Comments. Any interested person may participate in this proceeding by submitting written comments regarding the application. Comments must be filed no later than February 15, 1990. An original and 20 copies must be filed with the Secretary, Interstate Commerce Commission, Washington, DC 20423. Comments should indicate the exact proceeding designation. Comments shall include the following: the person's position in support of or in protest to the proposed transaction; any and all evidence, including verified statements, in support of or in opposition to the proposed transaction; and specific reasons why approval would or would not be in the public interest. *See* 49 CFR 1180.4(d)(1). Interested persons who do not intend to participate formally in the proceeding but who desire to comment may file statements, subject to the filing and service requirements specified below. Persons must state specifically whether they intend actively to participate in the proceeding or whether they wish only to be advised of all decisions issued by the Commission. Failure to state an intention to participate as an active party will result in the person's being placed in the latter category.

Written comments must also be served upon all parties of record on the Commission's service list, served December 8, 1989, as well as on the U.S. Attorney General, the U.S. Secretary of Transportation, and on applicants representatives, at the addresses listed above. Rebuttal in support of this responsive application is due March 19, 1990.

Responsive Applications. Because this application contains proposed conditions to approval of the application in Finance Docket No. 31505, *et al.*, the Commission will entertain no requests for affirmative relief to this proposal. Parties may only participate in direct support of or direct opposition to KCS' request as filed.

This action will not significantly affect either the quality of the human environment or energy conservation.

Additional information is contained in the Commission's Decision No. 13. To purchase a copy of that decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone (202) 289–4357/4359. (Assistance for the hearing impaired is available through TDD Services (202) 274–1721.)

Decided: January 31, 1990.

By the Commission, Chairman Gradison, Vice Chairman Phillips, Commissioners Simmons, Lamboley, and Emmett.

Noreta R. McGee,

Secretary.

[FR Doc. 90–2824 Filed 2–6–90; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–55 (Sub-No. 340X)]

Exemption; CSX Transportation, Inc.—Abandonment Exemption—in Breathitt County, KY

Applicant has filed a notice of exemption under 49 CFR 1152 subpart F—Exempt Abandonments to abandon its 3.62-mile line of railroad between milepost 36.13, near Evanston, and milepost 39.75, near Vail, Breathitt County, KY.

Applicant has certified that: (1) NO local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; and (3) no formal complaint filed by a user of rail service on the line (or a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on March 9, 1990 (unless stayed pending reconsideration). Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an offer of financial assistance under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking statements under 49 CFR 1152.29 must be filed by February 20, 1990.[3] Petitions for reconsideration or

[1] A stay will be routinely issued by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Section of Energy and Environment in its independent investigation) cannot be made prior to the effective date of the notice of exemption. See Exemption of Out-of-Service Rail Lines, 5 I.C.C.2d 377 (1989). Any entity seeking a stay involving environmental concerns is encouraged to file its request as soon as possible in order to permit this Commission to review and act on the request before the effective date of this exemption.

[2] See Exempt. of Rail Abandonment—Offers of Finan. Assist., 4 I.C.C.2d 164 (1987).

[3] The Commission will accept a late-filed trail use statement so long as it retains jurisdiction to do so.

requests for public use conditions under 49 CFR 1152.28 must be filed by February 27, 1990, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Patricia Vail, CSX Transportation, Inc., 500 Water Street, Jacksonville, FL 32202.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio*.

Applicant has filed an environmental report which addresses environmental or energy impacts, if any, from this abandonment.

The section of Energy and Environment (SEE) will prepare an environmental assessment (EA). SEE will issue the EA by February 12, 1990. Interested persons may obtain a copy of the EA from SEE by writing to it (room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief, SEE at (202) 275/7684. Comments on environmental and energy concerns must be filed within 15 days after the EA becomes available to the public.

Environmental, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: January 30, 1990.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Kathleen M. King,

Acting Secretary.

[FR Doc. 90-2573 Filed 2-6-90; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Information Collections Under Review

January 31, 1990.

The Office of Management and Budget (OMB) has been sent the following collection of information proposals for review under the provisions of the Paperwork Reduction Act (44 USC chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories, with each entry containing the following information: (1) the title of the form/collection; (2) the agency form number, if any, and the applicable component of the Department sponsoring the collection; (3) how often the form must be filled out or the information is collected; (4) who will be asked or required to respond, as well as a brief abstract; (5) an estimate of the total number of respondents and the amount of time estimated for an average respondent to respond; (6) an estimate of the total public burden (in hours) associated with the collection; and, (7) an indication as to whether Section 3504(h) of Public Law 96-511 applies. Comments and/or suggestions regarding the item(s) contained in this notice, especially those regarding the estimated public burden and the associated response time, should be directed to the OMB reviewer, Mr. Edward H. Clarke, on (202) 395-7340 *and* the Department of Justice's Clearance Officer, Mr. Larry E. Miesse, on (202) 633-4312. If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer *and* the DOJ Clearance Officer of your intent as soon as possible. Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, *and* to Mr. Larry E. Miesse, DOJ Clearance Officer, SPS/JMD/5031 CAB, Department of Justice, Washington, DC 20530.

New Collection

(1) CIVIL LIBERTIES ACT OF 1988—DEATH INFORMATION FORM.
(2) CRT-56. Office of Redress Administration, Civil Rights Division.
(3) One time.
(4) Individuals or households. Under the provisions of 50 USC app. 1989b, this voluntary form may be used to account for persons otherwise eligible to receive payments under the Civil Liberties Act of 1988, who have died since enactment of that law, and to locate their surviving next-of-kin.
(5) 7,500 estimated respondents at .25 hours each.
(6) 1,875 estimated annual burden hours.
(7) Not applicable under 3504(h).

Reinstatement of a Previously Approved Collection for Which Approval Has Expired

(1) GUIDELINES FOR THE STATE REIMBURSEMENT PROGRAM FOR INCARCERATED MARIEL-CUBANS.
(2) No form number. Bureau of Justice Assistance, Office of Justice Programs.
(3) One time.
(4) State or local governments. This information is needed by the Immigration and Naturalization Service to determine whether specified inmates are indeed Mariel-Cubans and for the Bureau of Justice Assistance to determine the number of months of incarceration to establish amounts of reimbursement to applicable states.
(5) 36 estimated annual responses at 80 hours per response.
(6) 2,880 estimated annual public burden hours.
(7) Not applicable under 3504(h).

Larry E. Miesse,

Department Clearance Officer, U.S. Department of Justice.

[FR Doc. 90-2764 Filed 2-6-90; 8:45 am]

BILLING CODE 4410-18-M

Drug Enforcement Administration

[Docket No. 89-26]

Rodrigo I. Ramirez, M.D.; Revocation of Registration.

On March 28, 1989, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Adminstration (DEA), issued an Order to Show Cause to Rodrigo I. Ramirez, MD., (Respondent) of Broken Arrow, Oklahoma. The order sought to revoke DEA Certificate of Registration AR1492266, previously issued to the Respondent, and to deny any pending applications for renewal. The Order to Show Cause alledged that Respondent's continued registration was not in the public interest. On April 24, 1989, Respondent, through counsel, requested a hearing on the issues raised by the Order to Show Cause and the case was docketed before Administative Law Judge Francis L. Young. After prehearing statements were filed by both parties, Respondent notified the administrative law judge and counsel for Government that he wished to waive his opportunity for a hearing and instead submit a written statement regarding his position on the matters of fact and law raised by the Order to Show Cause pursuant to 21 CFR 1301.54(c). Accordingly, on July 13, 1989, Judge Young terminated all proceedings then pending before him. Upon receipt of Respondent's statement, it along with the Government's investigative file, was transmitted to the Office of the Administrator for final action. Having considered Respondent's statement along with the Government's investigative file, the Administrator now issues this final order pursuant to 21 CFR 1301.54(e).

The Administrator finds that in March 1987, DEA Investigators seized more than 90 prescriptions for Dolophine issued to 12 different individuals, all of whom were seeing Respondent for maintenance or detoxification. Respondent, although registered as a practitioner, was not registered to conduct narcotic treatment as required

by 21 U.S.C. 823(g). Several of the 12 patients were interviewed and stated that Respondent had performed no physical examinations and had made only a cursory inspection of the patients' arms for needle marks. One of the patients admitted to using part of the Dolophine and selling the rest. During the search of another pharmacy, DEA Investigators seized prescriptions totaling 2,567 dosage units of Dolophine 10 mg. issued between September 26, 1986 and January 3, 1987. All prescriptions were written by Respondent.

In April 1987, Respondent was interviewed by DEA Investigators. During the interview Respondent admitted that he was treating patients for drug addiction with Dolophine. Respondent stated that he did not need to physically examine these patients because, based upon his clinic experience, he could tell that they were addicted by looking at them. Respondent also stated that he had started to apply for a registration as a narcotic treatment program but felt that it was too complicated and time consuming to register.

On February 4, 1988, the Oklahoma State Board of Medical Licensure and Supervision suspended Respondent's medical license for 60 days. The board further ordered a five (5) year probationary period during which Respondent was prohibited from writing Schedule II prescriptions. The board found Respondent guilty of unprofessional conduct from September 1, 1986 to January 15, 1987, by purporting to operate some form of methadone maintenance program or by administering narcotic drugs to relieve acute withdrawal symptoms, while failing to register as a treatment program with the Oklahoma Bureau of Narcotics and Dangerous Drugs (OBNDD) as required by Oklahoma Law. The board further found that Respondent wrote approximately 193 prescriptions for Schedule II drugs for a total of 5,388 dosage units from September 1, 1986 through January 15, 1987. Respondent also issued approximately 66 prescriptions for Schedule IV drugs in the amount of 672 dosage units. For certain individuals that amounted to an average of over 15 dosage units per day.

The Board found that Respondent was treating patients who he knew were addicts and did not perform physical examinations or lab work on these patients but merely dispensed controlled dangerous substances to the patients without the establishment of a valid physician-patient relationship. The Board found that Respondent had failed to register as required by Oklahoma law, since, although Respondent was aware of requirements of registration, he felt that registration process was too complicated and time consuming to pursue. Finally, the Board found that on or around December 20, 1986, Respondent issued a prescription for 32 Dolophine tablets and a prescription for 21 Xanax tablets to Mr. Buddy Sanders of Tulsa, Oklahoma. Mr. Sanders died the following day, December 21, 1986. The Office of the Chief Medical Examiner of Tulsa, Oklahoma, performed an autopsy, finding as probable cause of death "combined toxic effects of methadone and alprazolam."

It was the conclusion of the Oklahoma Medical Board that Respondent prescribed or administered a drug or a treatment without sufficient examination and without the establishment of a valid physician-patient relationship; that Respondent prescribed, dispensed, and administered controlled substances and narcotic drugs in excess of the amount considered good medical practice; and that he prescribed, dispensed, or administered controlled substances or a narcotic drug without medical need in accordance with public standards. On August 16, 1988, the OBNDD suspended Respondent's authority to administer, prescribe, or dispense controlled substances in Schedule II and IIN. Authority to administer, prescribe, or dispense controlled substances in other schedules was suspended for one (1) month.

In Respondent's statement submitted to the Administrator, he does not dispute that he was disciplined by the Oklahoma Medical Board and the OBNDD as outlined above. Respondent, however, offers the following explanation in mitigation of those actions. Respondent states that in September of 1986, he began seeing a few patients suffering from severe heroin withdrawal. In order to detoxify and stabilize some of these patients, Respondent prescribed methadone in levels which he deemed were necessary and in dosages which he believed were safe. Because of the increasing number of addicts seeking Respondent's medical assistance, he perceived a need for a methadone detoxification facility. He inquired of the OBNDD for information relating to the establishment of such a facility in Tulsa, Oklahoma. Upon reviewing the letter from the OBNDD, Respondent made a determination that there were too many administrative requirements to justify the attempt at licensing a methadone treatment facility.

Respondent in his statement admitted writing several prescriptions which may have been "an error in judgment" but he does not admit to the authenticity of the great number of prescriptions attributed to him by state authorities. He does not, however, deny that some prescriptions were written by his office, nor does he detail how many he alleges were forged, only that several of his patients may have forged his signature thereby greatly multiplying the number of prescriptions and the appearance of his "judgmental errors". Presently Respondent has ceased all private practice and is now on the staff at a state hospital in Vinita, Oklahoma.

Documents submitted by Respondent indicate that he currently has met all the expectations by supervisory personnel charged with monitoring his practice. Respondent's probation includes, among other things, a requirement to keep duplicate serially numbered perscriptions for all controlled dangerous substances that he prescribes and to make such records available to any inspector of the Oklahoma State Board of Medical Licensure and Supervision. Respondent's argument is twofold: First, he states that he has been punished enough and that the sanctions imposed by the state authorities were appropriate and adequate and that any further punishment would be unnecessary and counterproductive. Second, that he is being monitored adequately by state officials and is performing properly and in conformity with Board orders in all aspects.

While the Administrator commends both state authorities for their prompt action in this matter, and credits Respondent for his apparent attempts to rehabilitate himself, the Administrator cannot agree that the state action is sufficient, nor that Respondent has adequately shown that he is competent and trustworthy to handle dangerous controlled substances. The Drug Enforcement Administration will not abdicate its responsibility in regulating registrants, even where states have taken action. Pursuant to 21 U.S.C. 823(f) and 824(a)(4), the Administrator may revoke a registration where that registration is no longer in the public interest.

In deciding what is in the public interest, the Administrator must consider the following factors:

1. the recommendation of the appropriate state licensing board or professional disciplinary authority;

2. the applicant's experience in dispensing or conducting research with respect to controlled substances;

3. the applicant's conviction record under Federal or state laws relating to the manufacture, distribution, or dispensing of controlled substances;

4. compliance with applicable state, Federal or local laws relating to controlled substances;

5. such other conduct which may threaten the public health and safety.

Repondent has been the subject of state disciplinary proceedings. He failed to comply with applicable state and Federal laws by failing to register as a methadone treatment program. A patient under his care receiving methadone died of an overdose. State authorities found Respondent's prescribing practice to be excessive and unprofessional. He failed to perform sufficient physical examinations of his patients and prescribed controlled substances without medical need and in excess of the amount considered good medical practice. The Administrator cannot and will not in all cases rely on state authorities to monitor and regulate a registrant holding a DEA controlled substances registration where there is evidence that the registrant has violated Federal law and has demonstrated conduct which may further threaten the public health and safety.

Accordingly, the Administrator finds that the continued registration of this Respondent is not in the public interest. Having concluded that there are lawful bases for the revocation of Respondent's registration and for the denial of any pending applications for the renewal thereof, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that the DEA Certificate of Registration AR1492266, previously issued to Rodrigo I. Ramirez, M.D., be, and hereby is, revoked. The Administrator further orders that any pending applications for renewal of that registration be, and they hereby are, denied.

This order is effective February 7, 1990.

Dated: January 30, 1990.

John C. Lawn,

Administrator.

[FR Doc. 90-2738 Filed 2-6-90; 8:45 am]

BILLING CODE 4410-09-M

[Docket No. 89-13]

Neveille H. Williams, III, D.D.S.; Grant of Restricted Registration

On December 19, 1988, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Neveille H. Williams, III, D.D.S. (Respondent) proposing to deny his June 18, 1988, application for registration as a practitioner under 21 U.S.C. 823(f). The Order to Show Cause alleged that the issuance of a DEA Certificate of Registration to Respondent would be inconsistent with the public interest, as the term is used in 21 U.S.C. 823(f) and 824(a)(4), based upon his previous controlled substance-related felony conviction and the denial of his previous application for registration in 1988.

Respondent, through counsel, timely requested a hearing on the issues raised in the Order to Show Cause and the matter was placed on the docket of Administrative Law Judge Francis L. Young. Following prehearing procedures, a hearing was held in Dallas, Texas, on August 17, 1989. At the hearing, the Government called one witness and placed eleven exhibits in evidence. Both Respondent and his wife testified on his behalf; Respondent also placed twelve exhibits in evidence.

The administrative law judge issued his opinion and recommended ruling, findings of fact, conclusions of law and decision recommending that Respondent be issued a DEA Certificate of Registration subject to certain restrictions, including additional recordkeeping requirements. Government counsel filed exceptions to the administrative law judge's recommended ruling. Respondent's counsel did not file exceptions, nor did he file a response to the Government's exceptions.

Following a full review of the entire record in this proceeding, the Administrator adopts the administrative law judge's findings and recommendation as his own, except as they may otherwise differ herein.

The Administrator finds that on June 7, 1982, in the United States District Court of Georgia, Respondent was convicted, after entering a plea of guilty, of one count of using a communication facility in the commission of acts constituting a felony under 21 U.S.C. 963 and conspiring to import cocaine hydrochloride in violation of 21 U.S.C. 843(b). Based upon the conviction, Respondent was sentenced to serve three years in prison. He was incarcerated from June 21, 1982, to July 2, 1984, and completed parole on December 18, 1984.

Respondent's conviction resulted from an FBI investigation of white collar crime in the Atlanta, Georgia, area in the fall of 1981. During the investigation, undercover FBI Special Agents posed as money brokers seeking to lend and invest so-called offshore funds which they supposedly had available. The FBI Special Agents were approached by an individual who put them in contact with Respondent and his friend Charles Pate, among other persons.

On October 7, 1981, the undercover Special Agents met with Respondent at his dental laboratory in Texas. During the meeting, they discussed the funding for importing 30 to 50 kilograms of cocaine, the division of profits from the sale of cocaine, and Respondent's relationship with Mr. Pate. Respondent informed the Special Agents that he had known Mr. Pate for five years, and that for the previous 18 months, he and Mr. Pate had attempted to import cocaine into the United States, but they always lacked the necessary financing to carry out their plan. Based upon the agreed division of profits, Respondent stood to make more than $300,000.00 from his involvement in the conspiracy.

The undercover Special Agents met with Respondent again in December 1981. At that time, Respondent informed them that he had a potential purchaser for a large quantity of the cocaine. Respondent also participated in several telephone conversations with the Agents in December 1981 and January 1982, in which he reaffirmed his willingness to participate in the conspiracy to import large quantities of cocaine into the United States.

The final meeting of the conspirators was held in Atlanta, Georgia, in January 1982. Although Respondent did not attend or take part in the meeting, he expressed his continued interest in participating in the scheme during telephone conversations with the Special Agents both before and after the final meeting.

Subsequent to the meeting, Mr. Pate traveled to South America and met with a reputed cocaine supplier in Colombia to discuss importation of the cocaine in furtherance of the conspiracy.

Prior to his indictment, Respondent was contacted by FBI Special Agents not working in an undercover capacity. At that time, Respondent was given an opportunity to disclose the proposed transaction. Respondent admitted that he had contact with certain individuals involved in the conspiracy in an effort to obtain money, which he claimed he needed as venture capital for his dental

laboratory. Respondent did not mention the proposed cocaine transaction to the Special Agents. He also never attempted to disassociate himself from the group of conspirators or its illegal activities.

Respondent was previously registered by DEA, but allowed his registration to expire in 1982. In June 1983, Respondent also allowed his Texas Department of Public Safety registration to expire.

On several occasions in the past, Respondent has attempted to minimize the extent of his involvement in the criminal conspiracy which resulted in his conviction. On December 28, 1984, following an administrative hearing, the Texas State Board of Dental Examiners indefinitely suspended Respondent's state dental license based upon his 1982 Federal conviction. During that proceeding, Respondent attempted to minimize the extent of his participation in the cocaine importation conspiracy. He also attempted to diminish the seriousness of the offense by asserting that no drugs or money changed hands during the transactions.

On November 15, 1985, the Texas State Board of Dental Examiners reinstated Respondent's license to practice dentistry, effective October 15, 1985, subject to certain conditions. One of the conditions was that Respondent would not be permitted to handle state Schedule II and IIN controlled substances for a period of three years, or until approved by the Board. The Board also required Respondent to appear before it on a semi-annual basis for three years to report on his progress. The Board also ordered Respondent to comply with all the laws, rules and regulations governing dental practice in the State of Texas.

On October 28, 1985, Respondent applied for a new Texas Department of Public Safety registration in Schedules III, IIIN, IV and V. His application was denied on November 21, 1985. Following Respondent's requested hearing on that denial, on July 16, 1986, the Texas Department of Public Safety issued an order granting Respondent a state registration in Schedules III, IIIN, IV and V.

On August 24, 1986, Respondent executed an application for a DEA Certificate of Registration requesting authority to handle controlled substances in Federal Schedules III, IIIN, IV and V. DEA issued an Order to Show Cause proposing to deny his application for registration. The application was the subject of an administrative hearing which was held on October 20 and December 1, 1987, in Washington, DC, before Administrative Law Judge Mary Ellen Bittner. Judge Bittner refused to allow Respondent to testify at that hearing because of his failure to comply with procedural and disclosure rulings. Although Respondent himself was not permitted to testify during the hearing, he did present the testimony of one other witness and introduced documentary evidence on his behalf.

In June 1987, Respondent had appeared before the Texas State Board of Dental Examiners and had requested that the Board allow him to apply for his state Schedule II and IIN controlled substance handling privileges. The Board granted his request. On June 9, 1987, the Texas Department of Public Safety Registration issued him a state controlled substance registration in Schedules II, IIN, III, IIIN, IV and V.

Following the DEA hearing discussed above, on March 9, 1988, Judge Bittner issued her opinion, recommended ruling, findings and conclusions, recommending that respondent's then-pending application for registration be denied. On June 16, 1988, the Administrator of the Drug Enforcement Administration issued his final order denying Respondent's application for registration. See 53 FR 23467 (1988). The Administrator's action was based upon his finding that Respondent's registration would be inconsistent with the public interest because of his felony conviction relating to controlled substances and that Respondent failed to comply with Federal laws relating to controlled substances. The Administrator also found that Respondent repeatedly had attempted to minimize the seriousness of his involvement in the illegal activities for which he was convicted. The Administrator further determined that Respondent had yet to provide him with assurance that Respondent would uphold his responsibility to handle controlled substances with sufficient care to protect the public interest. He concluded that the only evidence of Respondent's rehabilitation was that he complied with the requirements imposed by the Texas State Board of Dental Examiners. The Administrator found that:

> These requirements were minimal and compliance with the requirements, absent any further evidence of rehabilitation, is insufficient to justify the issuance of a DEA registration to this Respondent.

On August 18, 1988, just two months after the Administrator denied his application for registration, Respondent submitted a new application for registration to DEA. In that application, Respondent made the following statement:

> On or about January 14, 1982, I was indicted on conspiracy to import cocaine into the United States. I was sentenced (convicted) to three years in Federal Prison, and as well documented in *your* files, served my debt to society and since have been very involved with drug rehabilitation programs for other dentists, etc. Even though I have been reinstated with both the Texas State Dental Board Number 11767 and the Texas Department of Public Safety Number 50061307, the DEA is still continuing *my punishment* for a crime that the FBI began, planned, and conspired to create even though no money, drugs, etc. were ever seen. This has added an additional five (5) years to my sentence and caused *great* financial, marital, and professional strain in my life as well as my family's. I hope it will end now. Sincerely, Neveille H. Williams, D.D.S. (Emphasis in original document.)

On September 29, 1988, a little more than a month later, Respondent sent to DEA an amendment to his registration in which he stated that:

> I cannot overly stress the gravity of my act in engaging in a criminal conspiracy. I cannot and will not minimize my involvement. What I did in this criminal conspiracy was wrong, criminal, and dangerous. I am sorry and will spend the rest of my life in pursuit of gaining society's forgiveness. I will never be the same person but will be a better citizen. I have a noble profession and seek a registration to responsibly handle controlled substances in a manner that serves and protects the public interest. Please accept my whole-hearted recognition of the gravity of the criminal acts. I will submit to any monitoring the Drug Enforcement Agency (sic) sees as reasonable. I have rehabilitated myself by working as a dentist continually since my release from custody. I have married, had a child, and joined my professional societies. I participated in transitional activities and will continue to fully cooperate with all authorities. My citizenship is my most important asset.

Following his release from prison, Respondent tried to reestablish himself in the practice of dentistry, with the exception of the ten-month period in which his dental license was suspended. Over the years, Respondent has moved several times within the State of Texas, each time in an effort to improve his situation. Respondent also remarried following his release from prison and now has a three-year-old son by that marriage. In addition, two older children from his previous marriage currently live with Respondent and his present wife.

While trying to reestablish himself professionally, Respondent has participated in a number of charitable community activities. He provided dental services to various organizations and counseled children, teenagers and young adults in the dangers of drug abuse. He has also worked with Canadian missionaries installing a well

and water lines in a small Mexican town.

During the 1989 DEA hearing, Respondent expressed remorse for his previous involvement in the cocaine conspiracy scheme and expressed his intent never to become involved in any further illegal activities involving controlled substances.

In determining whether an applicant's registration would be in the public interest, the Administrator must weigh the evidence in light of the following five factors listed in 21 U.S.C. 823(f):

(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(2) The applicant's experience in dispensing * * * controlled substances.

(3)The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health and safety.

Respondent's conviction relating to controlled substances is, in itself, a sufficient basis to support the denial of his application for registration. Respondent's participation in a conspiracy to import 30 to 50 kilograms of cocaine into the United States demonstrated his failure to comply with Federal laws relating to controlled substances.

Although there exists sufficient evidence to support the denial of Respondent's application, the Administrator also recognizes that Respondent has undertaken great efforts to rehabilitate himself and to serve his community. The Administrator further credits Respondent for his recent, though belated, acknowledgement of the seriousness of his involvement in the criminal activities for which he was convicted. In light of Respondent's apparent sincere intent to remain a law abiding citizen and to properly handle controlled substances in the future, the Administrator finds that issuing a DEA registration to Respondent with the following restrictions would be in the public interest:

1. Respondent shall maintain a complete record of all controlled substances he orders, receives, prescribes, dispenses, administers, or otherwise handles. Each month for a period of one year following the issuance of his DEA Certificate of Registration, Respondent shall be required to provide a copy of the records of his controlled substance handling activities to the DEA Dallas Field Division, Diversion Unit. The Group Supervisor of the Diversion Unit shall determine the form in which the records will be maintained and the dates on which the records should be provided to the DEA Dallas Field Division.

2. For a period of one year following the issuance of his DEA Certificate of Registration, Respondent agrees to permit DEA Diversion Investigators and Special Agents to review the controlled substance records at his registered location during ordinary business hours, for the purpose of verifying his compliance with Federal laws and regulations relating to controlled substances, without requiring the presentation of a notice of inspection or administration inspection warrant.

3. Should Respondent violate any of these provisions or in the future violate any Federal or state laws or regulations relating to controlled substances, the Drug Enforcement Administration will initiate proceedings to revoke his then-current DEA Certificate of Registration.

4. The Drug Enforcement Administration shall issue a DEA Certificate of Registration to Respondent, authorizing him to handle all schedules of controlled substances upon his execution of an agreement accepting the terms set forth above.

Therefore, the Administrator concludes that the issuance of a restricted registration to Respondent would be consistent with the public interest. Pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), the Administrator of the Drug Enforcement Administration hereby orders that the pending application for registration by Neveille H. Williams, III, D.D.S., executed on August 18, 1988, be granted and that Respondent be issued a restricted DEA Certificate of Registration following his execution of the agreement referred to above.

This order is effective February 7, 1990.

Dated: January 24, 1990.

John C. Lawn,

Administrator.

[FR Doc. 90–2739 Filed 2–6–90; 8:45 am]

BILLING CODE 4410-09-M

NATIONAL COMMISSION ON ACQUIRED IMMUNE DEFICIENCY SYNDROME

Meetings

AGENCY: National Commission on Acquired Immune Deficiency Syndrome.

ACTION: Notice of Meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–143, as amended, the National Commission on Acquired Immune Deficiency Syndrome announces a forthcoming meeting of the Commission.

DATE AND TIME: February 26, 1990, 9 a.m.–5 p.m.; February 27, 1990, 9 a.m.–5 p.m.

PLACES: Optional site visits to New York City, New York and Jersey City and Newark, New Jersey.

FOR FURTHER INFORMATION CONTACT: Maureen Byrnes, Executive Director, the National Commission on Acquired Immune Deficiency Syndrome, 1730 K Street, NW., suite 815, Washington, DC 20006, (202) 254–5125.

Agenda: On February 26 and 27, 1990 the National Commission on AIDS will make a series of site visits in the New York/New Jersey area to look into issues related to HIV and AIDS among homeless individuals and drug users. The Commission will also visit a public hospital and hemophilia treatment center in New Jersey.

Maureen Byrnes,

Executive Director.

[FR Doc. 90–2737 Filed 2–6–90; 8:45 am]

BILLING CODE 6820-CN-M

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements; Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: The Nuclear Regulatory Commission (NRC) has recently submitted to the Office of Management and Budget (OMB) for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. Type of submission, new, revision, or extension: Extension.

2. The title of the information collection: 10 CFR part 75 "Safeguards on Nuclear Material—Implementation of US/IAEA Agreement"

3. The form number if applicable: Not applicable.

4. How often the collection is required: Installation information is submitted upon written notification from the Commission. Changes are submitted as occurring. Nuclear Material accounting and control information is

submitted in accordance with specified instructions.

5. Who will be required or asked to report: All persons licensed by the Commission or Agreement States to possess source or special nuclear at an installation specified on the U.S. eligible list as determined by the Secretary of State or his designee and filed with the Commission, as well as holders of construction permits and persons who intend to receive source material.

6. An estimate of the number of responses: 43

7. An estimate of the total number of hours needed to complete the requirement or request: Approximately 4.7 hours per response plus 800 hours per recordkeeper. The total annual industry burden is 5,004 hours.

8. An indication of whether section 3504(h), Pub. L. 96–511 applies: Not applicable.

9. Abstract: 10 CFR part 75 establishes a system of nuclear material accounting and control to implement the agreement between the United States and the International Atomic Energy Agency. Under that agreement, NRC is required to collect the information and make it available to the IAEA.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 2120 L Street, NW., Washington, DC.

Comments and questions may be directed by mail to the OMB reviewer: Nicolas B. Garcia, Paperwork Reduction Project (3150–0055), Office of Management and Budget, Washington, DC 20503.

Comments may also be communicated by telephone at (202) 395–3084.

The NRC Clearance officer is Brenda Jo. Shelton, (301) 492–8132.

Dated at Bethesda, Maryland, this 30th day of January 1990.

For the Nuclear Regulatory Commission.

Joyce A. Amenta,

Designated Senior Official for Information Resources Management.

[FR Doc. 90–2812 Filed 2–6–90; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Nuclear Waste; Meeting

The Advisory Committee on Nuclear Waste (ACNW) will hold its 17th meeting on February 21, 22, and 23, 1990, Room P–110, 7920 Norfolk Avenue, Bethesda, MD, 8:30 a.m. until 5:00 p.m. each day. Portions of this meeting will be closed to discuss information the release of which would represent a clearly unwarranted invasion of personal privacy 5 U.S.C. 552b(c)(6).

The purpose of the meeting will be to review and discuss the following topics:

A. *Meeting with the Commissioners (Open)*—The Committee will discuss with the Commissioners items of interest that will include as appropriate:

—Report on trip to the West Valley Demonstration Project
—Report on trip to the Center for Nuclear Waste Regulatory Analyses
—Discuss ACNW report on the implementation of EPA high-level waste standards
—Discuss NRC low-level waste programs and activities
—Other items of mutual interest

B. *Site Study Plans (Open)*—The Committee will be briefed on the schedule for future DOE Study Plan submissions, the criteria used by NRC to select Study Plans to be reviewed in depth, and other items of interest. The staff will present the status of their review on selected Study Plans relating to the HLW repository site characterization. The staff's review of Study Plans on (1) Evaluation of the Location and Recency of Faulting Near Prospective Surface Facilities and (2) Characterization of the Yucca Mountain Quaternary Regional Hydrology (tentative) are expected to be complete.

C. *Meeting with the Chairman of the LLW Committee of the Conference of State Radiation Control Program Directors (Open)*—The Committee will discuss with Mr. William P. Dornsife, Chief, Division of Nuclear Safety, Bureau of Radiation Protection, Department of Environmental Protection, Commonwealth of Pennsylvania LLW problem areas, including issues concerned with naturally occurring and accelerator produced readioactive material (NARM).

D. *Radioactive Contamination Following Decommissioning (Open)*—The Committee will discuss and possibly comment on the implementation of a policy regarding the criteria for acceptable residual levels of radioactive contamination following decommissioning.

E. *New ACNW Members (Closed)*—The Committee will discuss qualifications of candidates proposed for nomination as ACNW members.

F. *Committee Activities (Open)*—The Committee will discuss anticipated and proposed Committee activities, future meeting agenda, and organizational matters, as appropriate.

Procedures for the conduct of and participation in ACNW meetings were published in the Federal Register on June 6, 1988 (53 FR 20699). In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and staff. The office of the ACRS is providing staff support for the ACNW. Persons desiring to make oral statements should notify the Executive Director of the office of the ACRS as far in advance as practical so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during this meeting may be limited to selected portions of the meeting as determined by the ACNW Chairman. Information regarding the time to be set aside for this purpose may be obtained by a prepaid telephone call to the Executive Director of the office of the ACRS, Mr. Raymond F. Fraley (telephone 301/492–4516), prior to the meeting. In view of the possibility that the schedule for ACNW meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACRS Executive Director or call the recording (301/492–4600) for the current schedule if such rescheduling would result in major inconvenience.

Dated: February 1, 1990.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 90–2805 Filed 2–6–90; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–461]

Illinois Power Co., et al., Partial Denial of Amendment to Facility Operating License and Opportuinty for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) has denied, in part, a request by Illinois Power Company (IP), and Soyland Power Cooperative, Inc. (the licensees), for an amendment to Facility Operating License No. NPF–62 issued to the licensee for operaton of the Clinton Power Station, Unit 1, located in DeWitt County, Illinois.

The staff has denied three proposed changes to Technical Specification Table 3.3.2–2 concerning time-limit values specified for timers and two proposed changes to Technical Specification Tables 3.3.7.5–1 and 4.3.7.5–1 concerning accident monitoring instrumentation. The purpose of these proposed changes was to reconcile the format of the time limits as they appear

in the Technical Specification table with the design documents and bases which specify those limits. The proposed change to Technical Specification Table 3.3.7.5–1 and the general ACTION 81 associated with Table 3.3.7.5–1 and the general ACTION and Limiting Condition for Operation specified under Specification 3.3.7.5 was not accepted. The proposed change to delete the safety/relief valve acoustic monitors from the Accident Monitoring Instrumentation on the basis that Specifications 3.3.7.5 and 4.3.7.5 are redundant to the requirements in Specifications 3.4.2.1 and 4.4.2.1.1. was also not accepted. These five proposed changes were not accepted on the basis that they are not in conformance with the Standard Technical Specifications and the licensee has not submitted sufficient technical justification to show that these changes are necessary and acceptable. Due to the generic nature of these proposed changes, they must be evaluated in accordance with the staff policy for generic technical specification changes and revisions to standard technical specifications. Thus, the licensees have the option to resubmit these proposed changes for NRC evaluation after conferring with the BWR Owners Group.

The other provisions of the proposed amendment pertaining to Table 3.3.7.5–1 have been approved by Amendment No. 29 dated January 30, 1990. Notice of issuance of that amendment will be published in the **Federal Register**.

The licensee was notified of the Commission's denial of the proposed TS change by the letter transmitting Amendment No. 29.

By March 7, 1990, the licensee may demand a hearing with respect to the denial described above and any persons whose interest may be affected by this proceeding may file a written petition for leave to intervene.

A request for hearing or petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 2120 L Street, NW., Washington, DC, by the above date.

A copy of any petitions should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Sheldon Zabel, Esquire, Schiff, Hardin & Waite, 7200 Sears Tower, 233 Wacker Drive, Chicago, Illinois 60606, attorney for the licensee.

For further details with respect to this action, see (1) the application for amendment dated October 30, 1987, (2) the Commission's letter to the licensee dated January 30, 1990, and (3) the Commission's Safety Evaluation dated January 30, 1990, issued with Amendment No. 29 to License No. NPF–62, respectively.

These documents are available for public inspection at the Commission's Public Document Room, 2120 L Street, Washington, DC 20555 and at Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Illinois 61727. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555. Attention: Document Control Desk.

Dated at Rockville, Maryland this 30th day of January 1990.

For the Nuclear Regulatory Commission.

John B. Hickman,

Project Manager, Project Directorate III–2, Division of Reactor Projects–III, IV, V and Special Projects.

[FR Doc. 90–2811 Filed 2–6–90; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–346]

Toledo Edison Co. and the Cleveland Electric Illuminating Co. (Davis-Besse Nuclear Power Station, Unit No.1); Exemption

I

The Toledo Edison Company and the Cleveland Electric Illuminating Company (the licensees), are the holders of Facility Operating License No. NPF–3 (the license) which authorizes operation of the Davis-Besse Nuclear Power Station, Unit No. 1. The license provides, among other things, that it is subject to all rules, regulations and Orders of the Nuclear Regulatory Commission (the Commission) now and hereafter in effect.

The facility consists of a pressurized water reactor located at the licensee's site in Ottawa County, Ohio.

II

By letter dated March 7, 1988, the Toledo Edison Company (the licensee) applied for an amendment to Operating License NPF–3 to change certain provisions of the Technical Specifications. The licensee had previously requested an exemption from the Commission's regulations in its letter dated November 20, 1987. The requested exemption from a requirement in Appendix J to 10 CFR part 50 which requires that certain surveillance tests be conducted during the same refueling outage.

The specific requirement is contained in section IIID.1.(a) of Appendix J, 10 CFR part 50, and states in part that "* * * a set of three Type A tests shall be performed, at approximately equal intervals during each 10-year service period. The third test of each set shall be conducted when the plant is shut down for the 10-year plant inservice inspections." The Type A tests are defined in section II.F of Appendix J as those "* * * tests intended to measure the primary reactor containment overall integrated leakage rate * * * at periodic intervals * * *" The 10-year inservice inspection is that series of inspections performed every 10 years in accordance with section XI of the ASME Boiler and Pressure Vessel Code and Addenda as required by 10 CFR 50.55a. The time required to perform the integrated leakage rate tests (ILRTs) necessitates that they be performed during refueling outages. The time interval between ILRTs should be 40 months based on performing three such tests during each 10-year service period. Since refueling outages do not necessarily occur coincident with a 40-month interval, a permissible variation of 10 months is typically authorized in the technical specifications (TSs) issued with an operating license to permit flexibility in scheduling the ILRTs.

The third of the ILRT set of three tests for the Davis-Besse plant was successfully conducted in September 1988 during the last refueling outage (i.e., the fifth refueling outage). The Davis-Besse TSs require that the next ILRT be conducted in January 1992 but no later than November 1992. This will coincide with the seventh refueling outage which will probably start in January 1992.

Due to the time required to conduct it, the 10-year ISI required by 10 CFR 50.55a also must be conducted during a refueling outage. This ISI will be performed during the sixth refueling outage starting in February 1990. If the requested exemption is not granted, section III.D.1(a) of Appendix J would require an additional ILRT to be performed in April 1990, about 19 months after the previous ILRT. This interval would be considerably shorter than the minimum interval of 30 months specified in the Davis-Besse TSs. More importantly, this interval would not be consistent with either the intent of the underlying purpose of the rule which requires that these Type A tests "* * * be performed at approximately equal intervals during each 10-year service period." (section III.D.1(a) of Appendix J).

The licensee addressed this issue in its exemption request dated November 20, 1987 in which it cites from Appendix J that "the purpose of the tests are to assure that (a) leakage through the

primary reactor containment and systems and components penetrating primary containment shall not exceed allowable leakage rate values as specified in the technical specifications * * *". The licensee asserts and the NRC staff agrees that the Type A test conducted in September 1988 met the underlying purpose of the rule in that the required overall leak-tightness of the primary containment was demonstrated. Accordingly, it is not necessary to conduct another Type A test in the forthcoming refueling outage to meet the intent of the rule. Doing another ILRT in the forthcoming refueling outage would not add significantly to the assurance that the overall leakage rate of the primary containment and its penetrations remain within the value specified in the Davis-Besse TSs and would certainly not meet the intent of the rule to conduct these tests at appoximately equal intervals as cited above.

On this basis, we find that the licensee has demonstrated that the "Applications of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule * * *" [10 CFR 50.12(a)(2)(ii)].

Each of these two tests (i.e., the Type A test and the 10-year ISI) is indpendent of each other and provides assurances of different plant characteristcs, the Type A tests assure the required leak-tightneess to demonstrate compliance with the guidelines of 10 CFR part 100. The 10-year ISI provides assurance of the structural integrity of the structures, systems, and components in compliance with 10 CFR 50.55a. Accordingly, there is no safety-related concern associated with their coupling in the same refueling outage.

On this basis, the NRC staff finds that the licensee has demonstrated that there are special circumstances present as required by 10 CFR 50.12(a)(2). Further, the staff also finds that the uncoupling of the Type A test from the 10-year ISI will not present an undue risk to the public health and safety.

III

Accordingly, the Commission has determined, that, pursuant to 10 CFR 50.12, an exemption is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest and hereby grants an exemption with respect to one of the requirements of 10 CFR part 50, Appendix J, section III.D.1(a):

The Davis-Besse Nuclear Power Station, Unit 1 Technical Specifications may be revised to require that the ILRTs be performed solely according to the 40 ± 10-month frequency, not in conjuction with the 10-year inservice inspection. This Exemption does not alter the existing requirement that three ILRTs be performed during each 10-year service period.

Pursuant to 10 CFR 51.32, the Commission has determined that the issuance of the Exemption will have no significant impact on the environment. (55 FR 2721).

This exemption is effective upon issuance.

Dated at Rockville, Maryland this 29th day of January, 1990.

For the Nuclear Regulatory Commission.

John A. Zwolinski,

Acting Director, Division of Reactor Projects III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 90-2809 Filed 2-6-90; 8:45 am]

BILLING CODE 7590-01-M

Draft Regulatory Guide; Issuance, Availability

The Nuclear Regulatory Commission has issued for public comment a draft of a new guide planned for its Regulatory Guide Series. This series has been developed to describe and make available to the public such information as methods acceptable to the NRC staff for implementing specific parts of the Commission's regulations, techniques used by the staff in evaluating specific problems or postulated accidents, and data needed by the staff in its review of applications for permits and licenses.

The draft guide, temporarily identified by its task number, DG-3002 (which should be mentioned in all correspondence concerning this draft guide), is titled "Standard Format and Content of Financial Assurance Mechanisms Required for Decommissioning Under 10 CFR parts 30, 40, 70, and 72." It is intended for Division 3, "Fuels and Materials Facilities." This guide is being developed to provide guidance acceptable to the NRC staff on the information to be provided for establishing financial assurance for decommissioning and to establish a standard format for presenting the information.

This draft guide and the associated value/impact statement are being issued to involve the public in the early stages of the development of a regulatory position in this area. They have not received complete staff review and do not represent an official NRC staff position.

Public comments are being solicited on the guide, including any implementation schedule. Comments should be accompanied by supporting data. Written comments may be submitted to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Copies of comments received may be examined at the NRC Public Document Room, 2120 L Street NW., Washington, DC. Comments will be most helpful if received by March 30, 1990.

Although a time limit is given for comments on this draft, comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC. Requests for single copies of draft guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Information Support Services. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

Authority: 5 U.S.C. 552(a).

Dated at Rockville, Maryland, this 29th day of January 1990.

For the Nuclear Regulatory Commission.

Lawrence C. Shao,

Director, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 90-2810 Filed 2-6-90; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-366]

Georgia Power Co., et al; Notice of Consideration of Issuance of Amendment to Facility Operating License and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-5, issued to Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, and City of Dalton, Georgia (the licensees), for operation of the Edwin I. Hatch Nuclear Plant, Unit 2, located in Appling County, Georgia.

The amendment requested by the licensees' letter of December 21, 1989, would replace the current Technical Specifications (TSs) with a set of TSs based on the BWR Owners Group Improved Standard Technical Specifications currently under review by the staff. The adoption of Owners Group approved TSs is part of an industry-wide initiative to standardize and improve TSs. Edwin I. Hatch Unit 2 is the lead plant for adoption of the BWR Owners Group standardized TSs.

The proposed changes to the TSs can be grouped into four categories: non-technical changes, more stringent requirements, relocation of requirements to other controlled documents, and relaxations of existing requirements.

Non-technical changes generally involve rewording and reformatting of TS requirements and are intended to make the TSs more readily understandable and easier to use for plant operations personnel.

More stringent requirements are either more conservative than corresponding requirements in the current TSs or are additional restrictions which are not in the current TSs. The more stringent requirements are proposed to achieve consistency among the revised specifications, correct potential discrepancies, and remove ambiguities.

Relocation of requirements involves items that are currently in the TSs but do not meet the criteria set forth in the Commission's Interim Policy Statement on Technical Specification Improvements for Nuclear Power Reactors, February 3, 1987 (52 FR 3788). These items may be removed from the TSs and placed in other controlled documents. Once these items have been relocated, the licensee would be able to revise them under the provisions of 10 CFR 50.59 without a license amendment.

The relaxation of existing requirements is based on operating experience. When restrictions are shown to provide little or no safety benefit and place a burden on the licensee, their removal from the TSs may be justified. In most cases, the subject relaxations have been previously granted to individual plants on a plant-specific basis.

For further details regarding the proposed changes to the TSs, see the application for amendment dated December 21, 1989, which is available in the Local Public Document Room and the Commission's Public Document Room.

Prior to issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By March 9, 1990, the licensees 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 request for a hearing and a petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. 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 located at the Appling County Public Library, 301 City Hall Drive, Baxley, Georgia 31513. 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 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 amendment 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 opportuntity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for 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, 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 David B. Matthews, Project Directorate II–3: 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 Bruce W. Churchill, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037, attorney for the licensees.

Nontimely filing of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the facts specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

If a request for a hearing is received, the Commission's staff may issue the amendment after it completes its technical review and prior to completion of any required hearing if it publishes a further notice for public comment of its proposed finding of no significant hazards consideration in accordance with 10 CFR 50.91 and 50.92.

For further details with respect to this action, see the application for amendment dated December 21, 1989, which is available for public inspection at the Commission's Public Document Room, Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the Local Public Document Room, Appling County Public Library, 301 City Hall Drive, Baxley, Georgia 31513.

Dated at Rockville, Maryland, this 31st day of January 1990.

For the Nuclear Regulatory Commission.

David B. Matthews,

Director, Project Directorate II–3, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 90–2807 Filed 2–6–90; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–461]

Illinois Power Co., et al.; Issuance of Amendment to Facility Operating License

The United States Nuclear Regulatory Commission (the Commission) has issued Amendment No. 29 to Facility Operating License No. NPF–62 issued to the Illinois Power Company (IP), and Soyland Power Cooperative, Inc. (the licensees), for operation of the Clinton Power Station, Unit 1, located in DeWitt County, Illinois.

This amendment includes two changes to Technical Specification Table 3.3.7.5–1 concerning accident monitoring instrumentation. The proposed change concerning the insertion of exceptions to Specification 3.0.4 into the ACTION statements associated with Table 3.3.7.5–1 has been accepted. These exceptions would permit entry into OPERATIONAL CONDITIONS 1, 2, and 3 with an accident monitoring instrumentation channel(s) inoperable, as provided in the individual ACTION statements. The second proposed change which corrects a typographical error in Table 3.3.7.5–1 for the "." note concerning suppression pool temperature sensors specified in Specfication 3.6.3.1 rather than Specification 3.5.3.1 is also acceptable.

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.

Notice of Consideration of Issuance of Amendment and Opportunity for Hearing in connection with this action was published in the **Federal Register** on February 16, 1988 (53 FR 4475) and February 18, 1988 (53 FR 4919). No request for hearing or petition for leave to intervene was filed following this notice.

The Commission has prepared an Environmental Assessment and Finding of No Significant Impact 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 October 30, 1987, (2) Amendment No. 29 to License No. NPF–62, and (3) the Environmental Assessment and Finding of No Significant Impact. All of these items are available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC; and at Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Illinois 61727. 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.

Dated at Rockville, Maryland this 30th day of January 1990.

For the Nuclear Regulatory Commission.

John B. Hickman,

Project Directorate III–2, Division of Reactor Projects—III, IV, V and Special Projects.

[FR Doc. 90–2808 Filed 2–6–90; 8:45 am]

BILLING CODE 7590–01–M

Biweekly Notice Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law (P.L.) 97-415, the Nuclear Regulatory Commission (the Commission) is publishing this regular biweekly notice. P.L. 97-415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from January 12, 1990 through January 26, 1990. The last biweekly notice was published on January 24, 1990 (55 FR 2430).

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 March 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 No. STN 50-529, Palo Verde Nuclear Generating Station (PVNGS), Unit 2, Maricopa County, Arizona

Date of amendment request: November 6, 1989

Description of amendment request: The proposed amendment would revise the PVNGS Technical Specifications (TS) with respect to Shutdown Margin (Figure 3.1-1A and Tables 3.1-2, 3.1-3 and 3.1-5), Control Element Assembly (CEA) Insertion Limits (Figures 3.1-3 and 3.1-4), Axial Shape Index (TS 3.2.7a), and Departure from Nucleate Boiling Ratio (DNBR) Margin (Figures 3.2-2 and 3.2-2A) to maintain consistency between the Technical Specifications and the safety analysis performed for the Unit 2, Cycle 3 core design.

More specifically, the proposed changes regarding Shutdown Margin involve the revision of TS Figure 3.1-1A and Tables 3.1-2, 3.1-3 and 3.1-5. Figure 3.1-1A provides shutdown margin requirements versus RCS cold leg temperature for the case where any full-length CEA is withdrawn. Tables 3.1-2, 3.1-3 and 3.1-5 provide required boron monitoring frequencies in the event that one or both startup channel high neutron flux alarms are inoperable. The proposed revisions are required to reflect cycle specific requirements. The revisions result in more restrictive operating limits.

The proposed changes regarding Control Rod Insertion Limits would revise TS Figures 3.1-3 and 3.1-4. These figures provide regulating group CEA insertion limits. Figure 3.1-3 provides CEA insertion limits when the Core Operating Limit Supervisory System (COLSS) is in service and Figure 3.1-4 provides the insertion limits when COLSS is out of service. The following two changes are proposed:

1. The proposed revised Figure 3.1-3 (COLSS in service) would not permit insertion of regulating group 3 CEAs above 20 percent of rated thermal power. This is more restrictive than the current specification which does allow for regulating group 3 insertion above 20 percent of rated thermal power.

2. The proposed revised Figure 3.1-4 (COLSS out of service) would permit slightly increased insertion of regulating group 3 CEAs between 15 percent and 20 percent of rated thermal power.

The proposed change regarding Axial Shape Index (ASI) would revise TS 3.2.7a. This TS ensures that the actual value of the core average ASI, when COLSS is operable, is maintained within the allowable values as assumed in the safety analysis. The changes are necessary to ensure that the TS are consistent with the safety analysis performed for the Cycle 3 core design.

The proposed changes regarding DNBR margin would revise TS Figures 3.2-2 and 3.2-2A. These figures provide DNBR margin limits for various configurations of COLSS and CEA Calculators (CEACs) inoperable. The changes are necessary to ensure that the Technical Specifications are consistent with the safety analyses performed for the Cycle 3 core design.

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:

Shutdown Margin

Standard 1: Involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed Technical Specification changes are required to make the Unit 2 Technical Specifications consistent with the Cycle 3 safety analyses. Figure 3.1-1A provides shutdown requirements versus RCS cold leg temperatures when any full-length CEA is withdrawn. For operation below an RCS cold leg temperature of 350 degrees F, the shutdown margin must be increased from 3.5 to 4.0% delta K/K. This ensures that the consequences of DBEs and AOOs remain bounded by the safety analyses results. Tables 3.1-2, 3.1-3 and 3.1-5 provide boron monitoring frequencies when one or both startup channel high neutron flux alarms are inoperable. In some cases the required monitoring frequencies must be increased. This ensures that the time criteria for detection and correction of a boron dilution event remain the same as the safety analyses of record. The proposed changes do not affect the probability of occurrence of previously evaluated events.

Standard 2: Create the possibility of a new or different kind of accident from any previously evaluated.

The proposed changes to Figure 3.1-1A and Tables 3.1-2, 3.1-3 and 3.1-5 are required to ensure the Technical Specifications remain consistent with the Unit 2, Cycle 3 safety analyses. The changes will not create the possibility of a new or different kind of accident previously analyzed. These changes ensure that the results of DBEs and AOOs are bounded by the safety analyses.

Standard 3: Involve a significant reduction in a margin of safety.

The bases section for the Limiting Condition for Operation (LCO) 3.1.1.2 states that the shutdown margin limits of Figure 3.1-1A are necessary to ensure that the reactor remains subcritical following a DBE or AOO. With the proposed change to Figure 3.1-1A, the Unit 2, Cycle 3 safety analyses ensure that the results of DBEs and AOOs are bounded by the reference cycle analyses. The bases section for LCO 3.1.2.7 states that the boron monitoring frequencies ensure that boron dilution events will be detected with sufficient time for the operator to terminate the event before a complete loss of shutdown margin occurs. The revised monitoring frequencies of Table 3.1-2, 3.1-3 and 3.1-5 ensure that the time criteria for these actions will be consistent with the reference cycle. Therefore, the margin of safety, as defined in the bases sections of the Technical Specifications, will be maintained.

CEA Insertion Limits

Standard 1: Involve a significant increase in the probability or consequences of an accident previously evaluated.

Technical Specification Figures 3.1-3 and 3.1-4 are revised to be consistent with the Unit 2, Cycle 3 safety analyses. The probability or the consequences of an accident previously evaluated in the Updated Final Safety Analysis Report (UFSAR) will not increase because the results of the Cycle 3 safety analyses, using the revised CEA Insertion Limits of Figures 3.1-3 and 3.1-4, assure that there is sufficient margin for the most limiting DBE. The analyses performed include an evaluation of all safety analyses for which the CEA insertion limit curves are used as an initial condition. Therefore, the proposed Technical Specification changes will not increase the probability or consequences of any accidents previously evaluated.

Standard 2: Create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed revisions are required to make the Technical Specifications consistent with the Unit 2, Cycle 3 safety analyses. As proposed, Figures 3.1-3 and 3.1-4 will ensure that the Specified Acceptable Fuel Design Limits (SAFDLs) will not be exceeded during the most limiting Anticipated Operational Occurrences (AOO). Since the Cycle 3 figures were based on meeting the same criteria as the Cycle 2 figures, the possibility of an accident of a different type than previously evaluated is not created.

Standard 3: Involve a significant reduction in a margin of safety.

Technical Specification Figures 3.1-3 and 3.1-4 require revision to ensure consistency between the Technical Specifications and the Unit 2, Cycle 3 safety analyses. The Cycle 3

limits are based on the same design criteria as that used for Cycle 2. Therefore, the margin of safety is not reduced as a result of these proposed changes.

Axial Shape Index

Standard 1: Involve a significant increase in the probability or consequences of an accident previously evaluated. Technical Specification 3.2.7a revision is required to be consistent with the Unit 2, Cycle 3 safety analyses. The change to the ASI limits, with COLSS operable, is more restrictive than that required for Cycle 2 operation. Therefore, the Technical Specification change will not increase the probability or the consequences of an accident previously evaluated in the UFSAR.

Standard 2: Create the possibility of a new or different kind of accident from any accident previously evaluated.

The change to Technical Specification 3.2.7a is required to ensure consistency between the Cycle 3 safety analyses and the Technical Specifications is maintained. Reactor operation within the ASI limits, as proposed, is more restrictive than what was required for Cycle 2 operation. The possibility of an accident different from those previously evaluated in the UFSAR will not be created.

Standard 3: Involve a significant reduction in a margin of safety.

The limits, as provided in this Technical Specification amendment, for the core average ASI, with COLSS operable, ensure that the actual value of the ASI is maintained within the range of values used in the Unit 2, Cycle 3 safety analyses. Therefore, no reduction in a margin of safety, as defined by the Technical Specification bases, will occur as result of this amendment request.

DNBR Margin

Standard 1: Involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes to Technical Specification Figures 3.2-2 and 3.2-2A will not increase the probability or consequences of an accident previously evaluated because the revisions are required to maintain consistency with the Unit 2, Cycle 3 safety analyses.

(a) The Cycle 3 safety analyses have shown that when COLSS is in service and at least one CEAC is operable, Technical Specification 3.2.4a. provides adequate margin to DNB to accommodate the most limiting AOO without violating the SAFDLs.

(b) For the case where neither CEAC is operable and COLSS is in service, the Core Protection Calculators (CPCs) cannot obtain the required position information to ensure that the SAFDLs will not be violated during an AOO. As a result of the reevaluation of the limiting AOO for the Cycle 3 core design, Technical Specification 3.2.4b requires that the core Power Operation Limit (POL), as calculated by COLSS, be reduced as currently indicated on Figure 3.2-1. This reduction in COLSS POL will ensure that the most limiting AOO will not result in a violation of the SAFDLs.

(c) The proposed revision to Figure 3.2-2 accounts for the situation when COLSS is out of service but at least one CEAC is operable. In this case the Cycle 3 safety analyses have shown that by maintaining the CPC calculated DNBR above the value shown in the revised figure, the limiting AOO will not result in a violation of the SAFDLs.

(d) When COLSS and both CEACs are out of service, there must be additional margin in the initial CPC DNBR value to ensure that the limiting AOO will not result in exceeding a SAFDL. The evaluation of the Cycle 3 core design has shown that by maintaining the CPC calculated DNBR above the limits shown in proposed Figure 3.2-2A, the SAFDLs will not be exceeded during the most limiting AOO.

Standard 2: Create the possibility of a new or different kind of accident from any previously evaluated.

The revisions to Technical Specification Figures 3.2-2 and 3.2-2A are required to make the Technical Specifications consistent with the Unit 2, Cycle 3 safety analyses. Therefore, the change will not create the possibility of a new or different kind of accident from any accident previously analyzed.

Standard 3: Involve a significant reduction in a margin of safety.

The revisions in the content of Figures 3.2-2 and 3.2-2A are required to make the Technical Specifications consistent with the Cycle 3 safety analyses. Operation of the reactor within the limits of the revised figures will ensure that the SAFDLs are not exceeded during the most limiting AOO. The Cycle 3 figures are based on the same design criteria as the Cycle 2 figures. Therefore, the margin of safety will not be reduced as a result of the proposed changes.

The staff has reviewed the licensees' no significant hazards analysis and concurs with their conclusions. As such, we propose 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 Acting Project Director: Charles M. Trammell, III, Acting

Arkansas Power & Light Company, Docket Nos. 50-313 and 50-368, Arkansas Nuclear One, Units 1 and 2 (ANO-1&2), Pope County, Arkansas

Date of amendment request: October 19, 1989

Description of amendment request: This proposed amendment would revise the Technical Specifications (TS) for each unit to add limiting conditions for operation and surveillance requirements for the main steam line radiation monitors in accordance with USNRC Generic Letter 83-37.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The licensee provided an analysis that addressed the above three standards in the amendment application, as follows:

(1) The proposed changes do not increase the probability or consequences of any accident previously evaluated since these radiation monitors do not provide any information that is required to safely shutdown the plant. The monitors provide release information for evaluating offsite emergency actions when venting via the steam safety and atmospheric dump paths.

(2) The proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated since failure of this instrumentation would not result in any unanalyzed accident. This instrumentation is utilized for passive monitoring of radiation levels.

(3) The proposed changes do not involve a significant reduction in a margin of safety since the instrumentation does not serve a safety-related function. These changes constitute additional limitations, restrictions, or controls not presently included in the Technical Specifications.

The Commission has provided guidance for amendments that are considered not likely to involve a significant hazards consideration (51 FR 7750). The proposed amendment is most closely encompassed by example (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."

The staff has reviewed the licensee's no significant hazards consideration determination analysis and agrees with its conclusion. Therefore, the staff proposed to determine that the application for amendment involves no significant hazards considerations.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801

Attorney for licensee: Nicholas S. Reynolds, Esq., Bishop, Cook, Purcell, & Reynolds, 1400 L Street, NW., Washington, DC 20005-3502

NRC Project Director: Frederick J. Hebdon

Consumers Power Company, Docket No. 50-255, Palisades Plant, Van Buren County, Michigan

Date of amendment request: October 13, 1989

Description of amendment request: The proposed amendment would modify the Palisades Plant Technical Specification (TS) to incorporate the guidance provided in NRC Generic Letter 89-01 (GL 89-01) for implementation of programmatic controls for Radiological Effluent Technical Specifications (RETS) in the Administrative Controls Section of the Technical Specifications and the relocation of procedural details of RETS to the Offsite Dose Calculation Manual (ODCM) or to the Process Control Program (PCP). The proposed license amendment also would change submittal date for the Semiannual Radioactive Effluent Release Report from 60 to 90 days and would delete the requirement in present TS 6.20 for special reporting related to major modifications to the radwaste system.

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 licensee has evaluated the proposed change against the above standards as required by 10 CFR 50.91(a) and 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 relocating the Radiological Effluents Technical Specifications (RETS) to the Offsite Dose Calculation Manual (ODCM) or the Process Control Program (PCP) is strictly an administrative change that does not reduce or modify any existing safety requirement or procedures; or

(2) Create the possibility of a new or different kind of accident from and accident previously evaluated because no new accident scenario is created and no previously evaluated accident scenario is changed by relocating procedural requirements from one controlled document to another; or

(3) Involve a significant reduction in a margin of safety because no modification of any plant structure, system, component or operating procedure is associated with this administrative change so all safety margins remain unchanged.

Further, the changes proposed by the licensee are consistent with the guidance provided in Generic Letter 89-01. The staff has reviewed the licensee's no significant hazards consideration determination analysis and agrees with it. 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, et al., Docket Nos. 50-413 and 50-414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of amendment request: December 21, 1987, as supplemented July 14, 1989

Description of amendment request: The proposed amendments would revise Technical Specifications (TSs) 3.7.6a., 4.7.6c, 4.7.6d, 4.7.6f., and 4.7.6a. for the Control Room Area Ventilation System. The revision to TS 3.7.6a. would clarify the Action Statement for Modes 5 and 6 (Cold Shutdown and Refueling) by eliminating a statement regarding flow through the HEPA filters and activated carbon adsorbers. Both trains of the control room area ventilation system have no bypass line and must operate in the filtered mode continuously.

The revisions to TSs 4.7.6c.1, 4.7.6f., and 4.7.6g replace the Unit 1 bypass leakage acceptance criteria with the more conservative Unit 2 criteria. The revisions to TSs 4.7.6c.2 and 4.7.6d replace the methyl iodide penetration testing criteria with more conservative criteria to meet the intent of Regulatory Guide 1.52. Another revision to TS 4.7.6d proposes to extend the sampling interval of the carbon adsorbers of the Control Room Area Ventilation System from 720 hours to 1440 hours. Laboratory test have demonstrated that the methyl iodide adsorption efficiency of the carbon beds has not been significantly degraded after six years of circulating outside air.

The proposed amendments were previously noticed in the Federal Register (54 FR 6190) on February 8, 1989, based on the December 21, 1987, submittal. However, because significant TS changes were introduced by the July 14, 1989, submittal, the Commission's staff is providing this notice.

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 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. The change to TS 3.7.6a. would clarify the Action Statement for Modes 5 and 6 by eliminating a phrase which may cause ambiguity. The changes to TS 4.7.6 would implement more conservative acceptance criteria. The change to 4.7.6d to extend the sampling interval has no significant impact on the efficiency of the carbon adsorbers because no noticeable degradation was observed over the course of six years of operation.

The proposed amendments would not create the possibility of a new or different kind of accident from any accident previously evaluated because all the above changes would not change the design of the facility and would not introduce any new modes of operation.

The proposed amendments would not involve a significant reduction in a margin of safety. The change to TS 3.7.6a would make the Action Statement clearer. The changes to TS 4.7.6 would implement more conservative criteria. The change to 4.7.6d to extend the sampling frequency has no significant impact on the margin of safety because the efficiency of the methyl iodide did not change significantly after six years of operation.

Based on the above considerations, the Commission proposes to determine that the proposed amendments involve no significant hazards consideration.

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina 29730

Attorney for licensee: Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242

NRC Project Director: David B. Matthews

Duke Power Company, et al., Docket Nos. 50-413 and 50-414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of amendment request: April 19, 1989, as supplemented September 13, 1989.

Description of amendment request: The proposed amendments would revise Technical Specification (TS) 3/4.4.9, "Pressure/Temperature Limits," and its associated Figures 3.4-2 and 3.4-3, and Bases. The amendments would also revise Table 4.4-5 regarding the withdrawal schedule for the reactor vessel material surveillance program.

The purpose of the revision to TS 3/4.4.9 is to change the effectiveness of pressure/temperature (P/T) limits from 16 to 10 effective full power years (EFPY). The licensee proposes to use one set of P/T limits for both units. These limits were developed using Regulatory Guide (RG) 1.99, Revision 2, "Radiation Embrittlement of Reactor Vessel Materials," which became effective May 1988. The RG was also discussed in Generic Letter 88-11, "NRC Position on Radiation Embrittlement of Reactor Vessel Materials and Its Impact on Plant Operations." The proposed revision provides up-to-date P/T limits for the operation of the Catawba reactor coolant system during heatup, cooldown, criticality and hydro tests.

The revision to the Bases would provide the justification for the changes, add a reference to RG 1.99, Revision 2, and delete references to RG 1.99, Revision 1, and Westinghouse copper trend curves in Figure B 3/4.4-2. As a result, Figure B 3/4.4-2 is deleted along with the reference to it in the Bases Table of Contents. The revision to Table 4.4-5 would incorporate newly derived lead factors for Units 1 and 2 capsules and would revise the proposed Capsule Y withdrawal schedule from 6 to 5 EFPYs.

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 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 revision to TS 3/4.4.9 would provide up-to-date P/T limits which are based on results of capsule analyses performed in accordance with NRC approved methodology. These limits provide protection against pressurized thermal shock of the reactor vessel. The revision to Table 4.4-5 would incorporate newly derived values based on current estimated fluences calculated by Westinghouse.

The proposed amendments would not create the possibility of a new or different kind of accident from any accident previously evaluated because the new values incorporated by the revisions to TS 3/4.4.9 and Table 4.4-5 would continue to ensure the prevention of non-ductile failure due to radiation induced embrittlement, and would not affect the design or operation of the plant.

The proposed amendments would not involve a significant reduction in a margin of safety because the revisions to TS 3/4.4.9 and Table 4.4-5 would provide up-to-date P/T limits and would incorporate newly derived values based on current estimated fluences calculated by Westinghouse. Therefore, the revisions may be a contributor to safety and may increase the safety margin.

The deletion of the reference to Figure B 3/4.4-2 in the Table of Contents is an administrative change because the Figure itself has been deleted as a result of the revision to the TS Bases.

Based on the above considerations, the Commission proposes to determine that the requested amendments involve no significant hazards consideration.

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina 29730

Attorney for licensee: Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242

NRC Project Director: David B. Matthews

Duke Power Company, et al., Docket Nos. 50-413 and 50-414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of amendment request: November 10, 1989

Description of amendment request: The proposed amendments would revise Technical Specification (TS) 3/4.1.3.5 and Figure 3.1-1 to modify the fully withdrawn control rod bank insertion limits from 228 steps to at least 225 steps. Additionally, TS Bases 3/4.1.3 would be revised to support these amendments.

The licensee proposed the above TS revisions to minimize localized rod cluster control assembly (RCCA) wear and to extend RCCA life. Unusually high wear rates have been reported in 17x17 RCCAs at several domestic and foreign Westinghouse plants. The observed wear is the result of flow induced vibratory contact between RCCA rodlets and upper internals guide cards when the RCCAs are parked in the fully withdrawn position. The proposed TS revisions permit axial repositioning within the range of 225 steps fully withdrawn to 230 steps fully withdrawn (the mechanical withdrawal limit for the control rod drives). As a result, already worn rodlet cladding surfaces can be shifted away from the guide cards.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR Part 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 proposed amendments do not involve a significant increase in the probability or consequences of an accident previously evaluated because the licensee's analysis of the proposed TS changes indicates that their impact on key safety parameters is either negligible and bounded by the accident analyses provided in the Final Safety Analysis Report, or compensatory measures will be taken to accommodate the changes. For example, at the 225 steps fully withdrawn position, a maximum decrease of 50 pcm in trip reactivity worth would result. To compensate for this slight decrease, the licensee stated that a 75 pcm penalty will be considered in all trip reactivity calculations.

The proposed amendments do not create the possibility of a new or different kind of accident from any accident previously evaluated because the RCCA's design bases would not be modified and no new modes of operation would be introduced.

The proposed amendments do not involve a significant reduction in a margin of safety because the TS changes

would minimize the RCCA wear and would not change its design bases.

Accordingly, the Commission has concluded that the requested changes meet the three standards and, therefore, has made a proposed determination that the requested license amendments do not involve a significant hazards consideration.

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina 29730

Attorney for licensee: Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242

NRC Project Director: David B. Matthews

Duke Power Company, et al., Docket Nos. 50-413 and 50-414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of amendment request: December 21, 1989

Description of amendment request: The proposed amendments would modify a surveillance requirement in Technical Specification (TS) 4.0.2 to remove the provision that limits the combined time interval for three consecutive surveillances to less than 3.25 times one surveillance interval. The revised TS 4.0.2 would continue to require that "Each Surveillance Requirement shall be performed within the specified time interval with a maximum allowable extension not the exceed 25% of the surveillance interval." Associated Bases 4.0.2 would be updated consistent with this change to read as follows:

Specification 4.0.2 establishes the limit for which the specified time interval for Surveillance Requirements may be extended. It permits an allowable extension of the normal surveillance interval to facilitate surveillance scheduling and consideration of plant operating conditions that may not be suitable for conducting the surveillance; e.g., transient conditions or other ongoing surveillance or maintenance activities. It also provides flexibility to accommodate the length of a fuel cycle for surveillances that are performed at each refueling outage and are specified with an 18-month surveillance interval. It is not intended that this provision be used repeatedly as a convenience to extend surveillance intervals beyond that specified for surveillances that are not performed during refueling outages. The limitation of Specification 4.0.2 is based on engineering judgment and the recognition that the most probable result of any particular surveillance being performed is the verification of conformance with the Surveillance Requirements. This provision is sufficient to ensure that the reliability ensured through surveillance activities is not significantly degraded beyond that obtained from the specified surveillance interval.

Basis for proposed no significant hazards consideration determination: On August 21, 1989, the NRC issued Generic Letter (GL) 89-14, "Line-Item Improvements in Technical Specifications-Removal of the 3.25 Limit on Extending Surveillance Intervals." The GL provided guidance to licensees and applicants for the preparation of a license amendment request to implement a line-item improvement in TSs to remove the 3.25 limit on extending surveillance intervals. The GL provided an alternative to the requirements of TS 4.0.2 to remove an unnecessary restriction on extending surveillance requirements and to provide a benefit to safety when plant conditions are not conducive to the safe conduct of surveillance requirements. By letter of December 21, 1989, Duke Power Company responded to GL 89-14 and requested licensing amendments consistent with its guidance.

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 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 Commission's review of the proposed amendments indicates that:

(1) Operation of the facility in accordance with the proposed amendments would not involve a significant increase in the probability or consequences of an accident previously evaluated.

Experience shows that 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 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.

Accordingly, the Commission proposes to determine that the proposed change not involve a significant hazards considerations.

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina 29730

Attorney for licensee: Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242

NRC Project Director: David B. Matthews

Duke Power Company, et al., Docket Nos. 50-413 and 50-414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of amendment request: January 17, 1990

Description of amendment request: The proposed amendments would revise Technical Specifications (TSs) 1.0, 3/4.1.1.3, 3/4.1.3.1, 3/4.1.3.5, 3/4.1.3.6, 3/4.2.1, 3/4.2.2, 3/4.2.3 and 6.9.1.9 and their associated Bases to remove certain cycle-specific parameter limits from the TSs and relocate them to a Core Operating Limits Report (COLR). These

changes result from NRC Generic Letter (GL) 88-16, dated October 4, 1988, which provided guidance to licensees on requests for removal of the values of cycle-specific parameter limits from the TSs. The licensee's proposed amendments are consistent with the GL.

The COLR has been included in the Definitions section of the TSs. The definition notes that it is the unit-specific document that provides these limits for the current operating reload cycle. The values of these cycle-specific parameter limits are to be determined in accordance with TS 6.9.1.9. This TS requires that the core operating limits be determined for each reload cycle in accordance with the referenced NRC-approved methodology for these limits and consistent with the applicable limits of the safety analysis. The COLR shall be provided to the NRC upon issuance.

In addition, the above TS changes would produce administrative changes to the TS Table of Contents.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR Part 50.92(c)). A proposed amendment to an operating license for a facility involves no signficant 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 do not involve a significant increase in the probability or consequences of an accident previously evaluated because the the cycle-specific core operating limits, although not in the TSs, will be followed in the operation of the plant. The proposed amendments still require the same actions to be taken if the core operating limits are exceeded as is required by current TSs.

Each accident analysis addressed in the plant's Final Safety Analysis Report will be examined with respect to changes in cycle-dependent parameters, which are obtained from application of the NRC-approved reload design methodologies, to ensure that the transient evaluation of new reloads are bounded by previously accepted analyses. This examination, which will be performed in accordance with the requirements of 10 CFR 50.59, ensures that future reloads will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed amendments do not create the possibility of a new or different kind of accident from any accident previously evaluated because removal of cycle-specific parameter limits has no impact on the design of the plant and no new modes of operation are introduced. The cycle-specific variables will be calculated using the NRC-approved methodology and will be submitted to the NRC staff to allow them to continue to trend the values of these limits. The TSs will continue to require operation within the required core operating limits, and appropriate actions will be taken if these limits are exceeded.

The proposed amendments do not involve a significant reduction in a margin of safety because the changes do not alter the methods used to establish the core operating limits as obtained from the NRC-approved reload methodologies, and appropriate actions will be taken if these limits are exceeded.

The changes to the TS Table of Contents are administrative in nature because they result from the changes to the TSs discussed above. These administrative changes meet the Commission's three standards in 10 CFR 50.92(c).

Accordingly, the Commission has concluded that the requested changes meet the three standards and, therefore, has made a proposed determination that the requested license amendments do not involve a significant hazards consideration.

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina 29730

Attorney for licensee: Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charolotte, 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 6, 1989

Description of amendment request: The proposed amendments would change a surveillance requirement of Technical Specification (TS) 4.9.1.3 to allow greater flexibility in isolating reactor makeup water supply to the reactor coolant system (NC) during refueling operations. TS 4.9.1.3 presently ensures this isolation by specifically requiring that valve "NV-250 shall be verified closed ...." The modified TS would read, "Verify the Reactor Makeup Water Supply to the Chemical and Volume Control System is isolated...." The associated Bases 3/4.9.1 would be supplemented to explain isolation flexibility accordingly:

The Reactor Makeup Water Supply to the Chemical and Volume Control (NV) System is normally isolated during refueling to prevent diluting the Reactor Coolant System boron concentration. Isolation is normally accomplished by closing valve NV-250. However, isolation may be accomplished by closing valves NV-131, NV-140, NV-176, NV-468, NV-808, and either NV-132 or NV-1026, when it is necessary to makeup water to the Refueling Water Storage Tank during refueling operations.

Basis for proposed no significant hazards consideration determination: The purpose of TS 4.9.1.3 is to prevent diluting the NC boron concentration during refueling. Closure of valve NV-250 will accomplish this purpose. However, it is necessary to makeup water to the Refueling Water Storage Tank (RWST) several times during the course of refueling, and NV-250 must be opened when this is done. The proposed change adds an optional valve alignment that will also isolate potential flow paths which could deliver unborated water to the NC, allowing operators to makeup water to the RWST. The optional alignment involves closure of six valves identified in the revised Bases. In addition to TS changes, the licensee would also change (1) associated station procedures for shutdown to provide RWST makeup capability and assure that the six alternate valves are closed and appropriately tagged when NV-250 is open, and (2) station daily surveillance procedures to assure surveillance of the chosen method of isolation.

The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has addressed these standards as follows:

The proposed changes will not increase the probability or consequences of an accident previously evaluated. Accidents involving a malfunction of the NV system that would

result in a decrease in boron concentration in the NC system during refueling are presented in McGuire FSAR Section 15.4.6.3.2. Valve NV-250 isolates against the same potential flow path as the new valve alignment will isolate. Although there are more valves to isolate, each valve will be individually isolated using McGuire's Red Tag system; therefore, the same level of administrative controls will be employed on this new valve alignment. The use of more than one valve for isolation could be considered an increase in the probability error, but the controls of the Red Tag program on each individual valve make this increase insignificant. There will be no changes in the operation, or boron concentrations of the NV system or the NC system as a result of the proposed change. The accident assumptions, effects, and consequences will not change as a result of the proposed revision. A dilution event during refueling under the proposed TS controls cannot occur without the conscious action of the operator. However, for the purpose of the FSAR analysis, these operator actions are assumed to occur. Even so, there is adequate time (57 minutes) for the operator to recognize the high count rate signal and manually terminate the dilution. The proposed change does not alter this analysis.

The proposed changes will not create the possibility of a new or different kind of accident from any previously analyzed. The proposed change does not introduce any new equipment or hardware, and no equipment is operated in a new or different manner during power operations. By operating the systems during refueling according to the proposed revision, the NC and NV systems will be operated the same as before except for the provision that allows makeup to RWST. Operation of the makeup water system will not affect boron concentration in the NC system. With the new valve alignment, the same level of protection against a boron intrusion event exists as does with valve NV-250 closed.

The proposed changes will not involve a reduction in a margin of safety. Assuming the failure of either valve alignment allowed by the proposed revision, the time for the operator to recognize that boron dilution has occurred and to manually terminate the dilution event has not changed.

The FSAR analysis, as previously discussed, will not change as a result of using the new valve alignment as provided by the proposed change. The same margin of safety exists as previously did with valve NV-250 closed.

The Commission's staff has reviewed the licensee's submittal and agrees with the licensee's conclusions on the three standards. Accordingly, the Commission has made a proposed determination that the amendment application 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

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: December 21, 1989

Description of amendment request: The proposed amendments would modify a surveillance requirement in Technical Specification (TS) 4.0.2 to remove the provision that limits the combined time interval for three consecutive surveillances to less than 3.25 times one surveillance interval. The revised TS 4.0.2 would continue to require that "Each Surveillance Requirement shall be performed within the specified time interval with a maximum allowable extension not the exceed 25% of the surveillance interval." Associated Bases 4.0.2 would be updated consistent with this change to read as follows:

Specification 4.0.2 establishes the limit for which the specified time interval for Surveillance Requirements may be extended. It permits an allowable extension of the normal surveillance interval to facilitate surveillance scheduling and consideration of plant operating conditions that may not be suitable for conducting the surveillance; e.g., transient conditions or other ongoing surveillance or maintenance activities. It also provides flexibility to accommodate the length of a fuel cycle for surveillances that are performed at each refueling outage and are specified with an 18-month surveillance interval. It is not intended that this provision be used repeatedly as a convenience to extend surveillance intervals beyond that specified for surveillances that are not performed during refueling outages. The limitation of Specification 4.0.2 is based on engineering judgment and the recognition that the most probable result of any particular surveillance being performed is the verification of conformance with the Surveillance Requirements. This provision is sufficient to ensure that the reliability ensured through surveillance activities is not significantly degraded beyond that obtained from the specified surveillance interval.

Basis for proposed no significant hazards consideration determination: On August 21, 1989, the NRC issued Generic Letter (GL) 89-14, "Line-Item Improvements in Technical Specifications-Removal of the 3.25 Limit on Extending Surveillance Intervals." The GL provided guidance to licensees and applicants for the preparation of a license amendment request to implement a line-item improvement in TSs to remove the 3.25 limit on extending surveillance intervals. The GL provided an alternative to the requirements of TS 4.0.2 to remove an unnecessary restriction on extending surveillance requirements and to provide a benefit to safety when plant conditions are not conducive to the safe conduct of surveillance requirements. By letter of December 21, 1989, Duke Power Company responded to GL 89-14 and requested licensing amendments consistent with its guidance.

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 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 Commission's review of the proposed amendments indicates that:

(1) Operation of the facility in accordance with the proposed amendments would not involve a significant increase in the probability or consequences of an accident previously evaluated.

Experience shows that 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 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.

Accordingly, the Commission proposes to determine that the proposed change not involve a significant hazards considerations.

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: January 17, 1990

Description of amendment request: The proposed amendments would revise Technical Specifications (TSs) 1.0, 3/4.1.1.3, 3/4.1.3.1, 3/4.1.3.5, 3/4.1.3.6, 3/4.2.1, 3/4.2.2, 3/4.2.3 and 6.9.1.9 and their associated Bases to remove certain cycle-specific parameter limits from the TSs and relocate them to a Core Operating Limits Report (COLR). These changes result from NRC Generic Letter (GL) 88-16, dated October 4, 1988, which provided guidance to licensees on requests for removal of the values of cycle-specific parameter limits from the TSs. The licensee's proposed amendments are consistent with the GL.

The COLR has been included in the Definitions section of the TSs. The definition notes that it is the unit-specific document that provides these limits for the current operating reload cycle. The values of these cycle-specific parameter limits are to be determined in accordance with TS 6.9.1.9. This TS requires that the core operating limits be determined for each reload cycle in accordance with the referenced NRC-approved methodology for these limits and consistent with the applicable limits of the safety analysis. The COLR will be provided to the NRC upon issuance.

The proposed amendments would also make administrative changes to the TSs. These would include deletion of obsolete footnotes previously added by Amendments 101 (McGuire Unit 1) and 83 (McGuire Unit 2) which applied only during Unit 1 fuel cycle 6. In addition, the above TS changes would produce administrative changes to the TS Table of Contents.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR Part 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase 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 do not involve a significant increase in the probability or consequences of an accident previously evaluated because the the cycle-specific core operating limits, although not in the TSs, will be followed in the operation of the plant. The proposed amendments still require the same actions to be taken if the core operating limits are exceeded as is required by current TSs.

Each accident analysis addressed in the plant's Final Safety Analysis Report will be examined with respect to changes in cycle-dependent parameters, which are obtained from application of the NRC-approved reload design methodologies, to ensure that the transient evaluation of new reloads are bounded by previously accepted analyses. This examination, which will be performed in accordance with the requirements of 10 CFR 50.59, ensures that future reloads will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed amendments do not create the possibility of a new or different kind of accident from any accident previously evaluated because removal of cycle-specific parameter limits has no impact on the design of the plant and no new modes of operation are introduced. The cycle-specific variables will be calculated using the NRC-approved methodology and will be submitted to the NRC staff to allow them to continue to trend the values of these limits. The TSs will continue to require operation within the required core operating limits, and appropriate actions will be taken if these limits are exceeded.

The proposed amendments do not involve a significant reduction in a margin of safety because the changes do not alter the methods used to establish the core operating limits as obtained from the NRC-approved reload methodologies, and appropriate actions will be taken if these limits are exceeded.

By McGuire Amendments 101 (Unit 1) and 83 (Unit 2), the NRC staff added footnotes to several TS pages to reduce from 75% to 50% the number of movable incore detector thimbles in McGuire Unit 1 required to be available during fuel cycle 6. Because Unit 1 fuel cycle 6 is now completed, the footnotes are obsolete and their removal is of an administrative nature. The changes to the TS Table of Contents are also administrative in nature because they result from the changes to the TSs discussed above. These administrative changes meet the Commission's three standards in 10 CFR 50.92(c).

Accordingly, the Commission has concluded that the proposed changes meet the three standards and, therefore, has made a proposed determination that the proposed license amendments do 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

Duquesne Light Company, Docket Nos. 50-334 and 50-412, Beaver Valley Power Station, Unit Nos. 1 and 2, Shippingport, Pennsylvania

Date of amendment request: December 14, 1989

Description of amendment request: The proposed amendments would revise the Technical Specification by replacing the cycle-specific parameter limits with reference to the Core Operating Limits Report (COLR), which contains the values of those limits. This change reflects the guidance provided by the NRC in Generic Letter 88-16.

A definition of the COLR would be added to the Definition section of the Technical Specifications describing this as a unit-specific document providing limits for the current operating reload cycle. The definition also notes that the values of these cycle-specific parameter limits are to be determined in accordance with Specification 6.9.1.14. Specification 6.9.1.14 would be revised to require the core operating limits to be determined and provided in the COLR for each reload cycle in accordance with the referenced NRC approved methodology and that the core operating limits are consistent with the applicable safety analysis limits. In addition, this report and any mid-cycle revisions must be provided to the NRC upon issuance.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists in accordance with 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety.

The proposed revision to the Technical Specifications is in accordance with the guidance provided in NRC Generic Letter 88-16. The establishment of these limits in accordance to an NRC-approved methodology, and the incorporation of these limits into the COLR will ensure that proper steps have been taken to establish the values of these limits. Furthermore, the submittal of the COLR will allow the staff to continue to trend the values of these limits. The proposed amendments would not result in any changes in plant design, or operating procedures. Hence the answers to the first two criteria are negative.

The proposed amendments would not cause changes in the safety analysis methods or acceptance criteria already incorporated in the licensing basis of the units. Hence the answer to the third criteria is also negative.

The staff therefore proposes to determine that the requested amendments involve no significant hazards consideration.

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 1500l.

Attorney for licensee: Gerald Charnoff, Esquire, Jay E. Silberg, Esquire, Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John F. Stolz

Duquesne Light Company, Docket Nos. 50-334 and 50-412, Beaver Valley Power Station, Unit Nos. 1 and 2, Shippingport, Pennsylvania

Date of amendment request: December 21, 1989

Description of amendment request: The proposed amendments would revise the safety injection system accumulators surveillance requirements in the Technical Specifications. This revision would delete surveillance requirement 4.5.1.d which requires verification of the accumulator isolation valves to automatically open upon receipt of a safety injection signal, and when the RCS pressure exceeds the P-11 interlock setpoint. This proposed amendment would also correct a typographical error in the Unit 1 surveillance requirement 4.5.1.c. The licensee believes that there are sufficient provisions for valve position indication, and sufficient measures to ensure proper position of these valves, even with specification 4.5.1.d removed.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists in accordance with 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards consideration if 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, (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 above changes affect requirements that are not initiators of previously analyzed accidents, and not contributors to consequences of previously analyzed accidents; the answer to the first criterion is thus negative. No plant design changes and operating procedures are involved; the answer to the second criterion is negative. Finally, there will be no changes to safety analysis assumptions and acceptance criteria, and hence the answer to the third criterion is also negative.

The staff therefore proposes to determine that the requested amendments involve no significant hazards consideration.

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Attorney for licensee: Gerald Charnoff, Esquire, Jay E. Silberg, Esquire, Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John F. Stolz

Florida Power Corporation, et al., Docket No. 50-302, Crystal River, Unit No. 3 Nuclear Generating Plant, Citrus County, Florida

Date of amendment request: October 31, 1989 (TSCR 177)

Description of amendment request: The licensee proposes to delete the 3.25 limit from Specification 4.0.2, as described below. This is proposed in accordance with the guidance provided in NRC's Generic Letter 89-14 "Line-Item Improvements in Technical Specifications - Removal of the 3.25 Limit on Extending Surveillance Intervals."

Specification 4.0.2 of the Technical Specifications permits surveillance intervals to be extended up to 25 percent of the specified interval. This extension facilitates the scheduling of surveillance activities and allows surveillances to be postponed when plant conditions are not suitable for conducting a surveillance, for example, under transient conditions or other ongoing surveillance or maintenance activities. Part b. of this specification also limits extending surveillances so that the combined time interval for any three consecutive surveillance intervals shall not exceed 3.25 times the specified surveillance interval. The intent of the 3.25 limit is to preclude routine use of the provision for extending a surveillance interval by 25 percent.

Experience has shown that the 18-month surveillance interval, with the provision to extend it by 25 percent, is usually sufficient to accommodate normal variations in the length of a fuel cycle. However, the NRC staff has routinely granted requests for one-time exceptions to the 3.25 limit on extending refueling surveillances because the risk to safety is low in contrast to the alternative of a forced shutdown to perform these surveillances. Therefore, the 3.25 limitation on extending surveillances has not been a practical limit on the use of the 25-percent allowance for extending surveillances that are performed on a refueling outage basis.

The use of the allowance to extend surveillance intervals by 25 percent can also result in a significant safety benefit

for surveillances that are performed on a routine basis during plant operation. This safety benefit is incurred when a surveillance interval is extended at a time that conditions are not suitable for performing the surveillance. Examples of this include transient plant operating conditions or conditions in which safety systems are out of service because of ongoing surveillance or maintenance activities. In such cases, the safety benefit of allowing the use of the 25-percent allowance to extend a surveillance interval would outweigh any benefit derived by limiting three consecutive surveillance intervals to the 3.25 limit. Also, there is the administrative burden associated with tracking the use of the 25-percent allowance to ensure compliance with the 3.25 limit. On the basis of these considerations, the staff concluded in Generic Letter 89-14 that removal of the 3.25 limit will have an overall positive impact on safety.

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 evaluation concerning the proposed change.

Based on the above, FPC finds that the change will not:

1. Involve a significant increase in the probability or consequence of an accident previously evaluated because the deletion of the 3.25 limitation recognizes that the most probable result of any particular surveillance being performed is the verification of conformance with the Surveillance Requirements. Therefore, accident analysis assmptions reflected in these Surveillance Requirements will still be verified on a frequency sufficient to ensure that the assumptions are reliably maintained.

2. Create the possibility of a new or different kind of accident previously evaluated because the proposed change introduces no new mode of plant operation nor does it require physical modification to the plant. Additionally, the surveillance interval will still be constrained by the 25 percent extension criteria of Specification 4.0.2

3. Involve a significant reduction in the margin of safety. Any reduction in the margin of safety will be insignificant and offset by the safety benefit gained by allowing the surveillance to be extended at times when conditions are not suitable for performing the surveillance and by not forcing the plant through a shutdown transient to perform refueling interval surveillances.

The staff has conducted a preliminary evaluation of the licensee's proposed amendment and agrees that it meets the above three criteria. Furthermore, the staff believes that the proposed amendment is consistent with the guidance provided by Generic Letter 89-14. Therefore, the staff proposes to determine that the proposed amendment does not involve a significant hazards consideration.

Local Public Document Room location: Crystal River Public Library, 668 N.W. First Avenue, Crystal River, Florida 32629

Attorney for licensee: A. H. Stephens, General Counsel, Florida Power Corporation, MAC - A5D, P. O. Box 14042, St. Petersburg, Florida 33733

NRC Project Director: Herbert N. Berkow

Florida Power Corporation, et al., Docket No. 50-302, Crystal River, Unit No. 3 Nuclear Generating Plant, Citrus County, Florida

Date of amendment request: December 21, 1989

Description of amendment request: Currently, any person or group of people entering a high radiation area must be provided with a device that will continuously indicate the radiation dose rate in the area. This amendment would allow the use of an integrating alarming dosimeter as an alternative to such a radiation monitoring device. Such devices can be set to alarm once a preset dose or dose rate is exceeded. This amendment would also clarify the duties of Health Physics personnel assigned to escort duties in high radiation areas.

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.

In regard to the first criterion, the licensee has stated that the proposed amendment will not increase the probability of occurrence or consequences of any accident previously evaluated since the change would enhance the controls available to protect people entering high radiation areas.

In regard to the second criterion, the licensee has stated that the proposed amendment will not create the possibility of a new or different kind of accident from any accident previously analyzed because it merely expands the alarm and control capabilities provided to people entering high radiation areas.

In regard to the third criterion, the licensee has stated that the proposed amendment will not result in a reduced margin of safety since the existing requirements are enhanced both by the addition of the use of integrating alarming dosimeters and by the clarification of the duties of health physics personnel. The licensee further states that the proposed changes will assure adequate controls are maintained over entry into high radiation areas.

The staff has performed a preliminary review of the licensee's proposed change and agrees that the criteria of 10 CFR 50.92 are met. Therefore, the staff proposes to determine that the proposed amendment involves no significant hazards consideration.

Local Public Document Room location: Crystal River Public Library, 668 N.W. First Avenue, Crystal River, Florida 32629

Attorney for licensee: A. H. Stephens, General Counsel, Florida Power Corporation, MAC - A5D, P. O. Box 14042, St. Petersburg, Florida 33733

NRC Project Director: Herbert N. Berkow

GPU Nuclear Corporation, Docket No. 50-320, Three Mile Island Nuclear Station, Unit No. 2, (TMI-2), Dauphin County, Pennsylvania

Date of amendment request: November 23, 1988

Description of amendment request: The proposed amendment would revise TMI-2 Operating License No. DPR-73 by modifying the Appendix A Technical Specifications section 6.3 Unit Staff Qualifications by changing the title of the Manager, Radiological Controls TMI-2.

At the conclusion of defueling, and when the possibility of an inadvertent criticality is precluded, the licensee will enter Mode 2. At that time the licensee plans to consolidate the TMI-1 and TMI-2 Radiological Controls Department into a site organization. Once the consolidation is effective the position of Manager, Radiological Controls TMI-2,

would be abolished and the TMI-2 Radiological Controls Organization would report to a site manager who in turn would report directly to the GPU Nuclear Radiological Controls Organization. Section 6.3.2, specifies the required qualification for Radiological Controls personnel at TMI-2. The specification refers to a Manager, Radiological Controls TMI-2, and specifies the qualifications necessary for this position. The licensee proposes to change the title of the Manager, Radiological Controls, TMI-2 to simply the Management position responsible for radiological controls. There would be no change in required qualifications for the position.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists in 10 CFR 50.92(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.

TMI-2 is currently in post-accident, cold shutdown, long-term cleanup mode. The licensee is presently engaged in the final stages of defueling the damaged reactor, decontaminating the facility and readying the plant for long-term storage. Greater than 95% of the fuel contained in the reactor vessel has been removed. The licensee plans to remove greater than 99% of the fuel from the facility by the end of 1989.

The proposed change does not significantly increase the probability or consequences of an accident previously evaluated because no changes are proposed to current safety systems or setpoints. The proposed change allows for the consolidation of the Unit 1 and Unit 2 Radiological Controls Department into a site organization. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated because no new modes of operation or new equipment are being introduced. Accidents previously considered are not affected by the proposed consolidation. The proposed change does not involve a significant reduction in a margin of safety, since at the time that the proposed change would be effective the facility would be defueled and the current cleanup effort almost over.

Based on the above considerations, the staff proposes to determine that the proposed change does not involve a significant hazards consideration.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

Attorney for licensee: Ernest L. Blake, Jr., Esquire, Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John F. Stolz

General Electric Company, Docket No. 50-183, ESADA Vallecitos Experimental Superheat Reactor (EVESR)

Date of amendment request: November 29, 1989

Description of amendment request: The proposed amendment would modify a license condition to delete the requirement that the annual report to the Nuclear Regulatory Commission be submitted 60 days after each annual inspection is complete and add the requirement that the average interval between annual reports be one year and may extend on occasion up to 15 months for a valid reason.

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 EVESR License was amended on April 15, 1970 to authorize possession but not operation of the reactor located at the Vallecitos Nuclear Center, Alameda County, California. The EVESR has been shutdown since February 1, 1967. All fuel and other special nuclear material has been removed from the facility.

There is no apparent requirement or a need to submit an annual report within 60 days after an annual inspection. Other licenses do not have this requirement. A report which is submitted on average every 12 months is sufficient to meet the annual reporting requirements.

The staff therefore finds that the proposed amendment:

(1) Does not involve a significant increase in the probability or consequences of previously evaluated accidents because the facility cannot operate as a reactor under existing license conditions and an annual report will still have to be submitted.

(2) Does not create a possibility of a new or different kind of accident from any accident previously evaluated because the facility cannot operate as a reactor under existing license conditions and an annual report will still have to be submitted.

(3) Does not involve a significant reduction in a margin of safety because the facility cannot operate as a reactor under existing license conditions and an annual report will still have to be submitted.

Based on the above considerations, the Commission proposes to determine that the proposed changes involve no significant hazards consideration.

Local Public Document Room location: N/A

Attorney for licensee: Harry C. Burgess, Esq., General Electric Company, Nuclear Energy Business Operations, 175 Curtner Avenue, Mail Code 822, San Jose, California 95125.

NRC Project Director: Seymour H. Weiss

Houston Lighting & Power Company, City Public Service Board of San Antonio, Central Power and Light Company, City of Austin, Texas, Docket No. 50-499, South Texas Project, Unit 2, Matagorda County, Texas

Date of amendment request: January 25, 1989

Description of amendment request: The Control Room Heating, Ventilation, and Air Conditioning (HVAC) System has two emergency modes of operation: (1) toxic gas release, (2) radiological release. The Chemical Detection System has an action statement in the Technical Specifications (TS) which requires the Control Room HVAC System be in the recirculation mode if one or both of the detectors are inoperable. The Control Room HVAC System has action statements for Modes 5 and 6 (cold shutdown and refueling) which require the system be placed in the filtered recirculation and make-up modes if any of the three trains are inoperable. Additionally, the Engineered Safety Feature Actuation System (ESFAS) action statements for Modes 5 and 6 would eventually require the Control Room HVAC System be placed in the filtered recirculation and make-up modes.

The action statement that applies to the Control Room HVAC System for Modes 5 and 6 requires that if one train is inoperable, the remaining train be placed in the filtered recirculation and make-up modes. Thus, if the Control Room HVAC System is in the recirculation and make-up status, failure of one of the toxic gas detectors would require an action which conflicts with one that is already in effect.

The proposed change would add a note to TS 3.3.3.7 (Control Room Ventilation System) that if there is a conflict between the operable mode required by several action statements, then the system is to be placed in filtered recirculation only. This would be considered the safe default condition.

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 reviewed the proposed change and has submitted the following no significant hazards evaluation:

(1) The proposed changes maintain the plant in the safest possible condition given the postulated situation. The proposed change will not increase the probability or consequences of an accident previously evaluated.

(2) The proposed change only affects actions to be taken as a result of plant conditions in order to maintain control room habitability. It will not create the possibility of a new or different kind of accident.

(3) The proposed change maintains the margin of safety for a toxic gas release by placing the Control Room HVAC System in the filtered recirculation mode.

During a radiological release, the positive pressure of the control room would not be maintained if the ESFAS instrumentation listed in Table 3.3-3, Item 10, is inoperable. The HVAC system would be in the recirculation and make-up mode. However, radiological releases in Modes 5 or 6 would be of short time duration. The short period of time of in-leakage would not result in a significant dose to the operators. Further, the make-up mode could be actuated if needed. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The staff has reviewed the licensee's no significant hazards consideration determination. Based on the review and the above discussions, the staff proposes to determine that the proposed changes do not involve a significant hazards consideration.

Local Public Document Rooms Location: Wharton County Junior College, J. M. Hodges Learning Center, 911 Boling Highway, Wharton Texas 77488 and Austin Public Library, 810 Guadalupe Street, Austin, Texas 78701

Attorney for licensee: Jack R. Newman, Esq., Newman & Holtzinger, P.C., 1615 L Street, NW., Washington, DC 20036

NRC Project Director: Frederick J. Hebdon

Illinois Power Company, Soyland Power Cooperative, Inc., Docket No. 50-461, Clinton Power Station, Unit No. 1, DeWitt County, Illinois

Date of amendment request: December 21, 1988

Description of amendment request: This proposed amendment would revise the minimum operable channels per trip system requirements for various channels identified in Section 5 (RHR System Isolation) of Table 3.3.2-1 (CRVICS Instrumentation). This change is intended to resolve the discrepancy resulting from the fact that the applicable instruments are divisionalized according to the separation scheme for Emergency Core Cooling System (ECCS) and yet provide an isolation function addressed by Specification 3.3.2 which is structured to a dual trip system format.

Basis for proposed no significant hazards consideration determination: The staff has evaluated this proposed amendment and determined that it involves no significant hazards consideration. According to 10 CFR 50.92(c), a proposed amendment to an operating license involves no significant hazards consideration if operation of the facility in accordance with the amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated because it matches the Operability requirements and Actions of Specification 3.3.2 to the logic configuration for the affected instrumentation. This would help to ensure that an automatic isolation via the applicable valves will be effected if conditions exist such that an automatic isolation should occur.

The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated because it does not involve any changes to plant design. The scope of the change is limited to specific Technical Specifications and the conformance to those Technical Specifications for the particular instrumentation.

The proposed change does not involve a significant reduction in a margin of safety because it is primarily a clarification to resolve an apparent discrepancy between the current Technical Specifications and the as-built configuration. The proposed change involves no changes to the instrument channel trip setpoints.

For the reasons stated above, the staff believes this proposed amendment involves no significant hazards consideration.

Local Public Document Room location: Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Illinois 61727

Attorney for licensee: Sheldon Zabel, Esq., Schiff, Hardin and Waite, 7200 Sears Tower, 233 Wacker Drive, Chicago, Illinois 60606

NRC Project Director: John W. Craig

Louisiana Power and Light Company, Docket No. 50-382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: December 19, 1989

Description of amendment request: The proposed amendment would change the Technical Specifications to delete the requirement that combined surveillance times are not to exceed 3.25 times the specified surveillance interval. This change is made in accordance with Generic Letter 89-14 which permits such changes.

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 Technical Specifications currently include provision for limiting surveillance intervals to no more than 3.25 times this interval. The proposed amendment, in accordance with Generic Letter 89-14 dated August 21, 1989, would remove the 3.25 times extension limit but would retain the limit on individual surveillance time to not more than a 25% increase.

The surveillance interval will continue to be limited by the 25% time extension. The 3.25 surveillance interval extension was not considered in the plant accident analysis, therefore, the proposed change does not involve a significant increase in the probabilities or consequences of an accident previously evaluated. The proposed change does not add or modify any system design nor does it involve a change in operation of any plant system. The surveillance intervals will continue to be limited to no more than a 25% increase, therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

Surveillance intervals will continue to be constrained by the Technical Specification which provides allowable tolerances for performing surveillance requirements beyond those specified in the normal surveillance interval. Therefore the proposed change does not involve a significant reduction in a margin of safety.

Based on the above, the staff proposes to determine that the proposed amendment involves no significant hazards consideration.

Local Public Document Room Location: University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, Louisiana 70122

Attorney for licensee: Bruce W. Churchill, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N St., NW., Washington, DC 20037

NRC Project Director: Frederick J. Hebdon

Nebraska Public Power District, Docket No. 50-298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: December 8, 1989

Description of amendment request: The proposed amendment involves the following changes:

1. Changing the frequency of the Steam Jet Air Ejector (SJAE) Off-Gas Isolation Test from once per year to an interval of once every 18 months.

2. Changing the frequency of the Standby Gas Teatment System (SGT) in-place cold DOP and halogenated hydrocarbon leak tests from once per year to an interval of once every 18 months.

3. Reducing the face velocity inlet condition for the Laboratory Carbon Sample Analysis Test to greater than or equal to 27 FPM.

4. Changing the frequency of the Main Control Room Ventilation in-place cold DOP and halogenated hydrocarbon leak tests from once per year to an interval of once every 18 months.

5. Other minor changes for clarification and simplification purposes.

Basis for proposed no significant hazards consideration determination: In accordance with the requirements of 10 CFR 50.92, the licensee has submitted the following no significant hazards determination:

1. Does the proposed license amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Evaluation:

a. The proposed license amendment will change the logic system functional test of the SJAE Off Gas Isolation Test interval to once every 18 months. This proposed surveillance frequency is consistent with the guidance provided in the BWR Standard Technical Specifications. The SJAE Isolation is designed to initiate appropriate action in time to prevent exceeding short-term limits on the release of radioactive materials to the environs as a result of releasing the radioactivity contained in the air ejector offgas. The requirements for Radiation Monitoring operability remain unchanged and current accident analyses and their radiological consequences are as previously evaluated. The proposed license amendment does not involve a significant increase in the probability or consequence of an accident previously evaluated.

b. The proposed amendment will extend the surveillance frequency of the Standby Gas Treatment System Charcoal Leak and Fan Capacity Test by increasing the test interval to once every 18 months. This test establishes 99% removal of DOP and halogenated hydrocarbon from HEPA filters and charcoal bank respectively at design flow and pressure. Reliability of this test will not be reduced because the design input conditions do not change and the 99% efficiency of the test remains intact. By extending this test frequency the District will avoid the possibility of unnecessary transients to plant equipment during operation. Therefore, the proposed amendment would not increase the probability or consequences of an accident previously evaluated, but would decrease the possibility of the plant entering the instability region of the power to flow curve by not performing this test while the plant is in operation.

c. The proposed change of reducing the face velocity to [greater than or equal to] 27 FPM in no way increases accident occurrence or probabilities, the reduced FPM figure is derived directly from maximum allowed system flow and charcoal face area, by calculation. The filter testing is done off-site in a laboratory environment and verifies proper adsorbent operability. NPPD has increased the charcoal face area thereby decreasing the specific iodine loading that the SGT system charcoal adsorbers would experience following a DBA LOCA. As a result the possibility of fission product decay heating from induced radioiodine desorption is reduced. It is the District's assessment that this change does not affect the probability or consequences of any accident previously evaluated.

d. The proposed license amendment will extend the frequency of the Main Control Room Ventilation Test to once every 18 months. This test is designed to insure safe operation for personnel in the Main Control Room in the event of possible radioactive contamination intake from the outdoor air. No changes to the design flow rate or removal efficiency of the system are being pursued, only an increase in the time interval between testing is requested, which would be consistent with standard Technical Specification 4.7.2.c. Therefore, the District believes that the proposed license amendment would not increase the probability or consequences of an accident previously evaluated.

2. Does the proposed license amendment create the possibility of a new or different kind of accident from any accident previously evaluated.

Evaluation:

a. The proposed amendment will change the functional test interval of the SJAE Off Gas Isolation logic to once every 18 months and does not allow a new or different mode of reactor operation or containment requirements. The Air Ejector Offgas System performs no safety function in accident analysis as it is isolated by the Main Steam Isolation Valves (MSIV) and their attendant isolation signals. This proposed change does not alter any MSIV isolation setpoints therefore, no new or different accident is created by this revision. Also, the Elevated Release Point (ERP) Monitoring System acts as a backup to the Air Ejector Offgas System. The ERP Monitoring System can fulfill all requirements for monitoring and controlling the ERP release rate. The proposed surveillance interval is consistent with NRC guidance contained in NUREG 0123, Revision 3, and will not create the possibility for a new or different kind of accident previously evaluated.

b. The proposed amendment would revise the surveillance frequency for Standby Gas Treatment (SGT) System DOP and Halogenated Hydrocarbon Leak and Laboratory Carbon Sample Analysis tests to once every 18 months, which would provide more stable operation of the plant by not subjecting the plant to a possible unnecessary transient during normal operation. The test removes halogenated hydrocarbon and DOP from the charcoal banks and HEPA filters prior to discharging to the Elevated Release Point (ERP). The

design volumetric flow and pressure setpoints are not changed. The SGT System must be established anytime secondary containment is required, and the design volumetric flow is the limiting condition of this test because the filters and charcoal banks are constants. This proposed amendment will not change the operation or function of the SGT system as described in the USAR. Therefore, the proposed amendment will not allow any new mode of plant operation or create the possibility of a new or different kind of accident from any accident previously evaluated.

c. The proposed amendment does not introduce any new or different mode of reactor operation or any new containment requirements. The proposed change of reducing the inlet condition of the laboratory test to [greater than or equal to] 27 FPM is a cascade effect due to the addition of two new charcoal absorbers in each SGT system train and will only affect the test conditions that are performed at the laboratory. Therefore, the proposed license amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

d. The proposed amendment would extend the surveillance frequency of the Main Control Room Ventilation Test to once every 18 months but will not change operation or function of the system. This test removes halogenated hydrocarbon and DOP from the charcoal banks and HEPA filters associated with Control Room habitability to insure safe operation of personnel in the Control Room in the event of an accident. The proposed amendment will not introduce any new mode of plant operation with the extended surveillance frequency or create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed amendment involve a significant reduction in the margin of safety?

Evaluation:

a. The proposed amendment will extend the frequency of the logic system functional test for the SJAE Off Gas Isolation Test to once every 18 months. By extending the surveillance frequency of the SJAE to coincide with scheduled shutdowns the release of unnecessary radioactivity to the environs could be eliminated. Also by extending this surveillance frequency to once every 18 months CNS would be consistent with the guidelines set forth in NUREG 0123, Revision 3, BWR Standard Technical Specifications. Containment isolation is unaffected as the SJAE isolation occurs down stream of the MSIV's. The proposed amendment does not change any operating limits or trip setpoints in the Technical Specifications. Therefore, there is no reduction in the margin of safety.

b. The proposed amendment will revise the surveillance frequency on the SGT system DOP and Halogenated Hydrocarbon Leak and Laboratory Carbon Sample Analyses Test but will not affect the ability of the Standby Gas Treatment System to perform its intended function during normal or accident conditions. This revision will make the CNS Technical Specifications consistent with BWR Standard Technical Specifications and Reg. Guide 1.52 and ANSI N510.1980. Therefore, the proposed amendment does not involve a significant reduction in the margin of safety.

c. The proposed change does modify testing to verify Charcoal adsorber filter effectiveness by reducing the face velocity of the Laboratory Carbon Sample Analysis Test to [greater than or equal to] 27 FPM. However, this reduction in the face velocity parameter is appropriate due to an increase in the overall charcoal adsorber face area. As a result, the charcoal adsorber residence time will be .36 seconds, which easily exceeds the design minimum of .25 seconds. Therefore, the filter effectiveness of the SGT system is maintained and current safety analysis remain in effect. The proposed amendment does not involve a significant reduction in the margin of safety.

d. The proposed amendment will revise the surveillance frequency of the Main Control Room Ventilation Test. The test insures Control Room habitability in the event of an accident and all design conditions of flow, pressure and removal efficiency remain the same. The amendment only changes testing interval. By extending the testing interval to once every 18 months CNS Technical Specifications would be consistent with BWR Standard Technical Specification 4.7.2.c (NUREG 0123, Revision 3) and with guidance provided in Reg. Guide 1.52, Revision 2, and ANSI-N510, 1980. The filter effectiveness of the Main Control Room Ventilation System is maintained and the current safety analysis remains in effect. The proposed amendment does not involve a significant reduction in the margin safety.

Additional Basis for the Proposed No Significant Hazards Consideration Determination.

The Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists by providing certain examples (51FR7744). The examples include: "(vi) A change which...may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria..." The increase to a 18 month surveillance frequency, is within the scope of the example since this time interval is consistent with the BWR Standard Technical Specifications, Regulatory Guide 1.52, Revision 2, March, 78, and ANSI N510-1980.

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: Aurburn Public Library, 118 15th Street, Auburn, Nebraska 68305.

Attorney for licensee: Mr. G. D. Watson, Nebraska Public Power District, Post Office Box 499, Columbus, Nebraska 68601.

NRC Project Director: Frederick J. Hebdon

Philadelphia Electric Company, Docket No. 50-352, Limerick Generating Station, Unit 1, Montgomery County, Pennsylvania

Date of amendment request: December 29, 1989

Description of amendment request: The proposed amendment would change the Technical Specifications (TSs) to specify the revised time period for which the reactor pressure vessel pressure-temperature operating limit curves are valid. The TS change is a partial response to NRC Generic Letter 88-11, "NRC Position on Radiation Embrittlement for Reactor Vessel Materials and Its Impact on Plant Operations" dated November 23, 1988 and Revision 2 to Regulatory Guide 1.99, "Radiation Embrittlement of Reactor Vessel Material" issued May 1988.

Specifically, the amendment would change the note on the Pressure-Temperature Operating Limit (PTOL) curve, Figure 3.4.6.1-1, to reflect new, more conservative adjusted reference temperatures calculated in accordance with RG 1.99, Rev. 2. The present note states that "curves A, B and C are predicted to apply as the limits for 40 years (32 equivalent full power years, EFPY) of operation." The revised note for the same curves, (which are not being changed), states that "curves A, B and C are predicted to apply as the limits for up to 12 EFPY of operation." Three curves in the same figure are also being deleted. These three curves are explicitly identified in the present TSs as not being limiting curves and have been "shown for information only."

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety.

The licensee has provided an analysis of no significant hazards consideration with the request for the license amendment. The licensee's analysis of the proposed amendment against the three standards in 10 CFR 50.92 is reproduced below:

A. The proposed changes do not involve a significant increase in the probability or

consequences of an accident previously evaluated.

The proposed changes to the TS affect only the period of applicability of the PTOL curves and do not involve any changes to the operating limits as dictated by the curves. They do not involve any changes to safety equipment or operation of the plant. After implementing this change, Unit 1 will operate exactly as before, without any increase in the probability or consequence of an accident previously evaluated.

B. The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes to the TS affect only the period of applicability of the PTOL curves and do not involve any changes to plant operation, plant operating limits, or safety related equipment. The PTOL curves will not be affected by this change and the Unit 1 will be operated exactly as before this proposed change. Therefore, we conclude that the proposed changes by the TS do not create the possibility of a new or different kind of accident from any accident previously evaluated.

C. The proposed changes do not involve a significant reduction in a margin of safety.

The proposed changes to the TS affect only the period of applicability of the PTOL curve and do not involve any changes to plant operation, plant operating limits, or safety related equipment. There is no change being made to the operating characteristics of the existing PTOL curves, therefore, we conclude that the proposed changes do not involve a reduction in a margin of safety.

The staff has reviewed the licensee's analysis and agrees with it. Therefore, we conclude that the amendment satisfies the three criteria listed in 10 CFR 50.92(c). Based on that conclusion, the staff proposes to determine that the proposed license amendment involves no significant hazards consideration.

Local Public Document Room location: Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

Attorney for licensee: Conner and Wetterhahn, 1747 Pennsylvania Avenue, NW., Washington, DC 20006

NRC Project Director: Walter R. Butler

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: January 8, 1990

Description of amendment request: The licensee proposes to revise San Onofre Units 2 and 3 Technical Specification 3/4.3.1, "Reactor Protective Instrumentation," to increase the interval for refueling interval surveillance tests which are currently performed every 18 months, to each refueling, nominally 24 months and maximum 30 months. As the result of modifying the surveillance interval, changes are proposed to the Reactor Protective instrumentation setpoints in Technical Specification 2.2.1, Table 2.2-1; the High Logarithmic Power Level response time in Technical Specification 3/4.3.1, Table 3.3-2; and the Linear Power Level calibration tolerance in Technical Specification 3/4.3.1, Table 4.3-1.

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 the proposed change involve a significant increase in the probability or consequences of any accident previously evaluated?

Response: No

The proposed change would revise the Technical Specification to increase the interval for surveillances currently performed every 18 months, to each refueling, nominally 24 months and maximum 30 months.

SCE has performed a comprehensive evaluation of the effect of extending the calibration interval for all Reactor Protective System (RPS) instrumentation. The evaluation was performed for all RPS functional units which required 18 month surveillances. The review consisted of an evaluation of instrument function, comparative analysis of all PM surveillances, a review of preventive maintenance surveillances and corrective maintenance history, a statistical evaluation of instruments impacted by drift, review of the safety analysis, and review of trip setpoint calculations.

The confirmatory surveillance and CM history review served to identify problems experienced by the RPS instrumentation. This instrumentation included pressure sensors, differential pressure sensors, temperature elements, speed sensors, logic channels, and nuclear power range equipment. This PM history review verified that instrument problems, associated with operability were detectable by operations personnel during the shiftly Channel Checks or during routine monitoring of plant parameters. This review concluded that no repetitive failures have occurred. No instances were found involving redundant channels during the same time period. Therefore, the safety and operability impacts have been minimal. No correlation was found to exist between the number of failures and the interval of calibration.

Instruments for which drift was a factor were further evaluated. This evaluation consisted of an analysis of plant specific transmitter calibration data for San Onofre Nuclear Generating Station, Units 2 and 3.

The long term drift characteristics of pressure, differential pressure and temperature transmitters were determined. This Instrument Drift Study provides an analysis of the calibration history of instruments impacted by drift which were used in the Reactor Protective System (RPS). The experienced long term drift was statistically adjusted to reflect the maximum drift expected over a fuel cycle, taken as 30 months. The 30 month interval was used in order to account for the 25% extension, to the existing surveillance interval, which is allowed by Technical Specification 4.0.2. The 30 month interval is based on a nominal 24 month fuel cycle. For instrumentation related to RPS, the statistically adjusted drift was determined on a 95/95 basis, i.e., 95% probability and 95% confidence level.

Drift allowances were determined based on this study. The drift allowances were determined by inspecting the 30 month drift values and selecting a value, for each transmitter model, which would bound the 95/95 values.

The impact of the larger drift allowances of RSP instrumentation on setpoint calculations and instrument response times was evaluated and new setpoints calculated, where required. The CPC Uncertainty Analysis was reviewed and it was determined that existing uncertainty allowances remain conservative considering the revised drift allowances. This review verified that the new values of drift were bounded by the existing uncertainty analysis.

Adjustments were made to Safety Analysis setpoints as deemed necessary to address operating concerns. Affected Safety Analyses were reevaluated or reanalyzed. The SONGS Unit 2 and 3 trip setpoints were revised based on changes to the Safety Analysis Setpoints and changes to the trip setpoint calculations. The Safety Analysis Setpoints were revised for High Pressurizer Pressure and High Containment Pressure trip functions. These evaluations demonstrate acceptable results when compared to the existing safety analysis limits. The trip setpoint calculations for Low Pressurizer Pressure, High and Low Steam Generator Level and Low Reactor Coolant Flow were revised to improve the operating margin while accounting for the increased transmitter drift and an increase in the allowed tolerance for trip bistable functional testing. The trip setpoint for High Linear Power was revised to incorporate an increase in the allowed tolerance for trip bistable functional testing and a decrease in the daily secondary calorimetric calibration tolerance to maintain the operating margin. The trip setpoint calculation for Low Steam Generator Pressure and High Steam Generator Level were revised to account for increased drift and the change in allowed tolerance for trip bistable functional test. The High Logarithmic Trip Setpoint calculation was revised to account for the increase in allowed tolerance for the trip bistable functional test. These changes to the trip setpoint calculations preserve the margin of safety while maintaining adequate operating margins. Operating margin to CPC generated trips has not been changed.

During this reanalysis, an inconsistency was noted between the safety analysis and the Technical Specification response time requirements for Logarithmic Power Level - High. Technical Specification Table 3.3-2 is being revised to resolve this inconsistency.

In order to improve the operating margin for Linear Power Level, the calorimetric calibration tolerance was reduced from 2% to 1%.

The study findings support the extension of the calibration interval. Based on the impact of these factors and the adjustments to setpoints, it is concluded that the proposed change does not involve a significant increase in the probability or consequences of any previously evaluated 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 modify the configuration of the facility or its mode of operation. The proposed change extends the calibration interval for the RPS instrumentation from 18 to 24 months, nominally, and from 22 1/2 to 30 months maximum. Revised setpoints are within the existing safety analysis assumptions. Therefore, the proposed change will not create the possibility of a new or different kind of accident from any previously evaluated.

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 increases the calibration interval to a maximum of 30 months and revises certain Limiting Safety System Settings.

The surveillance and corrective maintenance history review has confirmed that problems are identified as the result of shiftly Channel Checks and Channel Functional Tests. This Review confirmed that there have been no operability failures for these functional units.

Revised drift allowables and calibration review results were evaluated and increased allowables were incorporated into setpoint calculations to accommodate experienced values over the increased interval. This review verified that the new values of drift were bounded by the existing uncertainty analysis.

The impact of larger drift allowances was assessed. Adjustments were made to Safety Analysis setpoints as deemed necessary to address operating concerns. Affected Safety Analyses were reevaluated or reanalyzed. The SONGS Unit 2 and 3 trip setpoints were revised based on changes to the Safety Analysis Setpoints and changes to the trip setpoint calculations. The Safety Analysis Setpoints were revised for High Pressurizer Pressure and High Containment Pressure trip functions.

These evaluations demonstrate acceptable results when compared to the existing safety analysis limits. The trip setpoint calculations for Low Pressurizer Pressure, High and Low Steam Generator Level and Low Reactor Coolant Flow were revised to improve the operating margin while accounting for the increased transmitter drift and an increase in the allowed tolerance for trip bistable functional testing. The trip setpoint for High Linear Power was revised to incorporate an increase in the allowed tolerance for trip bistable functional testing and a decrease in the daily secondary calorimetric calibration tolerance to maintain the operating margin. The trip setpoint calculation for Low Steam Generator Pressure and High Steam Generator Level were revised to account for increased drift and the change in allowed tolerance for trip bistable functional test. The High Logarithmic Trip Setpoint calculation was revised to account for the increase in allowed tolerance for the trip bistable functional test. These changes to the trip setpoint calculations preserve the margin of safety while maintaining adequate operating margins. Operating margin to CPC generated trips has not been changed. The conclusions of the accident analysis were not revised as a result of these setpoint changes.

During this reanalysis, an inconsistency was noted between the safety analysis and the Technical Specification response time requirements for Logarithmic Power Level - High. Technical Specification Table 3.3-2 is being revised to resolve this inconsistency.

In order to improve the operating margin for Linear Power Level, the calorimetric calibration tolerance was reduced from 2% to 1%.

This evaluation verifies that the revised setpoints and response time will maintain safety and minimize unnecessary reactor trips by increasing certain operating margins.

The proposed change will not involve or result in a significant reduction in the accident and transient analysis margin of safety for RPS instrumentation.

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: Charles M. Trammell, III, Acting Director

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: January 8, 1990

Description of amendment request: The licensee proposes to revise San Onofre Units 2 and 3 Technical Specification 3/4.3.2, "Engineered Safety Features Actuation System (ESFAS) Instrumentation," to increase the interval for surveillance tests, which are currently performed every 18 months, to each refueling, nominally 24 months and maximum 30 months. As the result of modifying the surveillance interval, changes are proposed to the ESFAS instrumentation setpoints in Technical Specification 3/4.3.2, Table 3.3-4.

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 the proposed change involve a significant increase in the probability or consequences of any accident previously evaluated?

Response: No

The proposed change would revise the Technical Specification to increase the interval for surveillances currently performed every 18 months, to each refueling, nominally 24 months and maximum 30 months.

SCE has performed a comprehensive evaluation of the effect of extending the calibration interval for Engineered Safety Features System (ESFAS) instrumentation. This evaluation was performed for all ESFAS functional units which required 18 month surveillances. The functional analysis consisted of an evaluation of instrument function, comparative analysis of all PM surveillances, a review of preventive maintenance surveillances and corrective maintenance history, a statistical evaluation of instruments impacted by drift, review of the safety analysis, and review of trip setpoint calculations.

The confirmatory surveillance and CM history review served to identify problems experienced by the ESFAS instrumentation. This instrumentation included pressure sensors, differential pressure sensors, and logic channels. A confirmatory surveillance and CM history review was performed for all ESFAS instruments. This review verified that instrument problems, associated with operability were detectable by operations personnel during the shiftly Channel Checks or during routine monitoring of plant parameters. The review for process sensors and Loss of Power (Loss of Voltage - LOV) concluded that no repetitive failures have occurred. No instances were found involving redundant channels during the same time period. In addition, no problems were found in the manual actuation circuits. Accordingly, the surveillance and corrective maintenance history review supports the calibration interval extension. Instruments for which drift was a factor were further evaluated. This evaluation consisted of an analysis of plant specific transmitter calibration data for San Onofre Nuclear Generating Station, Units 2 and 3.

The long term drift characteristics of pressure, differential pressure and temperature transmitters were determined. This Instrument Drift Study provides an analysis of the calibration history of instruments used in the Engineered Safety Features Actuation System (ESFAS) which are impacted by drift. The experienced long term drift was statistically adjusted to reflect the maximum drift expected over a fuel cycle, taken as 30 months. The 30 month interval

was used in order to account for the 25% extension, to the existing surveillance interval, which is allowed by Technical Specification 4.0.2. The 30 month interval is based on a nominal 24 month fuel cycle. For instrumentation related to ESFAS, the statistically adjusted drift was determined on a 95/95 basis, i.e., 95% probability and 95% confidence level.

Drift allowances were determined based on this study. The drift allowances were determined by inspecting the 30 month drift values and selecting a value, for each transmitter model, which would bound the 95/95 values.

The impact of the larger drift allowances of PPS instrumentation on setpoint calculations and instrument response times was evaluated and new setpoints calculated, where required. Adjustments were made to Safety Analysis setpoints as deemed necessary to address operating concerns. Affected Safety Analyses were reevaluated or reanalyzed. The SONGS Unit 2 and 3 ESFAS actuation setpoints were revised based on changes to the Safety Analysis Setpoints and changes in the actuation setpoint calculations. The Safety Analysis Setpoints were revised for Low Steam Generator Level, High Containment Pressure and High Steam Generator Delta Pressure actuation functions. These evaluations demonstrate acceptable results when compared to the existing safety analysis limits. The actuation setpoint calculations for Low Pressurizer Pressure, Low Steam Generator Level, High Containment Pressure and High Steam Generator Delta Pressure were revised to improve operating margins while accounting for increased transmitter drift and an increase in the allowed tolerance for actuation bistable functional testing. The actuation setpoint calculations for Low Steam Generator Pressure and High-High Containment Pressure were revised to account for increased transmitter drift and an increase in the allowed tolerance for actuation bistable functional testing. These changes to the actuation setpoint calculations preserve the margin of safety while maintaining adequate operating margins.

The study findings support the extension of the calibration interval. Based on the impact of these factors and the adjustments to setpoints, it is concluded that the proposed change does not involve a significant increase in the probability or consequences of any previously evaluated 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 modify the configuration of the facility or its mode of operation. The proposed change extends the calibration interval for the ESFAS instrumentation from 18 to 24 months, nominally, and from 22 1/2 to 30 months maximum. Revised setpoints are within the existing analysis assumptions. Therefore, the proposed change will not create the possibility of a new or different kind of accident from any previously evaluated.

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 increases the calibration interval to a maximum of 30 months and revises certain Limiting Safety System Settings.

The surveillance and corrective maintenance history review has confirmed that problems are identified as the result of shiftly Channel Checks and Channel Functional Tests. This review confirmed that there have been no repetitive failures.

Revised drift allowables and calibration review results were evaluated and increased allowables were incorporated into setpoint calculations to accommodate experienced values over the increased interval.

The impact of larger drift allowances was assessed. Adjustments were made to Safety Analysis setpoints as deemed necessary to address operating concerns. Affected Safety Analyse were reevaluated or reanalyzed. The SONGS Units 2 and 3 ESFAS actuation were revised based on changes to the Safety Analysis Setpoints and changes in the actuation setpoint calculations. The Safety Analysis Setpoints were revised for Low Steam Generator Level, High Containment Pressure and High Steam Generator Delta Pressure actuation functions. These evaluations demonstrate acceptable results when compared to the existing safety analysis limits. The actuation setpoint calculations for Low Pressurizer Pressure, Low Steam Generator Level, High Containment Pressure and High Steam Generator Delta Pressure were revised to improve operating margins while accounting for increased transmitter drift and an increase in the allowed tolerance for actuation bistable functional testing. The actuation setpoint calculations for Low Steam Generator Pressure and High-High Containment Pressure were revised to account for increased transmitter drift and an increase in the allowed tolerance for actuation bistable functional testing. These changes to the actuation setpoint calculations preserve the margin of safety while maintaining adequate operating margins. The conclusions of the accident analysis were not revised as a result of these setpoint changes.

This evaluation verifies that the revised setpoints and response time will maintain the safety analysis limits and minimize unnecessary reactor trips by increasing certain operating margins.

The proposed change will not involve a result in a significant reduction in the accident and transient analysis margin of safety for ESFAS instrumentation.

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: Charles M. Trammell, III, Acting Director

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: January 8, 1990 Decription of amendment request: The licensee proposes to revise San Onofre Units 2 and 3 Technical Specification 3/4.3.3.5, "Remote Shutdown Instrumentation," to increase the interval for refueling interval surveillance tests which are currently performed every 18 months, to each refueling, nominally 24 months and maximum 30 months.

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 the proposed change involve a significant increase in the probability or consequences of any accident previously evaluated?

Response: No

The proposed change only requests an increase in the interval between calibrations for instrumentation used for monitoring and controlling the unit in the unlikely event requiring control room evacuation. This increase in the calibration interval will make it consistent with the existing design fuel cycle length.

SCE has performed a comprehensive evaluation of the effect of extending the calibration interval for all Remote Shutdown Monitoring (RSM) System instrumentation. The functional analysis consisted of an evaluation of instrument function, comparative analysis of all PM surveillances, a review of preventive maintenance surveillances and corrective maintenance history, a statistical evaluation of instruments impacted by drift, and a functional analysis of instrument functions required in the Abnormal Operating Instruction (AOI).

The confirmatory surveillance and CM history review served to identify problems experienced by the RSM instrumentation. This review confirmed that problems affecting technical specification operability are identified independent of the refueling calibration surveillances through monthly Channel Checks.

The functional assessment was performed for all RSM instruments. For some instruments, transmitter drift had the potential for affecting operator actions required by the AOIs. For these instruments, an additional evaluation was performed. This functional analysis focused on the maximum

drift effect of the sensing device on the refueling calibration interval. For these San Onofre Nuclear Generating Station (SONGS) Units 2 and 3 transmitters, an instrument drift study was performed. The analysis is based on 125% of the nominal calibration interval, or 30 months maximum.

The long term drift characteristics of pressure, differential pressure and temperature transmitters included in the RSM System were determined. This Instrument Drift Study provides an analysis of the calibration history of certain instruments used in the Remote Shutdown Monitoring (RSM) System. The experienced long term drift was statistically adjusted to reflect the maximum drift expected over a fuel cycle, taken as 30 months. For instrumentation related to RSM, the drift was determined on a best estimate basis.

Drift allowables were determined based on this study. To impart additional conservatism, 95/95 values, rather than best estimate values were used for most RSM instruments. The drift allowances were determined by inspecting the 30 month drift values and selecting a bounding value for each transmitter model. The allowable values were then used, in combination with other instrument uncertainties, to calculate a loop accuracy or total uncertainty value. The impact of the total uncertainty on the decisions that an operator is required to make in complying with the AOI was evaluated in the Functional Analysis.

It was determined that the impact of the increased drift due to extending the surveillance interval of RSM instrumentation does not appreciably affect operator decisions in carrying out the applicable Abnormal Operating Instruction (AOI). It was concluded that the applicable AOI can be successfully implemented in post-accident situations considering the instrument uncertainties resulting from the drift study.

In the unlikely event requiring control room evacuation, the operator would use the RSM instrumentation in conjunction with other available indications, as required. A principle aspect of operator control of the unit is the trend of a parameter. The other factors include qualitative parameter use. In many instances, it is more important to understand the trend of a process parameter rather than know the precise value of the parameter.

Two channels of most parameters are included in the RSM system. Substantial differences between these two indications would alert the operator to check other redundant or diverse indication at decision points.

Comparisons of the RSM instrumentation to other instruments monitoring the same process are made on a monthly basis. This monthly surveillance provides a reasonable level of assurance that the equipment is capable of performing its design function.

An added level of assurance is provided by the classification of these components as Quality Class II. For Quality Class II components, the applicable requirements of 10 CFR 50, Appendix B, Quality Assurance Criteria for Nuclear Power Plants have been met to ensure the highest quality standards. This provides assurance that the instruments will perform the intended function.

The study findings support the extension of the calibration interval. Based on the impact of these factors, it is concluded that the proposed change does not involve a significant increase in the probability or consequences of any previously evaluated accident.

Additionally, the instrumentation associated with this technical specification is intended for remote shutdown and changes in the calibration frequency will have no effect on the probability of an accident. The instrumentation is sufficiently stable, as demonstrated by an evaluation of the historical calibration data, to maintain the accuracy required to perform its remote shutdown function.

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 modify the configuration of the facility or its mode of operation. The proposed change extends the calibration interval for the RSM instrumentation from 18 to 24 months, nominally, and from 22 1/2 to 30 months, maximum. Instrument parameters are maintained within the allowables defined in the Functional Analysis. Therefore, the proposed change will not create the possibility of a new or different kind of accident from any previously evaluated.

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 increases the calibration interval to a maximum of 30 months for instruments which are used for the Remote Shutdown Monitoring System. The surveillance and corrective maintenance history review has confirmed that significant problems are identified as the result of monthly Channel Checks.

Drift allowables of RSM instrumentation were established. The allowable values were then used to generate total loop uncertainties for RSM instrumentation. An evaluation was performed to assess the impact of the total loop uncertainties on effective AOI implementation. This evaluation confirmed that the long term instrument drift values do not appreciably affect the ability to use these instruments as intended in the AOI.

The proposed change will not involve a significant reduction in the accident and transient analysis margin of safety for RMS instrumentation.

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: Charles M. Trammell, III, Acting Director

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of amendment requests: January 12, 1990 (TS 88-42)

Description of amendment requests: The Tennessee Valley Authority (TVA) proposed to modify the Sequoyah Nuclear Plant (SQN), Units 1 and 2, Technical Specifications (TSs). The proposed changes are to revise the trip setpoint and allowable value units for the intermediate range (IR) nuclear flux detector and to revise the applicability requirements for the source range (SR) nuclear flux detector. This proposal revises TVA's submittal dated December 2, 1988, which was noticed in the **Federal Register** on December 30, 1988 (53 FR 53100).

Basis for proposed no significant hazards consideration determination: TVA stated the following in its submittal dated January 12, 1990 to support its proposed changes to the TSs:

TVA is replacing the SR and IR neutron monitors as part of the equipment upgrade to comply with Regulatory Guide 1.97 as required by SQN License Conditions 2.C.24 (Unit 1) and 2.C.14 (Unit 2). The new SR/IR monitor is a fission chamber design manufactured by Gamma Metrics. This design does not require high-voltage deenergization as part of the normal SR detector operation. Consequently, the footnote () for Table 3.3-1 is being revised to change the high-voltage deenergization wording to say that SR outputs may be disabled. The new IR monitor uses a signal that is in units of relative power. Consequently, the trip setpoint and allowable value units are being changed in Table 2.2-1. Because the new IR detector does not provide output in terms of current, the bases to Section 2.2 are also being revised to delete references to IR detector current signals that are proportional to power levels.

The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). 10 CFR 50.91 requires that at the time a licensee requests an amendment, it must provide to the Commission its analyses, using the standards in Section 50.92, on the issue of no significant hazards consideration. Therefore, in accordance with 10 CFR 50.91 and 10 CFR 50.92, the licensee has performed and provided the following analysis:

TVA has evaluated the proposed TS change and has determined that it does not represent a significant hazards consideration based on criteria established in 10 CFR

50.92(c). Operation of SQN in accordance with the proposed amendment[s] will not:

(1) Involve a significant increase in the probability or consequence of an accident previously evaluated. Two administrative changes are proposed to support the installation of the new Gamma Metrics SR and IR detector assemblies. The first involves a revision to the notation contained in TS Table 3.3-1 regarding the high-voltage deenergization that will no longer occur for the new SR detectors. The second involves a change in engineering units for the P-6 setpoint that results from the difference in output signals from the IR detectors. The new SR/IR detectors are Class 1E equipment that is seismically and environmentally qualified and compatible with the present design requirements. Because the new hardware is compatible with the present design requirements and the proposed TS changes are administrative in nature, the proposed amendment[s] will not involve a significant increase in the probability or consequences of an accident previously evaluated.

(2) Create the possibility of a new or different kind of accident from any previously analyzed. Two administrative changes are proposed to support the installation of the Gamma Metrics SR and IR detector assemblies. The first involves a revision to the notation contained in TS Table 3.3-1 that is no longer applicable to the design of the new SR detectors. The second involves a change in engineering units for the P-6 setpoint that results from the difference in output signals from the IR detectors. The new SR/IR detectors are Class 1E equipment that is seismically and environmentally qualified and compatible with the present design requirements. Because the new equipment is compatible with the the present design requirements and the proposed TS changes are administrative in nature, the proposed amendment[s] will not create the possibility of a new or different kind of accident from any previously analyzed.

(3) Involve a significant reduction in a margin of safety. Two administrative changes are proposed to support the installation of the Gamma Metrics SR and IR detector assemblies. The first involves a revision to the notation contained in TS Table 3.3-1 that is no longer applicable to the design of the new SR detectors. The second involves a change in engineering units for the P-6 setpoint that results from the difference in output signals from the IR detectors. The new SR/IR detectors are Class 1E equipment that is seismically and environmentally qualified and compatible with the present design requirements. Because the new hardware is compatible with the present design requirements and the proposed TS changes are administrative in nature, the proposed amendment[s] will not involve a significant reduction in the margin of safety.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Therefore, the staff proposes to determine that the application for amendments involves no significant hazards considerations.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, E11 B33, Knoxville, Tennessee 37902.

NRC Assistant Director: Suzanne Black

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of amendment requests: January 12, 1990 (TS 89-02)

Description of amendment requests: The Tennessee Valley Authority (TVA) proposes to modify the Sequoyah Nuclear Plant (SQN), Units 1 and 2, Technical Specifications (TSs). The proposed changes to TS 3/4.9.8.1 and its Bases are to reduce the minimum residual heat removal (RHR) flow rate into the reactor coolant system (RCS) during refueling operation from 2500 gallons per minute (gpm) to 2000 gpm, after 278 hours following core subcriticality during unit shutdown for refueling.

Basis for proposed no significant hazards consideration determination: TVA provided the following information in its submittal to support its proposed changes to the TSs:

During Mode 6 [refueling] operation at SQN, residual heat is removed from the reactor core by the RHR system. Generic Letter 88-17, Loss of Decay Heat Removal, identified the loss of this cooling capability as a significant problem during reduced RCS inventory operation. Since vortexing is a function of flow rate, the probability of losing an RHR pump by vortexing and consequently losing RHR capability is reduced by decreasing the RHR flow rate. This proposed change should improve the availability of the RHR system during reduced RCS inventory operation.

The Commission has provided standards for determining whether a significant hazards determination exists as stated in 10 CFR 50.92(c). 10 CFR 50.91 requires that at the time a licensee requests an amendment, it must provide to the Commission its analyses, using the standards in Section 50.92, on the issue of no significant hazards consideration. Therefore, in accordance with 10 CFR 50.91 and 10 CFR 50.92, the licensee has performed and provided the following analysis:

TVA has evaluated the proposed TS change and has determined that it does not present a significant hazards consideration based on criteria established in 10 CFR 50.92(c). Operation of SQN in accordance with the proposed amendment will not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated.

Accidents analyzed in Chapter 15 of the Final Safety Analysis Report for Mode 6 operation are limited to fuel handling accidents and RHR flow rate is not a consideration in fuel handling accidents. The reduction of the minimum RHR flow rate in Mode 6 should increase the availability of decay heat removal and therefore be a safety enhancement. The proposed change will not involve an increase in the probability or consequences of an accident previously analyzed.

(2) Create the possibility of a new or different kind of accident from any previously analyzed.

The proposed TS change does not involve significant changes to the design basis of SQN. Reducing RHR flow is a manual operation from the main control room and does not include any modifications [to the plant] or irreversible actions. Therefore, no new or different kind of accident from any previously analyzed should be created.

(3) Involve a significant reduction in a margin of safety.

The proposed reduction of the minimum RHR flow rate in Mode 6 to 2000 gpm provides sufficient decay heat removal after 278 hours following shutdown. The reduction should also increase the availability of the RHR pumps and consequently the decay heat removal capabilities. Therefore, the margin of safety provided will not be reduced but increased.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Therefore, the staff proposes to determine that the application for amendments involves no significant hazards considerations.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, E11 B33, Knoxville, Tennessee 37902.

NRC Assistant Director: Suzanne Black

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of amendment requests: January 12, 1990 (TS 89-25)

Description of amendment requests: The Tennessee Valley Authority (TVA) proposes to modify the Sequoyah Nuclear Plant (SQN), Units 1 and 2, Technical Specifications (TSs). The proposed changes are to reflect the removal of the upper head injection (UHI) system from the reactor coolant system (RCS) during the Cycle 4 refueling outages for each unit in 1990. TS 3/4.5.1.2 on the UHI system would be deleted. Tables 3.4-1, 3.6-1, and 3.6-2 for RCS pressure isolation valves, penetrations, and containment isolation valves would be revised. The peaking

factor limit would be changed in Limiting Condition for Operation (LCO) 3.2.2 and Surveillance Requirement (SR) 4.2.2.2. As a result of the peaking factor revision, Figure 3.2-2 would also be revised. LCO 3.5.1.1 for the cold leg injection accumulators would reflect new required values for volume of water and nitrogen cover pressure. Changes would also be made to minimum safety pump flow rate values in SR 4.5.2.h and to the Bases for TSs 3.2.1 and 3.5.1.

Basis for proposed no significant hazards consideration determination: TVA provided the following information to support its proposed changes to the TSs:

The proposed TS changes are a result of the [scheduled] removal of the UHI system and the new analyses performed to support their removal.

Because of the complex and rigid requirements placed on its performance, the UHI system has introduced concerns regarding appropriate water volume delivery, nitrogen injection into the RCS, fluid mixing behavior, and an increased number of plant mode changes involved with UHI problems and their resolution. Significant maintenance is required for the UHI system, particularly for the UHI main isolation valves. ALARA (as low as reasonably achievable) concerns are involved with system maintenance, as well as with the increased time for reactor vessel head removal because of UHI connections and piping.

The UHI system has also been the subject of regulatory concerns at SQN, including the integrated design inspection and two licensee event reports. TVA committed to NRC in a November 3, 1988, letter to remove the UHI system before restart from the Unit 1 and Unit 2 Cycle 4 refueling outages.

The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). 10 CFR 50.91 requires that at the time a licensee requests an amendment, it must provide to the Commission its analyses, using the standards in Section 50.92, on the issue of no significant hazards consideration. Therefore, in accordance with 10 CFR 50.91 and 10 CFR 50.92, the licensee has performed and provided the following analysis:

TVA has evaluated the proposed TS change and has determined that it does not present a significant hazards consideration based on criteria established in 10 CFR 50.92(c). Operation of SQN in accordance with the proposed amendment will not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated.

Westinghouse has evaluated all FSAR [Sequoyah Final Safety Analysis Report] Chapter 15 analyses to determine which analyses are affected by UHI removal. Main steamline rupture, small break LOCA [loss-of-coolant accident], large break LOCA, and depressurization of the main steam system were identified. A reanalysis of these events confirms that with compensating changes to cold leg accumulators, the design bases continue to be met without UHI. Therefore, the removal of the UHI system does not involve a significant increase in the probability or consequences of an accident previously analyzed.

(2) Create the possibility of a new or different kind of accident from any previously analyzed.

UHI was designed and installed at SQN as a mitigation system and was never assumed to initiate an event. Therefore, UHI removal should not initiate a new or different type of accident. The modification will leave four penetrations of the reactor head that will be permanently sealed and tested. Any future leakage from the penetrations would be bounded by SQN's small break LOCA or large break LOCA analyses. No new or different kind of accident from any previously analyzed is anticipated.

(3) Involve a significant reduction in a margin of safety.

Westinghouse has evaluated all FSAR Chapter 15 analyses to determine which analyses are affected by UHI removal. Main steamline rupture, small break LOCA, large break LOCA, and depressurization of the main steam system were identified. A reanalysis of these events confirms that, with compensating changes to the cold leg accumulators, the design bases continue to be met without UHI. Since the design bases contain the required margins of safety, the removal of the UHI system does not involve a significant reduction in safety margins.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Therefore, the staff proposes to determine that the application for amendments involves no significant hazards considerations.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, E11 B33, Knoxville, Tennessee 37902.

NRC Assistant Director: Suzanne Black

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of amendment requests: January 12, 1990 (TS 89-26)

Description of amendment requests: The Tennessee Valley Authority (TVA) proposes to modify the Sequoyah Nuclear Plant (SQN), Units 1 and 2, Technical Specifications (TSs). The proposed changes reflect the removal of the boron injection tank function from the units in the 1990 Cycle 4 refueling outages. The refueling water storage tank boron concentration would be changed in Limiting Condition for Operation (LCO) 3.1.2.5. The volume of the boric acid storage system and the boron concentration of the refueling water storage tank would be changed in LCO 3.1.2.6. In Surveillance Requirement 4.5.2.g.2, the reference to boron injection throttle valves would be changed to "charging pump" injection throttle valves. TSs 3/4.5.4.1 and 3/4.5.4.2 for the boron injection system would be deleted. LCO 3.5.1.1 would be revised with a new boron concentration for the cold leg injection accumulators and LCO 3.5.5 would be revised with a new boron concentration for the refueling water storage tank. Changes were also proposed to the Bases of the above TSs.

Basis for proposed no significant hazards consideration determination: To support its proposed changes to the TSs, TVA provided the following in its submittal:

The boron injection tank is a component of the safety injection system whose sole function is to provide concentrated boric acid to the reactor coolant to mitigate the consequences of postulated steamline break accidents. In order to verify that the criteria for radiation releases are met, TSs are applied to the boron injection tank and associated equipment. Specifically, the TSs currently ensure that the boric acid concentration is maintained in excess of 20,000 parts per million (ppm), approximately a 12 weight percent solution. Heat tracing is necessary to maintain the tank and associated piping at a sufficiently high temperature so that the minimum concentration requirements may be met. Furthermore, the safety-related nature of the boric acid system requires that the heating systems be redundant.

The required solubility temperature imposes a continuous load on the heater and the potential for low-temperature alarm actuation and heater burnout exists. Violation of the TS on concentration in the boron injection tank poses availability problems in that recovery is required within a very short time. If the concentration is not restored within one hour, the plant must be taken to the hot standby condition and borated to the equivalent of 1 percent delta k/k at 200 degrees Fahrenheit. Thus, this requirement has a potentially serious impact on plant availability. In addition, the high boric acid concentration makes recovery from a spurious safety injection signal (which results in injection of the boron injection tank fluid into the reactor coolant system) time consuming and costly.

These potential difficulties unfavorably affecting plant availability, operability, and maintainability can be drastically reduced in severity or eliminated by the boron injection tank deactivation.

The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). 10 CFR 50.91 requires that at the time a licensee requests an amendment, it must provide

to the Commission its analyses, using the standards in Section 50.92, on the issue of no significant hazards consideration. Therefore, in accordance with 10 CFR 50.91 and 10 CFR 50.92, the licensee has performed and provided the following analysis:

TVA has evaluated the proposed TS change and has determined that it does not represent a significant hazards consideration based on criteria established in 10 CFR 50.92(c). Operation of SQN in accordance with the proposed amendment will not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated.

The deactivation of the boron injection tank affects the steamline break transients with respect to core integrity and mass and energy release to containment. With the assumption that the boron injection tank remains installed without heat tracing and with boric acid concentration reduced to zero ppm, analyses show that the departure from nucleate boiling design basis is met and no consequential fuel failures are anticipated. Additionally, temperatures and pressures reached in containment would fall below the containment design limits. Therefore, no significant increase in the probability or consequences of a previously analyzed accident would occur.

(2) Create the possibility of a new or different kind of accident from any previously analyzed.

The boron injection tank is a component of the safety injection system whose sole function is to provide concentrated boric acid to the reactor coolant to mitigate the consequences of [a] postulated steamline break analysis. The deactivation of the boron injection tank will therefore affect the steamline break transients, but it will not create the possibility of a new or different type of accident.

(3) Involve a significant reduction in a margin of safety.

The analyses performed for the deactivation of the boron injection tank indicate that the departure from nucleate boiling design basis continues to be met. Additionally, the temperatures and pressures reached in containment would fall below the containment design limits. Since the design bases contain the required margins of safety, no significant reductions in margins of safety will occur.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Therefore, the staff proposes to determine that the application for amendments involves no significant hazards considerations.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, E11 B33, Knoxville, Tennessee 37902.

NRC Assistant Director: Suzanne Black

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of amendment requests: January 12, 1990 (TS 89-33)

Description of amendment requests: The Tennessee Valley Authority (TVA) plans to refuel and operate Sequoyah Nuclear Plant (SQN), Units 1 and 2, with Vantage 5 Hybrid (V5H) fuel. This fuel incorporates low-pressure-drop zircaloy grids, removable top nozzles, integral fuel burnable absorbers, extended burnup capabilities, debris filter bottom nozzles, snag resistant grids, and standardized pellets. TVA states that the evaluations performed for this fuel accommodate the effects from the following modifications that are planned for the Cycle 4 outages in 1990 for each unit:

1. Resistance temperature detector bypass elimination,
2. Eagle 21 digital protection system,
3. Upper head injection removal,
4. Boron injection tank removal,
5. New steamline break protection, and
6. Reactor trip on steam flow/feed flow mismatch.

As a result of this fuel upgrade, TVA proposes to modify the SQN, Units 1 and 2, Technical Specifications (TSs). The proposed changes are (1) to revise the TSs Bases for safety limits to change the W-3 correlation to the WRB-1 correlation and to refer to the associated safety analysis departure from nucleate boiling ratio (DNBR) limit; (2) to revise TS 3.1.3.4 to incorporate a new rod drop time of less than or equal to 2.7 seconds; (3) to revise TS 3.2.3 to delete the rod bow penalty as a function of burnup in the FNH (Nuclear Enthalpy Hot Channel Factor) equation and delete Figures 3.2-3 and 3.2-4; (4) revise Table 3.2-1 and TS 3.2.5 to define the departure from nucleate boiling (DNB) related reactor coolant system (RCS) total flow rate limit, including uncertainties, to be 378,400 gallons per minute (gpm); and (5) to revise the Bases for TSs 3.2.3, 3.2.5, and 3.4.1.

Basis for proposed no significant hazards considerations determination: To support the proposed changes to the TSs, TVA has provided the following:

The change of the W-3 correlation to the WRB-1 correlation and the revision to the design DNBR limits in the bases of the safety limits and the increase in the minimum rod drop time are required to allow implementation of the improved fuel design for V5H fuel. The deletion of rod bow penalty as a function of burnup in the [FNH] equation and deletion of Figures 3.2-3 [and 3.2-4] reflect new evaluation methodologies for the effect of fuel rod bow on DNB. The new methodologies provide a basis to eliminate unnecessary power distribution penalties and to simplify the specification. Relocation of the RCS flow rate requirements from TS 3.2.3 to TS 3.2.5 is also the result of new evaluation methodologies for the effect of rod bow on DNB. This change clearly defines the DNB flow parameter limit.

In summary the proposed changes are primarily the results of the following three items:

1. Use of a new DNB correlation [,]
2. Increased rod drop time because of the reduced guide tube diameter for V5H zircaloy grids [and]
3. Incorporation of current methodology to assess the rod bow penalty [.]

The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). 10 CFR 50.91 requires that at the time a licensee requests an amendment, it must provide to the Commission its analyses, using the standards in Section 50.92, on the issue of no significant hazards consideration. Therefore, in accordance with 10 CFR 50.91 and 10 CFR 50.92, the licensee has performed and provided the following analysis:

TVA has evaluated the proposed TS change and has determined that it does not represent a significant hazards consideration based on criteria established in 10 CFR 50.92(c). Operation of SQN in accordance with the proposed amendment will not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated.

The evaluations of the mechanical, nuclear, and thermal-hydraulic design effects support the conclusion that the requested changes are within the current design criteria established in the FSAR [Sequoyah Final Safety Analysis Report]. Consequently, no new mechanisms have been introduced to increase the probability of a previously analyzed accident occuring. The accident evaluations (both LOCA [loss-of-coolant accident] and non-LOCA) exhibit results that maintain the confidence level in the physical integrity of the fission product boundaries as defined in the FSAR. Therefore, the consequences of the accidents do not increase.

(2) Create the possibility of a new or different kind of accident from any previously analyzed.

The evaluations performed established that the FSAR design criteria and system responses during normal and accident conditions are bounding with respect to the proposed changes. The changes will not affect the function of any protection system, and they will not introduce hardware that is different in design criteria requirements. Therefore, no new mechanisms have been introduced that would create the possibility of a new or different kind of accident from those previously analyzed.

(3) Involve a significant reduction in a margin of safety.

The evaluation performed addressed all design criteria and accident analyses. In performing the evaluations, the safety limits

established by the FSAR and TS were not modified such as to reduce the difference between the safety limit and the limit defined as the failure point of a fission product boundary. Therefore, the margins that were assumed in the accident analyses remain bounding for the proposed changes.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Therefore, the staff proposes to determine that the application for amendments involves no significant hazards considerations.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, E11 B33, Knoxville, Tennessee 37902.

NRC Assistant Director: Suzanne Black

The Cleveland Electric Illuminating Company, Duquesne Light Company, Ohio Edison Company, Pennsylvania Power Company, Toledo Edison Company, Docket No. 50-440, Perry Nuclear Power Plant, Unit No. 1, Lake County, Ohio

Date of amendment request: December 14, 1989

Description of amendment request: The proposed amendment would increase the turbine control valve surveillance test interval from weekly to monthly.

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, (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 of no significant hazards considerations using the Commission's standards.

The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated. Using the methodology described in their January 1984 report, the value GE calculated for PNPP turbine missile probability remains unchanged at a value previously accepted by the NRC in the Colburn to Kaplan letter of August 23, 1989.

The proposed change does not create the possibility of a new or different kind of accident. Previous evaluations have addressed potential control valve failure modes and their effects; the vendor has recommended the proposed increase in test interval in part to reduce plant transients resulting from the reactor power/turbine load reductions necessary to conduct this test.

The proposed change does not involve a significant reduction in the margin of safety. As noted above, the NRC acceptance criterion of 1E-5 turbine missile probability is still satisfied, with no change in the calculated value previously reported for Perry or its associated margin.

Based on the previous discussions, the licensee concluded that the proposed amendment request does not involve a significant increase in the probability or consequences of an accident previously evaluated; does not create the possibility of a new or different kind of accident from any accident previously evaluated; and does not involve a reduction in the required margin of safety.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. The staff, therefore, proposes to determine that the licensee's request does not involve a significant hazards consideration.

Local Public Document Room location: Perry Public Library, 3753 Main Street, Perry, Ohio 44081.

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John N. Hannon.

The Cleveland Electric Illuminating Company, Duquesne Light Company, Ohio Edison Company, Pennsylvania Power Company, Toledo Edison Company, Docket No. 50-440, Perry Nuclear Power Plant, Unit No. 1, Lake County, Ohio

Date of amendment request: December 19, 1989

Description of amendment request: The proposed amendment would revise Technical Specifications 3.2.1, 3.2.2, 3.2.3, of Appendix A to the license to replace the values of cycle-specific parameter limits with a reference to the Core Operating Limits Report, which contains the value of those limits and which is contained in a section of the Plant Data Book. In addition, the Core Operating Limits Report has been included in the Definitions Section of the Technical Specifications (TSs) to note that it is the unit-specific document that provides these limits for the current operating reload cycle. The fuel assemblies description in Section 5.3.1 has been generalized and refers to the Core Operating Limits Report. Furthermore, the definition of Core Operating Limits Report notes that the values of these cycle-specific parameter limits are to be determined in accordance with TS 6.9.1.9. This TS requires that the core operating limits be determined for each reload cycle in accordance with the referenced NRC-approved methodology for these limits and consistent with the applicable limits of the safety analysis. Finally, this report and any mid-cycle revisions shall be provided to the NRC upon issuance. Generic Letter 88-16, dated October 4, 1988, from the NRC provided guidance to licensees on requests for removal of the values of cycle-specific parameter limits from TSs. The licensee's proposed amendment is in response to this Generic Letter.

Basis for proposed no significant hazards consideration determination: The staff has evaluated this proposed amendment and determined that it involves no significant hazards considerations. According to 10 CFR 50.92(c), a proposed amendment to an operating license involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated; or
2. Create the possibility of a new or different kind of accident from any accident previously evaluated; or
3. Involve a significant reduction in a margin of safety.

The proposed revision to the TSs is in accordance with the guidance provided in Generic Letter 88-16 for licensees requesting removal of the values of cycle-specific parameter limits from TSs. The establishment of these limits in accordance with an NRC-approved methodology and the incorporation of these limits into the Core Operating Limits Report will ensure that proper steps have been taken to establish the values of these limits. Furthermore, the submittal of the Core Operating Limits Report will allow the staff to continue to trend the values of these limits without the need for prior staff approval of these limits and without introduction of an unreviewed safety question.

The proposed amendment would not alter the requirement that the plant be operated within the limits for cycle-specific parameters nor the required remedial actions that must be taken when these limits are not met. While it is recognized that such requirements are essential to plant safety, the values of limits can be determined in accordance

with NRC-approved methods without affecting nuclear safety. Concurrent with the removal of the values of these limits from the TSs, they would be incorporated into the Core Operating Limits Report that is submitted to the NRC. Hence, appropriate measures exist to control the values of these limits.

Because the values of cycle-specific parameter limits will continue to be determined in accordance with an NRC-approved methodology and remain consistent with the applicable limits of the safety analysis, these changes would not increase the probability or consequences of an accident previously evaluated.

The revised specifications, including the removal of the values of cycle-specific parameter limits and the addition of the Core Operating Limits Report for these limits, would not create the possibility of a new or different kind of accident from those previously evaluated. The changes also would not involve a significant reduction in the margin of safety since the changes would not alter the methods used to establish the cycle-specific limits. The NRC staff considers these proposed changes to be administrative in nature and that they would not affect the operation of the facility in a manner that involves significant hazards considerations.

Based on the preceding assessment, the staff proposes to determine that the amendment involves no significant hazards consideration.

Local Public Document Room location: Perry Public Library, 3753 Main Street, Perry, Ohio 44081.

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John N. Hannon.

Virginia Electric and Power Company, Docket Nos. 50-338 and 50-339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia

Date of amendment request: March 10, 1988, as superseded October 2, 1989

Description of amendment request: The proposed changes would revise the North Anna Power Station, Units 1 and 2 (NA-1&2) Technical Specifications (TS). Specifically, the changes include: (1) deletion of settlement monitoring for structures which have not exhibited settlement during the 13 years that the settlement monitoring program has been in effect, and (2) increase allowable differential settlement limits for selected structures based on re-evaluation of the affected piping systems.

On May 23, 1988, the staff published a "Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Opportunity for Hearing" in the **Federal Register** (53 FR 18364). This notice related to the licensee's March 10, 1988 application to delete components which were replaced during the Service Water Reservoir Improvement Project and to change the allowable differential settlement between the NA-2 Main Steam Valve House and the Service Building. The October 2, 1989 application has superseded this previous application. Therefore, the staff has decided to renotice the licensee's requested changes as described below.

The NA-1&2 settlement monitoring program has been in effect for 13 years and has been performed by optical surveys to second order Class II accuracy. A detailed evaluation of the settlement data from 1976 to the present has uncovered two systematic survey errors which account for the apparent upward movement of rock-founded structures. When these two systematic survey errors are accounted for, the settlement data clearly demonstrate that the rock-founded structures are stable with no trend of settlement occurring over the 13 years that these structures have been monitored. For those structures that have experienced some settlement, the critical piping systems were evaluated in order to increase the allowable settlement limit while still maintaining code allowable stresses in the piping system.

As a result of this comprehensive review of the settlement monitoring program at NA-1&2, only the following monitoring is required:

a. Unit 2 Main Steam Valve House: point 113

b. Service Building: points 114, 116, 117

c. Service water piping at the Service Water Pump House at the north side of expansion joint: points SM-17 and SM-18.

d. Service Water Pump House, Service Water Valve House, and Service Water Tie-in Vault.

The deletion of the settlement monitoring program for certain structures and, in turn the associated piping systems, does not adversely affect the piping systems nor reduce any margins of safety. A comprehensive review of the settlement data that have been obtained during the 13 years of settlement monitoring has demonstrated that these structures have not experienced any settlement. The structures are stable and will continue to be stable in the future. Consequently, no settlement-related pipe stress has been or will be induced on the piping systems that are affected by settlement of these structures.

For those structures that have experienced settlement and may continue to settle in the future, the requirement to continue the settlement monitoring program in accordance with TS 3/4.7.12 will be maintained. For piping systems affected by settlement, new allowable settlement limits were established based on pipe stress analysis of these piping systems without changing the original piping model or design inputs. The only change was to increase the prescribed settlement in the mathematical model of the piping system to allow the pipe stress to approach, but not exceed, the code-allowable stress. In addition, the methods used to monitor the future settlement of the affected structures will be such that the maximum calculated random error in the measurement will result in a pipe stress of 5% or less of the code-allowable stress. Continuous monitoring of the structures that experienced settlement in the past and which may continue to settle will provide assurance that the margin of safety as defined in TS 3/4.7.12 is maintained for the safety-related piping systems that are affected by settlement of these structures.

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 licensee has evaluated the proposed changes in light of these standards, as follows.

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The change to TS 3/4.7.12 does not involve a significant increase in the probability or consequences of an accident previously evaluated. The settlement of structures is monitored in accordance with the requirements of TS 3/4.7.12 in order to ensure that the stress induced in safety-related piping systems as a result of the settlement of structures remains within code allowables. The change to TS 3/4.7.12 contains two basic

items: (a) deletion of the settlement monitoring program for those structures which have not experienced settlement during the 13 years that the settlement monitoring program has been in effect, and (b) increase the allowable settlement limit for some of the structures that will remain part of the settlement monitoring program.

Regarding Item (a) above, structures which are founded on rock have exhibited no settlement, as demonstrated by the review of 13 years of settlement data. No future settlement will occur since there is no mechanism to induce increased loading on the rock mass that would cause settlement. Since rock behaves similarly to other elastic materials under load, settlement will not occur unless the loads are increased.

For the five soil-founded points which are being deleted from the settlement monitoring program required by TS 3/4.7.12, a review of the settlement monitoring data collected over 13 years has demonstrated that these points have not settled. Soil also behaves as an elastic material under load; although not linearly. Settlement of structures founded on soil occurs over time with the great majority of the settlement in a material such as saprolite occurring during the first few years the soil is loaded. Thereafter, settlement will continue to occur, but at a much reduced rate. Depending on the type, consistency and composition of the soil, after a certain time the rate of settlement will approach zero. Soil-founded structures which have shown little or no settlement during 13 years of monitoring will not experience additional settlement in the future unless additional load is applied to the soil. There is no mechanism which would cause settlement to begin or increase without a corresponding increase in load. Therefore, future settlement of these structures is of no concern and the requirement to monitor these points can be deleted from the TS.

Regarding Item (b) above, structures where settlement monitoring will continue and the allowable settlement limits are increased, the ability of the piping systems to perform their safety-related function has been assured by:

(A) Maintaining the allowable settlement limit to a value such that the pipe stress remains within code allowables. The flexible supporting components and pipe expansion joints remain within the working range. This has been verified by pipe stress analyses for those piping systems which form the basis for the limiting settlement condition.

(B) The requirement to monitor these structures for future settlement is being maintained. The TS will provide early notification of settlement problems (i.e., approaching or exceeding the allowable settlement limit) and the Limiting Condition for Operation (LCO) required by the TS will be met.

(C) Surveying methods used to measure settlement will be modified such that the random survey error introduced into the measurement will be minimized. This minimized random error will cause a maximum uncertainty in pipe stress of 5% or less of code allowable stress. This very small component of the allowable pipe stress is well within the bounds of accuracy of the pipe stress analysis. The uncertainty will be reduced by the new surveying procedures since the random error will be reduced from that associated with the original survey.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

No new or different type of accident not considered by previous NRC safety reviews has been introduced by deleting the requirement to monitor the settlement of certain structures, or increasing the allowable settlement limit for other structures which will continue to be monitored for settlement in accordance with the requirements of TS 3/4.7.12.

3. Involve a significant reduction in the margin of safety.

The margin of safety as defined in the TS consists of ensuring that the settlement of structures does not exceed the allowable settlement limit. The allowable settlement limit is established to ensure that the critical safety-related piping system remains within the code-allowable stress.

The deletion of the settlement monitoring program for structures which have not experienced settlement over the 13 years of the monitoring program does not involve a significant reduction in the margin of safety. It has been demonstrated by the review of 13 years of settlement data that no settlement has occurred. No future settlement will occur since there is no mechanism to induce increased loading on the rock mass that would cause settlement. Since rock behaves similarly to other elastic materials under load, without increasing the load, settlement will not occur unless the loads are increased.

For those structures that have experienced settlement and may continue to settle in the future, the settlement monitoring program in accordance with Technical Specification 3/4.7.12 has been maintained. Increased allowable settlement limits have been set based on pipe stress analysis of the piping systems that are affected by the settlement of these structures. The resulting pipe stress induced by the increased allowable settlement limits is within code allowables. The flexible supporting components and pipe expansion joints remain within the working range. The ability to monitor the settlement of the structures which induce settlement-related pipe stress is being maintained. In addition, methods that will be used to measure the settlement of these structures will have an increased accuracy over those that are currently being used. The accuracy of measurement will be such that the random error in the measurement of settlement will cause an uncertainty in the pipe stress of 5% or less of the code-allowable stress. The uncertainty will be reduced by the new survey methods since the random error will be reduced from that associated with the original surveys. Since the basis for TS 3/4.7.12 is to maintain pipe stress within code allowables, the margin of safety is not reduced. Finally, by maintaining the requirement to monitor the settlement of these structures in accordance with the requirements of TS 3/4.7.12, early notification of settlement problems (i.e., approaching or exceeding the allowable settlement limit) is provided and the Limiting Condition for Operation (LCO) required by the TS will be met.

The staff has reviewed the licensee's no significant hazards consideration determination analysis and agrees with the above evaluation. Therefore, the staff proposes to determine that the proposed changes do not involve significant hazards consideration.

Local Public Document Room location: The Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901.

Attorney for licensee: Michael W. Maupin, Esq., Hunton and Williams, P.O. Box 1535, Richmond, Virginia 23212.

NRC Project Director: Herbert N. Berkow

Virginia Electric and Power Company, Docket Nos. 50-338 and 50-339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia

Date of amendment request: December 28, 1989

Description of amendment request: The proposed change would revise the North Anna Power Station, Units 1 and 2 (NA-1&2) Technical Specifications (TS). Specifically, the requested change would delete the requirement for monthly testing of the auxiliary feedwater pumps and the monthly valve line-up check.

NRC Bulletin 88-04, "Potential Safety-Related Pump Loss" identified concerns with minimum flow designs of safety-

related pumps and requested licensees to investigate these concerns and correct them where applicable. Virginia Electric and Power Company (the licensee) responded to these concerns in a letter to the NRC on August 8, 1988 (Serial No. 88-275B). As part of the response the licensee committed to disassemble and inspect the auxiliary feedwater pumps at NA-1&2 for any signs of degradation. The inspection schedule was to be one pump per unit per outage, with any signs of degradation resulting in immediate inspection of the other pumps on the affected unit.

As a result of initial inspections performed on NA-1&2 during the 1989 refueling outages, all six pumps were disassembled and inspected. Numerous problems were discovered, including diffuser vane cracks, scored bearings, and tolerances out of specification. A root cause evaluation attributed part of these problems to the way in which the pumps are tested. The pumps were not designed to run on recirculation for long periods of time, which is the current practice. During the recirculation mode of operation, the recirculation line orifice restricts flow to less than 20% of best efficiency point flow. The pumps experience increased vibration and axial thrust, which in turn leads to increased wear.

Several engineering studies by the licensee to correct this problem were undertaken, and recommendations have consistently addressed both design deficiencies and test frequencies as major contributors to pump degradation.

To minimize future pump wear and ensure long-term reliability of the auxiliary feedwater pumps, several courses of action are being pursued by the licensee.

- Minimize operation of the pumps at low flow. This includes limiting use of the pumps for steam generator leak testing, revising procedures for the quarterly ASME test and applying for a TS change to eliminate the requirement for a monthly test on recirculation flow.
- Install a larger recirculation line.
- Change the design of various mechanical components. This includes reducing the use of cast iron and improving lubrication.

The proposed change would delete the surveillance requirement to demonstrate at least every 31 days that the pumps can develop at least 1250 psig at 53 gpm for the motor-driven pumps and at least 1380 psig at 35 gpm for the turbine pump. The test is done by pumping through an orificed recirculation line at a flow rate far below the design parameters. The current NA-1&2 TS test conditions (pressure and flow) require that the tests be performed in the recirculation mode of operation.

The proposed change retains the requirement that the pumps be tested in accordance with TS 4.0.5, which refers to Section XI of the 1980 ASME Boiler and Pressure Vessel Code. The Code requires testing every 3 months. The tests include measurements of the inlet pressure, differential pressure, flow rate, vibration amplitude, speed of the turbine-driven pump and observation of lubricant level or pressure. The first test when the pumps are new or overhauled is used to establish reference data. The Code defines acceptable ranges for these parameters which are functions of the reference data. Outside the acceptable range is an "alert range." The Code requires the test frequency to be doubled if any parameters are in the alert range. Beyond the alert range is the "required action range." If any parameters are in this range, the pump is declared inoperable. Reference parameters were originally established using the orificed recirculation lines. The current TS values are based on these tests. Because the pumps were recently overhauled, new reference ASME data has been established. The new parameters were obtained by pumping to the steam generators at a much greater flow rate. The new test procedure minimizes the time on recirculation flow to the time required to obtain TS required data. ASME-required data is obtained at a flow close to design best efficiency point flow. Obtaining data at this point is much more meaningful for pump performance assessment.

Changing the testing frequency of the auxiliary feedwater pumps to quarterly will serve to reduce the wear on pump internals and increase overall reliability of the pumps. The present configuration for testing the pumps involves a low flow recirculation path. This fact, combined with continued monthly testing, is expected to result in long-term pump wear, as evidenced by the recent onsite inspections. The decreased testing frequency will result in lower wear rates and increased long-term pump reliability.

Because the auxiliary feedwater pumps fall under the jurisdiction of the ASME Section XI testing program, the pump testing frequency will automatically double should any indication of pump degradation arise. Experience has shown that recent pump degradation occurred over a long period of time. Tracking the pumps' performance under the Section IX IWP program will provide ample opportunity to detect anomalies or variations in pump performance, and will allow ample opportunity to take corrective actions when needed. Since the pumps are not run routinely and not used for startup (most of the run time is used for testing), no degradation between tests is expected. The recent overhaul of the pumps allowed the opportunity to establish solid baseline data on which to compare future results.

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 has evaluated the proposed change in accordance with the criteria above and has made the following determination that the proposed change does not involve a significant hazards consideration as defined in 10 CFR 50.92 because the changes would not:

(1) involve a significant increase in the probability or consequence of an accident previously evaluated. This change does not alter the conditions or assumptions of the accident analysis or the basis of the Technical Specification. The consequence of an auxiliary pump failure is unchanged. The probability of such a failure is actually reduced because a source of pump degradation is minimized.

(2) create the possibility of a new or different kind of accident from any accident previously identified. This change does not alter the conditions or assumptions of the accident analysis or the basis of the current Technical Specification. This is not an actual hardware change.

(3) involve a significant reduction in a margin of safety. This change does not alter the conditions or assumptions of the accident analysis or the basis of the current Technical Specifications. It is not an actual hardware change.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the above evaluation. Therefore, the staff proposes to determine that the proposed change does not involve significant hazard consideration.

Local Public Document Room location: The Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901.

Attorney for licensee: Michael W. Maupin, Esq., Hunton and Williams, P.O. Box 1535, Richmond, Virginia 23212.
NRC Project Director: Herbert N. Berkow

Virginia Electric and Power Company, Docket Nos. 50-338 and 50-339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia

Date of amendment request: January 16, 1990
Description of amendment request: The proposed changes would revise the North Anna Power Station, Units 1 and 2 (NA-1&2) Technical Specifications (TS) Design Features Section (TS 5.3.1). The changes would allow the use of solid stainless steel or solid Zircaloy-4 filler rods in place of fuel rods that are known to be failed. Also, the changes would remove the rod uranium weight limit of 1780 grams.

The licensee's current practice is to not reload assemblies with known failed rods. Failed rods are defined as fuel rods having cladding defects which allow fission products to be released to the coolant. By replacing failed rods with solid filler rods made of stainless steel or Zircaloy-4, the licensee will be able to recover costs from fuel assemblies that are prematurely discharged because of failed fuel rods. Currently, the NA-1&2 TS 5.3.1 precludes the use of solid filler rods.

The NA-1&2 TS 5.3.1 also identifies a limit on the total weight of uranium in each rod. Due to fuel pellet design improvements such as chamfered pellets with reduced dish size and a nominal density increase, the fuel weight may increase by a small amount. However, the actual rod uranium weight has no bearing on power limits, power operating level, or decay heat removal rate. Finally, the areas of safety analysis involving fuel uranium weight have their own specified limits as set forth in the NA-1&2 Updated Final Safety Analysis Report design bases and the NA 1&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 consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has evaluated the proposed changes in accordance with the criteria above and determined that the proposed changes do not involve a significant hazards consideration as defined in 10 CFR 50.92 because the changes would not:

(1) involve a significant increase in the probability or consequences of an accident previously evaluated. The reconstituted fuel assemblies meet essentially the same design requirements and satisfy the same design criteria as other assemblies with similar operating history. Use of reconstituted fuel assemblies will not result in a change to existing safety criteria and design limits.

The deletion of the fuel rod uranium weight limit does not significantly increase the probability or consequences of previously evaluated accidents. The variation in fuel rod weight that can occur without a TS limit is small based on other fuel rod design constraints such as rod diameter, gap size, fuel density, and active fuel length; all of which provide some limit on the variation in rod weight. Additionally, variations allowed by the fuel rod design tolerances are accounted for in existing design uncertainties.

(2) create the possibility of a new or different kind of accident from any accident previously evaluated. Only a single fuel assembly is moved at any one time, and the consequences of an accident are bounded by the fuel handling accident which is the most severe accident related to fuel manipulation. Additionally, reconstituted fuel assemblies are used the same as non-reconstituted fuel assemblies, and all design and interface requirements remain unchanged.

The possibility of a new or different kind of accident from any accident previously evaluated is not created by eliminating the TS limit on fuel rod uranium weight. All of the fuel contained in the fuel rod is similar to and designed to perform the same as previous fuel rods.

(3) involve a significant reduction in the margin of safety. The safety and design limits will not be changed as a result of reconstituted fuel. All safety and design limits will continue to be confirmed as part of the reload safety evaluation process.

The margin of safety is not significantly reduced by eliminating the TS limit on rod uranium weight. Adherence to other fuel-related TS limits and UFSAR design bases is maintained. The deletion of the fuel rod weight limit in TS 5.3.1 of the NA-1&2 TS does not directly affect any safety system or the safety limits, and therefore, does not affect the plant margin of safety.

The staff has reviewed the licensee's no significant hazards consideration determination analysis and agrees with the above evaluation. Therefore, the staff proposes to determine that the proposed changes do not involve significant hazards consideration.

Local Public Document Room location: The Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901.
Attorney for licensee: Michael W. Maupin, Esq., Hunton and Williams, P.O. Box 1535, Richmond, Virginia 23212.
NRC Project Director: Herbert N. Berkow

Virginia Electric and Power Company, Docket Nos. 50-280 and 50-281, Surry Power Station, Unit Nos. 1 and 2, Surry County, Virginia

Date of amendment requests: October 12, 1989
Description of amendment requests: The proposed change would revise Technical Specifications (TS) Table 4.1-2A by replacing the portion of the control rod drop time test frequency requirement associated with "the breach of the Reactor Coolant System integrity" with conditions similar to those that appear in the Westinghouse Standard Technical Specifications (STS) which the NRC staff has approved. The proposed change is needed in order to clarify the required test frequency. Currently, control rod drop time tests are required after the removal of the reactor vessel head and after any control rod specific maintenance. However, another literal interpretation of Item 1 in Table 4.1-2A would require unnecessary testing of the control rods due to any "breach of Reactor Coolant System integrity," such as the maintenance of a loop valve or the opening of a power operated relief valve in the Reactor Coolant System. Therefore, the proposed change would clarify the required testing frequency by incorporating terminology from the Westinghouse STS.

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 licensee has reviewed the proposed change in accordance with the requirements of 10 CFR 50.92 and has determined that the request does not involve a significant hazards consideration in that it would not:

(1) Involve a significant increase the probability or consequences of an accident previously evaluated. Control rod drop time testing is performed to identify potential precursors to a control rod drive mechanism (CRDM) failure or a struck rod. As such, clarifying the frequency of such testing to be based upon activities which may directly affect control rod drop times does not increase the probability of occurrence of a CRDM failure or a stuck rod event. Specifically, there is no basis or referenced supporting analysis of any situational requirements in the Technical Specifications or the UFSAR upon which the frequency of control rod drop time testing was determined. Furthermore, the proposed change is consistent with Standard Technical Specifications which bases control rod drop time test frequency on activities which may directly affect the CRDM. Likewise, the UFSAR stuck rod analysis is not affected by the proposed clarification to frequency of control rod drop time testing. There is no accident increase in the consequences of an UFSAR evaluated accident; or

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated. Inasmuch as the proposed change is a clarification to reflect existing surveillance practice which will remain intact, no change in operation or surveillance is being made, therefore, no new accident or malfunction scenarios are introduced by the change. As noted above, no accident consequences other than that presently evaluated in the UFSAR is introduced by this change, nor does this change affect any accident analysis assumption; or

(3) Involve a significant reduction in a margin of safety. Control rod assembly drop time requirements are unchanged by this proposed [T]echnical [S]pecification and remain consistent with safety analysis assumptions. As noted above, there is no stated basis or referenced supporting analysis in the Technical Specifications or the UFSAR which establishes the frequency for control rod drop time testing. The proposed change would clarify testing to be based on activities which may directly affect control rod operability consistent with Standard Technical Specifications.

Based on the staff's review of the licensee's evaluation, the staff agrees with the licensee's conclusions as stated above. Therefore, the staff proposes to determine that the proposed amendments do not involve a significant hazards consideration.

Local Public Document Room location: Swem Library, College of William and Mary, Williamsburg, Virginia 23185.

Attorney for licensee: Michael W. Maupin, Esq., Hunton and Williams, Post Office Box 1535, Richmond, Virginia 23213.

NRC Project Director: Herbert N. Berkow

Virginia Electric and Power Company, Docket Nos. 50-280 and 50-281, Surry Power Station, Unit Nos. 1 and 2, Surry County, Virginia

Date of amendment requests: October 26, 1989

Description of amendment requests: The proposed change would add a license condition to the subject operating license as paragraph "N". The new paragraph would identify the licensee's submittal dated June 1, 1989 which maintained that the current assessment of control room dose calculations/habitability - although altered - remains within the limits of 10 CFR Part 50, Appendix A. General Design Criteria 19.

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 has reviewed the proposed change in accordance with the requirements of 10 CFR 50.92 and has determined that the request does not involve a significant hazards consideration in that it would not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated, because the revision is to the analytical evaluation of limiting control room doses by consideration of a broader spectrum of accidents and recent updates in meteorological assumptions based on onsite measurements. There are no system changes which increase the probability of an accident occurring. Although the limiting doses to the control room were found to increase, the increases are not considered to be significant because the revised doses remain well below the limits of 10 CFR Part 50, Appendix A, General Design Criteria 19 and meet the guidelines of NUREG-0800 (Section 6.4).

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated, because, as above, the revision is analytical, not physical, and therefore, the possibility of an accident of a different type than any evaluated previously in the UFSAR is not created.

(3) Involve a significant reduction in a margin of safety, because the revised dose calculations for the control room continue to meet the requirements of General Design Criteria 19.

Based on the staff's review of the licensee's evaluation, the staff agrees with the licensee's conclusions as stated above. Therefore, the staff proposes to determine that the proposed amendments do not involve a significant hazards consideration.

Local Public Document Room location: Swem Library, College of William and Mary, Williamsburg, Virginia 23185.

Attorney for licensee: Michael W. Maupin, Esq., Hunton and Williams, Post Office Box 1535, Richmond, Virginia 23213.

NRC Project Director: Herbert N. Berkow

Washington Public Power Supply System, et al., Docket No. 50-397, Nuclear Project No. 2, Benton County, Washington

Date of amendment request: November 29, 1989

Description of amendment request: The proposed amendment would change the surveillance requirement for Technical Specification 3/4.3.6, "Control Rod Block Instrumentation." Specifically, the licensee requested that the weekly channel functional test surveillance, set forth in Table 4.3.6-1, "Control Rod Block Instrumentation Surveillance Requirements," required for the source range monitors (SRMs) and intermediate range monitors (IRMs) be modified to allow the objective of the specification to be met by an alternative means when in the refueling Mode 5.

The current technical specification requires that a channel functional test be performed weekly when in Mode 5. The requested revision would add a footnote to the required weekly channel functional test for both the IRM and SRM function. This footnote would state, "This CHANNEL FUNCTIONAL TEST may be satisfied while in MODE 5 provided the detector is administratively controlled in the full in position and is visually verified to be full in once per 24 hours, unless the CHANNEL

FUNCTIONAL TEST has not been performed within the past 92 days."

Basis for Proposed No Significant Hazards Consideration Determination: The change is proposed to preclude the need to withdraw the detectors to verify the rod block function. The weekly surveillance test in Mode 5 creates an undue hardship for the plant staff and impacts the operability and reliability of the SRM/IRM equipment. During each refueling outage Control Rod Drive maintenance and other work in the under core region requires that the SRM/IRM cables be rolled up and tied out of the way so that the work area is free of interferences and the cables themselves are not damaged indirectly by the work in progress. To conduct the test the cables must be unrolled, laid out and personnel locked out of the area for the duration of the test (16 hours/week). Upon test completion the cables are rolled back up and again tied out of the way. The roll up and down requires 8 man hours/week, incurring some occupational exposure, and subjects the cables to damage by flexing.

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 Supply System has evaluated this amendment request per 10 CFR 50.92 and determined that it does not represent a significant hazard because it does not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated.

The subject rod block function does not significantly enhance protection against inadvertent criticality. In MODE 5 the analyzed events of concern are discussed in the FSAR Section 15.4, Reactivity and Power Distribution Anomalies, specifically the Rod Withdrawal Error at Low Power. The Neutron Monitoring System, including SRMs and IRMs does not function to preclude initiation of any aspect of this event. The probability of this MODE 5 event is precluded by procedural controls and refueling equipment interlocks including the Reactor Mode Switch. Since the probability of inadvertent criticality during refueling is precluded, without reliance on the SRMs or IRMs, and because no other credit is taken for the SRM/IRM feature in Mode 5 this change [cannot] increase the probability or consequences of an accident previously evaluated.

In addition to the above, the compensatory actions described ensure that there is no significant change in the level of protection provided by this change. Movement is precluded by the administrative controls and confirmation that no movement has occurred provides a defense-in-depth assurance that the level of protection is not compromised.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated.

The SRM and IRM systems provide for monitoring of neutron flux levels. Maintaining the detectors in the required full in position is necessary for proper monitoring during operation with control rods withdrawn. During MODE 5, refueling interlocks preclude the withdrawal of more than one rod and any one rod withdrawn will not result in criticality. Should the rod block for the IRM/SRM detectors not-full-in function fail, the other refueling interlocks would still preclude withdrawing more than one rod. To assure the detectors remain full in, administrative controls and a daily surveillance is being added. This will ensure proper neutron monitoring, and in conjunction with other unaffected refueling interlocks will not allow this change to create the possibility of a new or different kind of accident from any previously evaluated.

(3) Involve a significant reduction in a margin of safety.

In Rod block for the IRM/SRM detectors not-full-in function remains unaffected by this change. The surveillance performed to verify the function is operable will be performed at the beginning of a refueling outage. During the outage the detectors will be required to be administratively controlled and visually verified to be full in at least once per 24 hours. Maintaining the detectors in the full in position precludes the need for a detector not-full-in automatic rod block. If the detector is to be withdrawn, or this situation exists for more than 92 days, the original channel functional test would have to be performed or the channel declared inoperable. The 92 day allowance places a reasonable restriction on this allowance and ensures a high degree of reliability without imposing undue hardship, and is generally consistent with other functional test frequencies justified by the BWROG and approved by the Staff in Reference 2.

Since the detectors will be maintained in their required position for monitoring, and the automatic rod block function is still verified to be operable in the event of an inadvertent detector withdrawal, there will not be a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and based on that review, it appears that the three criteria are satisfied. Therefore, the staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Richland City Library, Swift and Northgate Streets, Richland, Washington 99352.

Attorneys for licensees: Nicholas S. Reynolds, Esq., Bishop, Cook, Purcell and Reynolds, 1400 L Street, NW., Washington, DC 20005-3502 and G.E. Doupe, Esq., Washington Public Power Supply System, P.O. Box 968, 3000 George Washington Way, Richland, Washington 99352

NRC Project Director: Charles M. Trammell, Acting

Washington Public Power Supply System, et al., Docket No. 50-397, Nuclear Project No. 2, Benton County, Washington

Date of amendment request: December 4, 1989

Description of amendment request: Technical specification surveillance requirement section 4.3.7.5, "Accident Monitoring Instrumentation" includes a table (Table 3.3.7.5-1, Accident Monitoring Instrumentation) which lists 31 instruments necessary for accident monitoring. For each instrument the table shows the number of instrument channels required to be operable and specifies action to be taken when less than the required number is operable. The proposed amendment would revise the action applicable to instrument 10, Safety/Relief Valve (SRV) Position Indicators. The existing action requirement (Action 80 in Table 3.3.7.5-1) requires that whenever one of the two position indicator channels is inoperable for any valve, the inoperable valve must be repaired within 7 days or the unit must be placed in hot shutdown within the next 12 hours. It requires further that whenever both channels for any valve are inoperable both channels must be restored to operable status within 48 hours or the unit must be shutdown within 12 hours. The licensee has proposed adding an action (Action 82) to apply only to the SRV position indicators. The proposed new action would allow one of two indicator channels to be inoperable until the next outage of sufficient duration to effect repairs, provided the remaining position indication and suppression pool temperature are monitored daily. In addition, the proposed change would allow both indicators to be inoperable on one SRV for 7 days with the same daily suppression pool temperature monitoring requirement.

The licensee also proposed removing a footnote from the table on the basis that the footnote was effective only until the fourth refueling outage. This occurred in the spring of 1989. The staff views removal of this footnote as an editorial change and will not address it further in this notice.

Basis for Proposed No Significant Hazards Consideration Determination: The existing action for SRV position monitoring instrumentation requires that the plant be shutdown with one of two monitors inoperable for more than 7 days. On two separate occasions the licensee requested, and was granted, emergency technical specification changes due to the failure of one SRV position monitoring channel. These amendments allowed operation to continue until the next outage of sufficient duration to effect repairs. Without approval of these changes on an emergency basis, a forced shutdown would have been required.

The licensee has made modifications to the acoustic monitors and changed procedures to increase the reliability of the monitors. However, due to the inherent sensitivity of the acoustic monitors, future failures of the devices are to be expected. As in the previous instances cited above, the repairs could require entry into the drywell with the unit shutdown. To preclude the need for similar emergency technical specification changes in the future the licensee requested this permanent change.

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 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 Supply System has evaluated this amendment request per 10 CFR 50.92 and determined that it does not represent a significant hazard because it does not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated.

The SRV position indication channels are not assumed to function in the initiation of any analyzed accident. The inoperability of these indication channels does not affect the ability of the SRVs to function to relieve pressure nor do they affect ADS operation of the SRVs. The analysis for an inadvertent opening of an SRV (FSAR Section 15.1.4) assumes the function of these alarm-only instrument channels for the purpose of having the operator assess the need for commencing suppression pool cooling with RHR. As discussed [in the application], the operator has many diverse indications available to indicate the need for commencing suppression pool cooling as a result of an open SRV and the SRV position indication is not the primary indication. Loss of one or more SRV position indication channels will not adversely affect the operator's ability to respond to this event as assumed in the analysis. Therefore, this change will not involve a significant increase in the probability or consequences of an accident previously evaluated.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated.

SRV operation, including the ADS function, remains unaffected. No new modes of operation of any equipment results due to this change. Sufficient diverse indication remains available to adequately determine whether an SRV is inadvertently open, therefore, this change will not result in a failure to assess the need for suppression pool cooling. This change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) Involve a significant reduction in a margin of safety.

As discussed [in the application], the operator has many diverse indications available to indicate the need for commencing suppression pool cooling. Loss of one or more SRV position indication channels will not adversely affect the operator's ability to respond to this event as assumed in the analysis. The additional surveillances to monitor the remaining operable position indication channel and to monitor the suppression pool temperature while operation continues with an inoperable channel(s), as proposed in Action 82, will compensate for the loss of position indication channel(s). Therefore, this change will not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and based on that review, it appears that the three criteria are satisfied. Therefore, the staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Richland City Library, Swift and Northgate Streets, Richland, Washington 99352.

Attorneys for licensees: Nicholas S. Reynolds, Esq., Bishop, Cook, Purcell and Reynolds, 1400 L Street, NW., Washington, DC 20005-3502 and G.E. Doupe, Esq., Washington Public Power Supply System, P.O. Box 968, 3000 George Washington Way, Richland, Washington 99352

NRC Project Director: Charles M. Trammell, Acting

Wisconsin Public Service Corporation, Docket No. 50-305, Kewaunee Nuclear Power Plant, Kewaunee County, Wisconsin

Date of amendment request: April 28, 1989, August 15, 1989, and November 10, 1989 as superseded December 20, 1989.

Description of amendment request: By letter dated April 28, 1989, Wisconsin Public Service Corporation (the licensee) proposed amendments to the Kewaunee Nuclear Power Plant Technical Specifications. These changes addressed organizational changes, corrected typographical errors and inconsistencies, and clarified the intent of certain technical specifications (TS). One change would revise the basis for a TS to reflect a design modification conducted under 10 CFR 50.59. The staff's proposed no significant hazards consideration determination for the requested changes was published on May 31, 1989 (54 FR 103).

By letter dated August 15, 1989, the licensee proposed revisions to the amendment necessary due to organization changes in the Wisconsin Public Service Corporation nuclear organization. The proposed revisions would revise TS paragraphs 6.5.3.3 and 6.6.1 to change the personnel title "Executive Vice President-Power" to "Assistant Vice President-Nuclear Power." Paragraphs TS 6.5.3.2, 6.5.3.8, 6.5.3.9 and 6.5.3.10 will be revised to require the Nuclear Safety Review and Audit Committee (NSRAC) to report to a "Senior Officer of the Company" vice the "Executive Vice President-Power." In addition, the phrase "or such person as he shall designate" will be removed from paragraph 6.5.3.2.

By letter dated November 10, 1989, superseded by letter dated December 20, 1989, the licensee proposed an additional change that would revise TS paragraph 6.8.2 to add the word "temporary" and change the phrase "a valid SRO license" to read "an active SRO license." This will clarify TS 6.8.2 to show that temporary changes are covered by this TS and that these temporary changes must be reviewed by two individuals knowledgeable in the area affected, one of which holds an active SRO license.

Additionally the licensee proposed a revision to TS 6.8.3 to describe an exception to Section 5.2.15 of ANSI N18.7-1976 that requires safety related plant procedures be reviewed no less frequently than every two years. The proposed revision specifies that procedures performed at a frequency interval of greater than every two years shall, instead, be reviewed prior to use or within the previous two years.

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, (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 of no significant hazards considerations using the Commission's standards.

The proposed changes reflect recent organizational changes within the WPSC nuclear organization. WPSC has determined that the recent organizational changes will not decrease the effectiveness of the WPSC nuclear organization. The proposed changes do not change the intent of the existing specifications. The proposed change to paragraph 6.5.3.9 is potentially more conservative than the existing requirement and is not any less conservative. Therefore, there are no significant hazards associated with these changes.

Concerning the proposed changes to TS 6.8.2 the licensee stated:

The proposed changes reflect a clarification and an additional restriction not presently included in technical specifications; therefore, there is no significant hazard associated with these changes...

The proposed change is similar to example C.2.e(ii) in 51 FR 7751. Example C.2.e(ii) states that changes which constitute an additional limitation, restriction, or control not presently included in the technical specifications are not likely to involve a significant hazard.

Concerning the proposed changes to TS 6.8.3 the licensee stated:

The proposed change is an exception to section 5.2.15 of ANSI N18.7-1976. However, since safety related procedures will still require review within two years prior to performance, the intent of ANSI N18.7-1976 is satisfied and the margin of safety is not reduced.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. The staff, therefore, proposes to determine that the licensee's request does not involve a significant hazards consideration.

Local Public Document Room location: University of Wisconsin Library Learning Center, 2420 Nicolet Drive, Green Bay, Wisconsin 54301.

Attorney for licensee: David Baker, Esq., Foley and Lardner, P.O. Box 2193, Orlando, Florida 31082.

NRC Project Director: John N. Hannon.

Yankee Atomic Electric Company, Docket No. 50-029, Yankee Nuclear Power Station, Franklin County, Massachusetts

Date of amendment request: January 18, 1990

Description of amendment request: The proposed amendment would incorporate into the Technical Specifications modifications to allow the licensee to make certain changes in the Emergency Core Cooling System (ECCS). Redundant motor-operated Pressurizer Auxiliary Spray Valves are to be installed to replace the existing manually-operated valve. This change is implemented to provide enhanced safety grade auxiliary spray capability for periods when normal spray via the main coolant pumps is unavailable.

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.

The proposed modification will enhance the capability for controlling Main Coolant System (MCS) when the normal spray is unavailable. The charging line will be isolated by series redundant isolation valves, and spray flow will be initiated through one of two parallel redundant flow control valves located in the spray line piping which branches off the normal charging line. This valve arrangement ensures that spray flow can be initiated following any single active failure.

Redundant safety grade HPSI discharge throttling capability will ensure that the required flow can be delivered to the pressurizer auxiliary spray line when using ECCS. This capability also provides the flexibility to reduce ECCS pump operation to a single HPSI pump during the recirculation phase of operation, thus significantly reducing the emergency diesel generator loading.

The series redundant charging line valves will be provided with dual starter contractors to preclude spurious valve closure during normal plant operation. This feature provides assurance that the normal charging and ECCS hot leg recirculation path remains operable in accordance with existing Technical Specification requirements.

The addition of the new valves has been evaluated and determined to have negligible impact on ECCS performance.

Therefore, this change enhances MCS pressure control capabilities and provides an added degree of flexibility during normal cooldown, while preserving the existing design basis functional capabilities of the affected safety-related systems.

(2) Use of the modified specification would not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed auxiliary spray modification incorporates design features which enhance MCS pressure control capabilities while not adversely impacting operation of any safety-related system's structures or components. The design ensures that Main Coolant System depressurization can be accomplished in consideration of the limiting single failure and also precludes inadvertent charging line isolation during normal plant operation.

Inadvertent activation of auxiliary pressurizer spray would result in depressurization of the MCS. This is not a credible event since multiple failures are needed to isolate the charging line and initiate auxiliary spray.

(3) Use of the modified specification would not involve a significant reduction in a margin of safety.

The charging line isolation modification is designed consistent with existing Technical Specification requirements which ensure that the charging line flow path remains operable during normal operation.

The staff has reviewed the licensee's no significant hazards consideration determination analysis. Based upon this review, the staff agrees with the licensee's no significant hazards analysis. 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: Greenfield Community College, 1 College Drive, Greenfield, Massachusetts 01301

Attorney for licensee: Thomas Dignan, Esquire, Ropes and Gray, 225 Franklin Street, Boston, Massachusetts 02111

NRC Project Director: Richard H. Wessman

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.

Baltimore Gas and Electric Company, Docket No. 50-318, Calvert Cliffs Nuclear Power Plant, Unit No. 2 , Calvert County, Maryland

Date of application for amendment: February 12, 1988 and February 7, 1989 as supplemented on March 30, April 21, April 25 and May 8, 1989.

Brief description of amendment: This amendment modifies the Unit 2 Technical Specifications and License to support Cycle 9 operations

Date of issuance: January 10, 1990

Effective date: February 10, 1990

Amendment No.: 123

Facility Operating License No. DPR-69. Amendment revised the Technical Specifications and License.

Date of initial notice in Federal Register: April 12, 1989 (54 FR 14714). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 10, 1990.

No significant hazards consideration comments received: No

Local Public Document Room location: Calvert County Library, Prince Frederick, Maryland.

Carolina Power & Light Company, et al., Docket Nos. 50-325 and 50-324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of application for amendments: April 28, 1989, as supplemented November 16, 1989.

Description of amendments: The amendments change the Technical Specifications (TS) to delete organization charts from the TS, incorporate other organizational changes to Section 6.0, Administrative Controls, and update TS Section 6.5.4.9.

Date of issuance: January 3, 1990

Effective date: January 3, 1990

Amendment Nos.: 138 and 170

Facility Operating License Nos. DPR-71 and DPR-62. Amendments revise the Technical Specifications.

Date of initial notice in Federal Register: June 14, 1989 (54 FR 25638). The November 16, 1989 letter provided updated information that did not change the initial determination of no significant hazards consideration as published in the Federal Register. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 3, 1990.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of North Carolina at Wilmington, William Madison Randall Library, 601 S. College Road, Wilmington, North Carolina 28403-3297.

Commonwealth Edison Company, Docket Nos. 50-373 and 50-374, LaSalle County Station, Unit Nos. 1 and 2, LaSalle County, Illinois

Date of application for amendments: June 21, 1989

Brief description of amendments: The amendments revised Technical Specification 3/4 4.6 regarding pressure - temperature limit of the Reactor Coolant System in order to comply with Generic Letter 88-11 and Regulatory Guide 1.99, Revision 2. Specifically, the submittal replaced the previous pressure and temperature curves with new curves, which are also reflected in the limiting conditions for operation. The associated Bases were modified as well. Additionally, the amendment allows that during shutdown conditions for hydrostatic or leak testing or heatup by non-nuclear means, the average coolant temperature limit for cold shutdown and hot shutdown may be raised from 200° F to 212° F.

Date of issuance: January 16, 1990

Effective date: January 16, 1990

Amendment Nos.: 71 for Unit 1 and 55 for Unit 2

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 40925). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 16, 1990.

No significant hazards consideration comments received: No

Local Public Document Room location: Public Library of Illinois Valley Community College, Rural Route No. 1, Oglesby, Illinois 61348

Detroit Edison Company, Docket No. 50-341, Fermi-2, Monroe County, Michigan

Date of application for amendment: December 22, 1988

Brief description of amendment: This amendment revised Technical Specifications (TSs) Section 3/4.8.4.1 - A.C. Circuits Inside Primary Containment. The proposed change deletes four circuits from the TSs and supersedes the TS change request of September 25, 1987.

Date of issuance: January 17, 1990.

Effective date: January 17, 1990

Amendment No.: 48

Facility Operating License No. NPF-43. The amendment revises the Technical Specifications.

Date of initial notice in Federal Register: December 13, 1989 (54 FR 51255). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 17, 1990.

No significant hazards consideration comments received: No.

Local Public Document Room location: Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48161.

Detroit Edison Company, Docket No. 50-341, Fermi-2, Monroe County, Michigan

Date of application for amendment: January 26, 1988 as supplemented August 24, 1988 and May 31, 1989

Brief description of amendment: This amendment revised the provisions in the Technical Specifications to allow that primary and secondary containment

penetrations located in locked high radiation areas be verified closed each cold shutdown (if not performed within the previous 31 days) rather than every 31 days. In addition, the amendment clarified that primary containment penetrations located in locked areas which remain high radiation areas during the cold shutdown may be verified by review of high radiation area access controls.

Date of issuance: January 18, 1990
Effective date: January 18, 1990
Amendment No.: 49
Facility Operating License No. NPF-43. The amendment revises the Technical Specifications.
Date of initial notice in **Federal Register:** May 4, 1988 (53 FR 15910). The August 24, 1988 and May 31, 1989 submittals provided additional clarifying information and did not change the finding of the initial notice.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 18, 1990.

No significant hazards consideration comments received: No.
Local Public Document Room location: Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48161.

Duke Power Company, et al., Dockets Nos. 50-413 and 50-414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of application for amendments: April 6, 1989, as supplemented September 6, 1989
Brief description of amendments: The amendments modify Technical Specifications (TSs) 3/4.9.8.1 and 3/4.9.8.2 and their associated Bases to: (1) reduce the required Residual Heat Removal 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 Surveillance Requirement to ensure that the RCS temperature is maintained at or below 140° F, and (3) provide the technical justification for the revision in TS Bases 3/4.9.8.
Date of issuance: January 23, 1990
Effective date: January 23, 1990
Amendment Nos.: 69, 63
Facility Operating License Nos. NPF-35 and NPF-52. Amendments revised the Technical Specifications.
Date of initial notice in **Federal Register:** November 1, 1989 (54 FR 46145). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 23, 1990.
No significant hazards consideration comments received: No.
Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina 29730

Florida Power and Light Company, et al., Docket Nos. 50-335 and 50-389, St. Lucie Plant, Unit Nos. 1 and 2, St. Lucie County, Florida

Date of application for amendments: February 21, 1989
Brief description of amendments: These amendments change the iodine reporting requirements to conform with the recommendations of Generic Letter 85-19, "Reporting Requirements on Primary Coolant Iodine Spikes."
Date of Issuance: January 18, 1990
Effective Date: January 18, 1990
Amendment Nos.: 101 & 44
Facility Operating License Nos. DPR-67 and NPF-16: Amendments revised the Technical Specifications.
Date of initial notice in **Federal Register:** March 22, 1989 (54 FR 11837). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 18, 1990.
No significant hazards consideration comments received: No.
Local Public Document Room location: Indian River Junior College Library, 3209 Virgina Avenue, Ft. Pierce, Florida 33450.

GPU Nuclear Corporation, Docket No. 50-320, Three Mile Island Nuclear Station, Unit No. 2, (TMI-2), Dauphin County, Pennsylvania

Date of application for amendment: August 15, 1988
Brief description of amendment: The amendment modifies Appendix A Technical Specifications by revising the specifications related to staffing requirements for the TMI-2 Safety Review Group (SRG). The changes also revise the current definition of review significant items and resolve a conflict with the existing regulatory requirements related to the submission of reports to the NRC.
Date of Issuance: January 26, 1990
Effective date: January 26, 1990
Amendment No.: 36
Facility Operating License No. DPR-73. Amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** August 9, 1989 (54 FR 32710). The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated January 26, 1990.
No significant hazards consideration comments received: No.
Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

Long Island Lighting Company, Docket No. 50-322, Shoreham Nuclear Power Station, Unit 1, Suffolk County, New York

Date of application for amendment: July 13, 1989
Brief description of amendment: This amendment deletes the phrase "...and shall be approved by the Plant Managers..." in Technical Specification 6.8.2.
Date of issuance: January 16, 1990
Effective date: January 16, 1990
Amendment No. 1
Facility Operating License No. NPF-82. This amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** November 29, 1989 (54 FR 49133). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 16, 1990.
No significant hazards consideration comments received: No
Local Public Document Room location: Shoreham-Wading River Public Library, Route 25A, Shoreham, New York 11786-9697.

Public Service Company of Colorado, Docket No. 50-267, Fort St. Vrain Nuclear Generating Station, Platteville, Colorado

Date of amendment request: September 14, 1989
Brief description of amendment: Removes fire protection features from Technical Specifications in accordance with Generic Letter 88-12.
Date of issuance: January 11, 1990
Effective date: January 11, 1990
Amendment No.: 76
Facility Operating License No. DPR-34. Amendment revised the Technical Specifications/license.
Date of initial notice in **Federal Register:** November 29, 1989 (54 FR 49138). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 11, 1990.
No significant hazards consideration comments received: No
Local Public Document Room location: Greeley Public Library, City Complex Building, Greeley, Colorado

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 October 13, October 30 and December 4, 1989.
Brief description of amendment: Upgrades the TS for reactivity control.
Date of issuance: January 24, 1990
Effective date: January 24, 1990
Amendment No.: 77
Facility Operating License No. DPR-34. Amendment revised the Technical Specifications/license.
Date of initial notice in **Federal Register:** October 18, 1989 (54 FR 42862). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 24, 1990.
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 Nos. 50-272 and 50-311, Salem Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of application for amendments: October 20, 1989
Brief description of amendments: Removes from the Technical Specifications, Section 4.0.2 the limitation that for any three consecutive surveillance intervals, the combined time shall not exceed 3.25 times the specified surveillance interval.
Date of issuance: January 16, 1990
Effective date: As of the date of issuance and shall be implemented within 60 days of the date of issuance.
Amendment Nos. 106 and 83
Facility Operating License Nos. DPR-70 and DPR-75. These amendments revised the Technical Specifications.
Date of initial notice in **Federal Register:** December 13, 1989 (54 FR 51263). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 16, 1990.
No significant hazards consideration comments received: No
Local Public Document Room location: Salem Free Public Library, 112 West Broadway, Salem, New Jersey 08079

Public Service Electric & Gas Company, Docket Nos. 50-272 and 50-311, Salem Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of application for amendments: September 28, 1989
Brief description of amendments: These amendments reduced the pressure at which the RHR system open permissive interlock is tested from 580 psig to 375 psig.
Date of issuance: January 17, 1990
Effective date: Unit 1: As of the date of issuance and shall be implemented within 60 days of the date of issuance. Unit 2: As of the date of issuance. Implementation shall be before startup from the fifth refueling outage currently scheduled to begin in March 1990.
Amendment Nos. 107 and 84
Facility Operating License Nos. DPR-70 and DPR-75. These amendments revised the Technical Specifications.
Date of initial notice in **Federal Register:** December 13, 1989 (54 FR 51262). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 17, 1990.
No significant hazards consideration comments received: No
Local Public Document Room location: Salem Free Public Library, 112 West Broadway, Salem, New Jersey 08079

Public Service Electric & Gas Company, Docket No. 50-311, Salem Generating Station, Unit No. 2, Salem County, New Jersey

Date of application for amendment: September 25, 1989
Brief description of amendment: This amendment extended the surveillance interval for conducting the last of three containment integrated leak rate tests by about nine months.
Date of issuance: January 17, 1990
Effective date: As of the date of issuance to be implemented within 60 days of the date of issuance.
Amendment No. 85
Facility Operating License No. DPR-75: This amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** December 13, 1989 (54 FR 51261). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 17, 1990.
No significant hazards consideration comments received: No
Local Public Document Room location: Salem Free Public Library, 112 West Broadway, Salem, New Jersey 08079

Southern California Edison Company, et al., Docket Nos. 50-361 and 50-362, San Onofre Nuclear Generating Station, Units 2 and 3, San Diego County, California

Date of application for amendments: September 11, 1989
Brief description of amendments: The amendments incorporate programmatic controls for radiological effluents and radiological environmental monitoring in the Administrative Controls section of the Technical Specifications (TS) consistent with the requirements of 10 CFR 20.106, 40 CFR Part 190, 10 CFR 50.36a, and Appendix I to 10 CFR Part 50. At the same time, the licensees will transfer the procedural details of the Radiological Effluent Technical Specifications from the TS to the Offsite Dose Calculation Manual (ODCM) or to the Process Control Program (PCP) for solid radioactive wastes as appropriate. Finally, modifications to the definitions of the ODCM and PCP were made consistent with these changes.
Date of issuance: January 12, 1990
Effective date: January 12, 1990
Amendment Nos.: 83 and 73
Facility Operating License Nos. NPF-10 and NPF-15: Amendments changed the Technical Specifications.
Date of initial notice in **Federal Register:** November 1, 1989 (54 FR 46158). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 12, 1990.
No significant hazards consideration comments received: No.
Local Public Document Room location: General Library, University of California, P.O. Box 19557, Irvine, California 92713.

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: September 10, 1987
Brief description of amendment: This amendment changed Technical Specification (TS) 4.0.3 and Bases Section 4.0.3 in accordance with NRC Generic Letter 87-09. The changes included a specific, acceptable time limit of 24 hours to complete an inadvertently missed surveillance before the provisions of the applicable Action Requirements apply if the required action is less than 24 hours from discovery.
Date of issuance: January 25, 1990
Effective date: January 25, 1990
Amendment No. 145
Facility Operating License No. NPF-3. Amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** November 29, 1989 (54 FR 49139). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 25, 1990.

No significant hazards consideration comments received: No

Local Public Document Room location: University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

Yankee Atomic Electric Company, Docket No. 50-029, Yankee Nuclear Power Station, Franklin County, Massachusetts

Date of application for amendment: November 22, 1989

Brief description of amendment: Incorporates into Yankee Rowe's Technical Specifications wording from Generic Letter 84-13 which allows the removal of Table 3.7.4, such that the tabular listing of snubbers is deleted.

Date of issuance: January 23, 1990

Effective date: January 23, 1990

Amendment No.: 129

Facility Operating License No. DPR-3: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 13, 1989 (54 FR 51264). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 28, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Greenfield Community College, 1 College Drive, Greenfield, Massachusetts 01301.

Dated at Rockville, Maryland, this 31st day of January, 1990.

For the Nuclear Regulatory Commission

Steven A. Varga,

Director, Division of Reactor Projects-I/II, Office of Nuclear Reactor Regulation

[Doc. 90-2702 Filed 2-6-90; 8:45 am]

BILLING CODE 7590-01-D

OFFICE OF PERSONNEL MANAGEMENT

Notice of Request for Approval of OPM Form 1386, Applicant Race and National Origin Questionnaire; Submitted to OMB for Clearance

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (title 44, U.S. Code, chapter 35), this notice announces a request to revise and reinstate the use of OPM Form 1386, Applicant Race and National Origin Questionnaire. OPM will use Form 1386, Applicant Race and National Origin Questionnaire, to collect data needed for determining impact of selection procedures and for complying with provisions of *Luevano* v. *Newman*, Civil Action 79-0271, U.S. District Court for DC.

Approximately 60,000 will be processed annually; each form requires approximately 8 minutes to complete, for a total public burden of 8,000 hours. For copies of this proposal, call Larry Dambrose, at (202) 632-0199.

DATES: Comments on this data collection should be received by March 9, 1990.

ADDRESSES: Send or deliver comments to—Joseph Lackey, OPM Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, NW., room 3235, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Tracy E. Spencer at (202) 632-6817.

U.S. Office of Personnel Management.

Constance Berry Newman,

Director.

[FR Doc. 2789 Filed 2-6-90; 8:45 am]

BILLING CODE 6325-01-M

OFFICE OF UNITED STATES TRADE REPRESENTATIVE

[Docket No. 301-63]

Determinations Under Section 304 of the Trade Act of 1974, as Amended: European Community Policies and Practices With Respect to, Inter Alia, Production and Processing Subsidies on Oilseeds

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of determination under section 304(a)(1)(A) of the Trade Act of 1974 (the "Trade Act") regarding United States' rights under a trade agreement affected by, *inter alia*, subsidies provided by the European Communities (the "EC") to producers and processors of oilseeds and animal feed proteins and the practices resulting therefrom; and notice of determination under section 301(a)(2)(B)(i) that the EC has committed to take satisfactory measures to grant the rights of the United States under that trade agreement.

SUMMARY: Pursuant to section 304(a)(1)(A) of the Trade Act, 19 U.S.C. 2414(a)(1)(A), as amended by section 1301 of the Omnibus Trade and Competitiveness Act of 1988, the United States Trade Representative has determined, consistent with the conclusions of a dispute settlement panel established under the General Agreement on Tariffs and Trade (the "GATT"), that rights of the United States under a trade agreement are being denied by, *inter alia*, the EC's production and processing subsidies on oilseeds and animal feed proteins and the practices resulting therefrom, within the meaning of section 301(a)(1)(B)(i), 19 U.S.C. 2411(a)(1)(B)(i), and that EC production subsidies deny benefits to the United States within the meaning of section 301(a)(1)(B)(i), 19 U.S.C. 2411(a)(1)(B)(i). The Trade Representative also has found that the EC has agreed to take satisfactory measures within the meaning of section 301(a)(2)(B)(i), 19 U.S.C. 2411(a)(2)(B)(i), to grant the rights of the United States under a trade agreement. In light of the above, the USTR has determined pursuant to section 304(a)(1)(B) that the appropriate action at this time is to conclude the investigation of this matter initiated under section 302(a) of the Trade Act, and, in accordance with section 306 of the Trade Act, to monitor implementation by the EC of its commitment to take satisfactory measures by the 1991 marketing year to comply with the panel report.

EFFECTIVE DATE: January 31, 1990.

FOR FURTHER INFORMATION CONTACT: Timothy Reif, Assistant General Counsel, (202) 395-6800.

SUPPLEMENTARY INFORMATION: On December 16, 1987, the American Soybean Association filed a petition under section 302 of the Trade Act, 19 U.S.C. 2412, alleging that the EC was engaged in practices affecting imports of oilseeds, particularly soybeans, that deny rights of the United States under a trade agreement, are inconsistent with a trade agreement, and are unjustifiable, unreasonable and burden or restrict United States commerce. The trade agreement at issue was the General Agreement on Tariffs and Trade (the "GATT"). The practices complained of were, *inter alia*, subsidies provided to the EC producers of oilseeds and animal feed proteins that nullify or impair benefits accruing to the United States under the GATT as a result of zero-binding tariff concessions granted by the EC in 1962, and subsidies provided to EC processors of oilseeds that encourage purchase of EC oilseeds to the detriment of imports of oilseeds, particularly soybeans, from the United States.

On January 5, 1988, the Trade Representative initiated an investigation of these practices and requested consultations with the EC, as required by section 303(a) of the Trade Act, 19 U.S.C. 2413. Consultations were held between representatives of the United States and the EC on January 26, 1988.

February 19, 1988, and April 19, 1988. These consultations failed to result in a mutually satisfactory resolution of the issues. Thus, on May 4, 1988, the United States requested the GATT Council of Representatives to establish a dispute settlement panel to consider the matter. The panel was established and began its work on May 19, 1989.

On July 5, 1989, the Trade Representative determined that there was reason to believe that United States' rights under a trade agreement were being denied by, *inter alia*, the EC's production and processing subsidies on oilseeds and animal feed proteins and the practices resulting therefrom within the meaning of section 301(a)(1)(B), 19 U.S.C. 2411(a)(1)(B) and that there was reason to believe that the EC practices at issue were unjustifiable and unreasonable, and burdened or restricted U.S. commerce, within the meaning of sections 301(a)(1)(B) and 301(b)(1), 19 U.S.C. 2411(a)(1)(B) and 2411(b)(1), respectively.

On July 5, 1989, the Trade Representative also determined pursuant to section 305(a)(2)(A)(ii), 19 U.S.C. 2415(a)(2)(A)(ii) that substantial progress was being made with respect to the dispute as evidenced by the fact that a panel had been established under the GATT to consider the issues raised by the United States, and the EC was participating in good faith in the panel's consideration of the matter. Therefore, the Trade Representative decided to delay implementation of any action to be taken under section 301 by not more than 180 days (no later than January 31, 1990). Pursuant to section 304(a)(1)(B), the Trade Representative also found that action under section 301 would be appropriate in light of the GATT panel findings.

On December 14, 1989, the GATT panel released its report, finding that: (1) Community Regulations providing for payments to seed processors conditional on the purchase of oilseeds originating in the Community are inconsistent with Article III:4 of the General Agreement, according to which imported products shall be given treatments no less favorable than that accorded like domestic products in respect of all regulations affecting their internal purchase and recommended that the Contracting Parties request the Community to bring these Regulations into conformity with the General Agreement; (2) benefits accruing to the United States under Article II of the General Agreement in respect of the zero tariff bindings for oilseeds in the Community Schedule of Concessions were impaired as a result of the introduction of production subsidy schemes which operate to protect Community producers of oilseeds completely from the movement of prices of imports and thereby prevent the tariff concessions from having any impact on the competitive relationship between domestic and imported oilseeds and recommended that the Contracting Parties suggest that the Community consider ways and means to eliminate the impairment of its tariff concessions for oilseeds; and (3) as the inconsistency with Article III:4 and the impairment of the tariff concessions arise from the same Community Regulations, a modification of these Regulations in the light of Article III:4 could also eliminate the impairment of the tariff concessions and recommended that the Contracting Parties take no further action under Article XXIII:2 in relation to the impairment of the tariff concessions until the Community had a reasonable opportunity to adjust its Regulations to conform to Article III:4.

Following release of the report, the EC Foreign Affairs Council expressed its readiness to accept the GATT panel conclusions and to adapt the Community regulations within the framework of the implementation of the results of the Uruguay Round; and the USTR was advised that the necessary measures to comply with the panel's conclusions would be in place for the crop year beginning in 1991. On January 25, 1990, the panel report was adopted by consensus by the GATT Council of Representatives, and the EC representative confirmed the EC's intention to take measures to comply with the panel's conclusions.

On January 31, 1990, consistent with the panel's conclusions, the USTR determined under section 304(a)(1)(A)(i), 19 U.S.C. 2414(a)(1)(A)(i), that rights of the United States under a trade agreement are being denied by, *inter alia*, the EC's production and processing subsidies on oilseeds and animal feed proteins and the practices resulting therefrom, within the meaning of section 301(a)(1)(A), 19 U.S.C. 2411(a)(1)(A), and that EC production subsidies deny benefits to the United States within the meaning of section 301(a)(1)(B)(i), 19 U.S.C. 2411(a)(1)(B)(i). The Trade Representative also has found that the EC has agreed to take satisfactory measures within the meaning of section 301(a)(2)(B)(i), 19 U.S.C. 2411(a)(2)(B)(i), to grant the rights of the United States under a trade agreement.

In light of the above, the USTR has determined pursuant to section 304(a)(1)(B) that the appropriate action at this time is to conclude the investigation of this matter initiated under section 302(a) of the Trade Act, and, in accordance with section 306(a) of the Trade Act, to monitor implementation by the EC of its commitment to take satisfactory measures by the 1991 marketing year to comply with the panel report. If, on the basis of the monitoring carried out under section 306(a), the Trade Representative considers that the EC has not satisfactorily implemented its commitment, in accordance with section 306(b) the Trade Representative shall determine what further action to take under section 301. The petitioner has indicated that it concurs in this decision.

A. Jane Bradley,

Chairman, Section 301 Committee.

[FR Doc. 90-2757 Filed 2-6-90; 8:45 am]

BILLING CODE 3190-01-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 34-27657; File Nos. SR-Amex-87-09, Amdt. 5; SR-PSE-87-21, Amdt. 6; SR-Phlx-90-02; SR-CBOE-90-01; and SR-NYSE-87-40, Amdt. 4]

American Stock Exchange, Inc., et al.; Notice of Filing and Order

In the matter of Self-Regulatory Organizations; American Stock Exchange, Inc.; Pacific Stock Exchange, Inc.; Philadelphia Stock Exchange, Inc.; Chicago Board Options Exchange, Inc.; Notice of Filing and Order Granting Accelerated Approval to Proposed Rule Changes Relating to Extension of the Market Index Option Escrow Receipt Pilot Program.

On January 5, 1990, the American Stock Exchange, Inc. ("Amex") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b-4 thereunder,[2] a proposed rule change to extend the market index option escrow receipt ("MIOER") pilot program until March 31, 1990.[3]

[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b-4 (1989).

[3] On January 8, 9, and 25, 1990, the Pacific ("PSE") and Philadelphia ("Phlx") Stock Exchanges, Inc., the Chicago Board Options Exchange, Inc. ("CBOE"), and the New York Stock Exchange, Inc. ("NYSE"), respectively, submitted substantially identical proposals for the extension of the MIOER pilot. *See* File Nos. SR-PSE-87-21, Amendment No. 6; SR-Phlx-90-02; SR-CBOE-90-01; and SR-NYSE-87-40, Amendment No. 4. Hereinafter, the terms "self-regulatory organizations" and "exchanges" refer to the Amex, PSE, Phlx, CBOE, and NYSE.

In August 1985, the Commission approved a one-year pilot program to permit the use of cash, cash equivalents, one or more qualified securities, or a combination of the foregoing, as collateral for escrow receipts issued to cover short call positions in broad-based stock index options.[4] The proposed rule changes are designed to extend the pilot program until such time as the exchanges and the Options Clearing Corporation ("OCC") resolve certain matters concerning the format of the receipt and administration of the program. The proposed rule changes also are designed to provide the Commission the opportunity to review information submitted by the CBOE, updating its report concerning the effectiveness of the MIOER program.[5]

The Commission finds good cause both for approving the proposed rule changes and approving them prior to the thirtieth date after the date of publication of the proposals in the Federal Register for several reasons. First, an extension of the pilot, retroactive from January 1, 1990 through March 31, 1990, will allow for the uninterrupted continuation of a program designed to facilitate the writing of stock index call options by investors, thereby permitting investors to take advantage of the hedging function served by writing index call options against a diversified portfolio. Second, continuation of the program will allow OCC to continue its review of the escrow receipt format. Third, the extension will allow the Commission to continue its evaluation of the program's effectiveness. Fourth, the pilot was previously approved by the Commission and no adverse comments have been received regarding its operation.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by February 28, 1990.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[6] that the proposals to extend the operation of the pilot, retroactive from January 1, 1990 through March 31, 1990 (SR–Amex 87–09, Amendment No. 5; SR–PSE–87–21, Amendment No. 6; SR–Phlx–90–02; SR–CBOE–90–01; and SR–NYSE–87–40, Amendment No. 4) be, and hereby are, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Dated: January 30, 1990.

Jonathan G. Katz,

Secretary.

[FR Doc. 90–2734 Filed 2–6–90; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–27656; File No. SR–BSE–90–01]

Self-Regulatory Organizations; Boston Stock Exchange, Inc.; Filing and Order Granting Accelerated Approval of a Proposed Rule Change Relating to Specialist Performance Evaluation Program One Year Pilot

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 9, 1990, the Boston Stock Exchange, Inc. ("BSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The proposal would renew the operation of the Exchange's pilot program for the evaluation of specialist performance for a one-year period. By letter dated January 17, 1990, the Exchange requested accelerated approval of its proposal to extend the pilot's operation for one year.[3] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons, and this order grants accelerated approval of the BSE's proposal to extend the pilot for one year.[4]

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The BSE originally filed its SPEP pilot program with the Commission on September 28, 1984 (File No. SR–BSE–84–04). Because the Commission is still reviewing the Exchange's proposal, the BSE is submitting this filing to request permanent approval and to request that the current pilot program be renewed for one year in order to enable the Exchange to maintain the program while the Exchange's request for permanent approval is pending and to allow the Commission the time necessary to review the rule filing submitted by the BSE.

II. Self-Regulatory Organization's Statement of the Purpose of, and Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements governing the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Basis for, the Proposed Rule change

1. The purpose of the proposed rule change is to extend the Exchange's SPEP pilot for one year, pending permanent approval by the Commission.

2. The basis under the Act for the proposed rule change is section 6(b)(5).[5]

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[4] *See* Securities Exchange Act Release No. 22323 (August 13, 1985), 50 FR 33439 for a description of the pilot.

[5] *See* Chicago Board Options Exchange, Inc. *Market Index Option Escrow Receipt Pilot Report* (February 6, 1987); and letter from Margaret E. Wiermanski, Director, Credit Policies and Special Projects, Department of Financial Compliance, CBOE, to Howard Kramer, Assistant Director, Division of Market Regulation, SEC, dated November 9, 1989.

[6] 15 U.S.C. 78s(b)(2) (1982).

[7] 17 CFR 200.30–3(a)(12) (1989).

[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b–4 (1989).

[3] *See* letter from Karen A. Aluise, BSE, to George Scargle, Staff Attorney, SEC, dated January 17, 1990. The letter also requested permanent approval of the specialist performance evaluaton pilot program. The Commission is reviewing the BSE's request for permanent approval along with similar proposals by other stock exchanges.

[4] The Commission last approved the Exchange's Specialist Performance Evaluation Pilot Program ("SPEP") on a one-year pilot basis on October 6, 1988. The pilot expired on October 6, 1989. *See* Securities Exchange Act Release No. 26162 (October 6, 1988), 53 FR 40301 (October 14, 1988). The current filing would renew the pilot for another one-year term.

[5] 15 U.S.C. 78f(b)(5) (1982).

in that the questionnaire results weigh heavily in stock allocation decisions and as a result specialists are encouraged to improve their market quality and administrative duties, thereby promoting just and equitable principles of trade and aiding in the perfection of a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change imposes any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change From Members, Participants, or Others

Comments have neither been solicited nor received.

III. Solicitation of Comments.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with 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 the file number in the caption above and should be submitted by February 7, 1990.

IV. Conclusion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6 of the Act [6] and the rules and regulations thereunder. In this regard, we note that the extension of the pilot furthers the protection of investors and the public interest because it allows for the continued evaluation of specialist performance while the Commission considers the Exchange's request for permanent approval.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**. The Commission believes it is necessary to renew the pilot program's operation while the Commission considers the Exchange's proposal to approve the pilot program on a permanent basis so that the program can continue on an uninterrupted basis. The Commission believes, therefore, that accelerated effectiveness of the renewal of the pilot program for an additional one-year term is appropriate.

It is therefore ordered, pursuant to section 19(b)(2) of the Act [7] that the proposed rule change be, and hereby is, approved for a one year period ending on January 30, 1991.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Dated: January 30, 1990.

Jonathan G. Katz,

Secretary.

[FR Doc. 90-2732 Filed 2-6-90; 8:45 am]

BILLING CODE 8010-01-M

[6] 15 U.S.C. 78s (1982).

[7] 15 U.S.C. 78s(b)(2) (1982).

[8] *See* 17 CFR 200.30-3 (1989).

[Rel. No. 34-27664; File No. SR-NSCC-89-16]

Self-Regulatory Organizations; Order Temporarily Approving a Proposed Rule Change by the National Securities Clearing Corporation Amending the Rules that Regulate a Member's Clearing Fund Required Deposit

January 31, 1990.

On October 27, 1989 the National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change (File no. SR-NSCC-89-16) under section 19(b)(1) of the Securities Exchange Act of 1934, as amended ("Act").[1] The proposed rule change revises NSCC's clearing fund requirements for deposits secured by letters of credit. The Commission published notice of the proposed in the **Federal Register** on November 24, 1989.[2] The Commission did not receive any letters of comments. NSCC, however, received one comment letter.[3] For the reasons discussed below, the Commission is approving the proposal rule change on a temporary basis until December 31, 1990.

I. Description of the Proposed Rule Change

NSCC's proposed rule change would amend the last paragraph of NSCC Procedures Section XV.A.II and add a new section XV.A.III. These changes would increase the minimum cash contribution for members using letters of credit to the greater of $50,000 or 10% of their clearing fund required deposit, up to a maximum of $1,000,000. The proposal also would amend NSCC Rule 4 section 1, in order to limit to 70% the portion of a member's required deposit that may be collateralized with letters of credit.

Currently, NSCC's Rules require that each member contribute a clearing fund deposit based on a formula that measures the member's open obligations and settlement activity through NSCC.[4] At a minimum, each member (except Fund/SERV broker-dealers) must deposit the first $10,000 contribution in cash.[5] An NSCC participant may satisfy part of the clearing fund contribution by obtaining one or more irrevocable letters of credit issued on behalf of the member in favor of NSCC.[6] NSCC accepts letters of credit from previously approved banks or trust companies that execute contractual agreements with NSCC governing the terms and conditions of the instruments.[7] Acceptance of letters of credit is subject to certain limits designed to reduce the concentration of issuers of letters of credit held by NSCC.[8] The controlling agreements,

[1] 15 USC section 78s(b)(1) (1982).

[2] Securities Exchange Act Release No. 27447 (November 16, 1989), 54 FR 48708 (November 24, 1989).

[3] Letter from Edward W. Wedbush, President, Wedbush Securities, Inc., to David F. Hoyt, Assistant Secretary, NSCC (November 9, 1989).

[4] *See* Securities Exchange Act Release No. 27192 (August 29, 1989), 54 FR 37070, 37071 (September 6, 1989).

[5] NSCC Procedures, section XV.A.II.; *see also* NSCC Rules, R. 4 section 1.

[6] NSCC Rules, R. 4 section 1. In addition, NSCC's Rules allow participants to secure their clearing fund deposit obligation by pledging to NSCC certain unmatured bonds issued and or guaranteed by the United States, a state or one of its political subdivisions. *Id.*

[7] *See* Securities Exchange Act Release No. 18149 (October 5, 1981), 46 FR 50181 (October 9, 1981) (approving specific wording for a standard letter of credit form).

[8] *See* Securities Exchange Act Release No. 18053 (August 21, 1981), 46 FR 43534, 43534 (August 28, 1981) (amending File no. SR-NSCC-80-15 and becoming effective upon approval of said filing); *see also* Securities Exchange Act Release No. 28052 (August 21, 1981), 46 FR 43341 (August 27, 1981) (approving File no. SR-NSCC-80-15).

moreover, are governed by Article 5 of the New York Uniform Commercial Code.[9] If part of the participant's contribution to the clearing fund is collateralized with letters of credit, the first $50,000 of the member's contribution is required to be in cash.[10]

Pursuant to the terms of the letter of credit agreements, if a participant fails to satisfy certain obligations to NSCC, NSCC may draw drafts to be honored by the issuing bank or trust company, up to the amount specified in the letter of credit.[11] The bank or trust company may defer payment of NSCC's draft until the close of the third banking day following receipt of the instrument.[12] NSCC, however, may use the letter of credit as security for a loan and repay it once the letter of credit is honored.[13]

As of the end of October 1989, seventy-two settling members used letters of credit to secure a part of their clearing fund contributions.[14] As of the same date, letters of credit comprised 76.10% of the totality of required clearing fund deposits while cash contributions to the fund amounted to 14.20%.[15] In total, letters of credit secured 95.90% of the required clearing fund deposits by settling members using them.[16]

II. NSCC's Rationale for the Proposal

According to NSCC, the proposed rule change will have the effect of increasing the liquidity of the clearing fund and will limit exposure to NSCC for any unusual risk associated with the reliance on letters of credit. For this reason, NSCC believes that the proposed rule change will enhance its capacity to safeguard securities and funds in its custody or control and protect the public interest. NSCC, therefore, believes that the proposal is consistent with the requirements of the Act and the rules and regulations thereunder applicable to self-regulatory organizations.

III. Discussion

The Commission believes that NSCC's proposed rule change is consistent with the requirements of sections 17A(b)(3)(A) & (F) of the Act.[17] The Commission agrees with NSCC that the proposed rule change will reduce the possibility of a liquidity risk associated with letters of credit in the event of a default by a major NSCC participant. As such, the proposal enables NSCC to improve its capacity to safeguard securities and funds for which it is responsible while allowing the continued use of this form of collateral, thus promoting the prompt and accurate clearance and settlement of securities transactions.

Letters of credit can be useful as a means of funding clearing agency guarantee funds, but can also increase risks to clearing agencies if their use is not subject to some control. On the one hand, as the Commission has previously underscored, letters of credit can provide "a means of securing clearing fund obligations at significant cost savings [to clearing members,] relative to other forms of collateral."[18] Similarly, letters of credit offer NSCC an efficient way of insulating the clearing fund from extreme market fluctuations, because, unlike government securities, the value of letters of credit does not need to be re-evaluated during periods of rising interest rates.[19] On the other hand, letters of credit are not risk-free assets. Since letters of credit reflect the issuer's unsecured promise to pay funds upon presentation of stipulated documents, clearing agencies can be exposed to financial loss in the event of issuer default or insolvency.[20] Moreover, because the issuer can defer honor of a payment request until the close of business of the third banking day following receipt of the document,[21] the clearing agency (NSCC) must wait for payment or, if necessary, seek alternative short-term financing pending the issuer's payment. Although NSCC's Rules authorize NSCC to pledge letters of credit during this time,[22] the three day waiting period potentially could affect NSCC's ability to meet its payment obligations on a timely basis if one or more participants default on their obligations to NSCC.

In a recent report on financial markets submitted to the President of the United States, the Working Group on Financial Markets explained:

> Futures and securities clearing organizations currently maintain high proportions of their guarantee funds in letters of credit and other non-cash interests. Because of the potential urgency of demands for cash flows generated in volatile markets, the immediate availability of sufficient clearing funds in cash and cash equivalents in conjunction with credit lines to redress the expected counterparty risk assumed by the clearing organization under the traditional clearing organization guarantee is desirable.[23]

Based on this observation, the Working Group recommended that the Commission encourage self-regulatory organizations to explore the possibility of converting guarantee funds to cash or cash equivalents.[24] The Commission agrees with the Working Group's recommendation and believes that NSCC's proposal is a positive step in the direction of complying with this recommendation.

The proposed rule change will reduce letters of credit on deposit to 55% of all assets in the clearing fund. In addition, the proposal would have the effect of increasing the cash and cash equivalent (*e.g.*, U.S. Treasury securities) components of NSCC's clearing fund to more than $175 million.[25] On an individual basis, the proposal will reduce the use of letters of credit by current users by more than 25% and increase their cash and cash equivalent contributions by as much as $82 million.[26]

In a letter dated November 9, 1989, addressed to NSCC, Mr. Edward W. Wedbush, President of Wedbush Securities, Inc. expressed his opposition to the proposed rule change. In his letter, Mr. Wedbush agreed with the need for liquidity of the clearing fund in the event of a major member insolvency, but objected, stating that the proposal would increase the cost of posting collateral.[27] In response, NSCC agreed that the rule proposal would result in an increase in participants' cost to fund collateral deposits, but noted, however, that, in the event of a major default, the proposed change would guarantee continued access to the credit market.[28]

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[9] N.Y. Uniform Commercial Code § 5-101 to -117 (McKinney 1964).

[10] NSCC Procedures, section XV.A.II.

[11] Release No. 18149, *supra* note 7, at 50181; *see also* NSCC Rules, R. 4 section 3.

[12] N.Y. Uniform Commercial Code 5-112(1)(a) (McKinney 1964).

[13] *See* NSCC Rules, R. 4 section 2.

[14] Letter from Robert J. Waldow, General Counsel, NSCC, to Jonathan Kallman, Assistant Director, Division of Market Regulation, SEC (December 14, 1989) (enclosing clearing fund profile of October 31, 1989).

[15] *Id.*

[16] *Id.*

[17] 15 U.S.C. 78q-1(b)(3)(A) & (F).

[18] Securities Exchange Act Release No. 19562 (March 2, 1983), 48 FR 10169, 10170 (March 10, 1983) (footnote omitted).

[19] *Id.* at n. 8.

[20] In order to minimize this risk, NSCC will not accept a letter of credit from an issuer if, as a result of such acceptance, more than 20% of the total clearing fund consists of letters of credit from that issuer. NSCC Rules, R. 4 section 1.

[21] N.Y. Uniform Commercial Code § 5-112 (McKinney 1964).

[22] *See* NSCC Rules, R. 4 section 2.

[23] Working Group on Financial Markets, Interim Report app. D, p. 4 (May 1988).

[24] *Id.*

[25] Letter from Robert J. Woldow, *supra* note 14.

[26] *Id.*

[27] Letter from Edward W. Wedbush, *supra* note 3.

[28] Letter from Robert J. Woldow, General Counsel, NSCC, to Edward W. Wedbush, President, Wedbush Securities, Inc. 1 (December 12, 1989).

While sharing Mr. Wedbush's concern regarding the additional cost to members, the Commission agrees with NSCC's position that, by preserving the use of letters of credit for 70% of the required fund deposit of letter of credit users, the proposal is "an acceptable balance between risk concerns and the business needs of * * * members."[29]

The Commission is approving the proposed rule change temporarily until December 31, 1990, in order to consider this proposal together with NSCC's proposed changes in its clearing fund formula.[30] Both proposals will reduce NSCC's risks in the event of member defaults and, accordingly, warrant implementation pending further review. During this period of temporary implementation, the Commission will be able to ascertain whether NSCC's proposed reduction in the membership's ability to use letters of credit will allow NSCC to maintain, on a continuous basis, an increased level of liquidity for its clearing fund. In addition, the Commission will also have the opportunity to obtain further information regarding the manner in which the proposed rule change will affect NSCC's membership. [31]

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the Act and, in particular with sections 17A(b)(3)(A) & (F) of the Act.[32]

IV. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[33] that the proposed rule change, SR–NSCC–89–16, be, and hereby is, approved on a temporary basis until December 31, 1990.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority. 17 CFR 200.30–(12) (1989).

Jonathan G. Katz

Secretary.

[FR Doc. 90–2733 Filed 2–6–90;8:45am]

BILLING CODE 8010–01–M

[29] *Id.* at 2.

[30] The Commission approved changes in NSCC's clearing fund formula on a temporary basis through December 31, 1990. Release No. 27192, *supra* note 4.

[31] NSCC has agreed to provide the Commission, on a monthly basis, the total dollar value of actual clearing fund deposits and the total dollar value of required clearing fund deposits. In addition, NSCC will also provide the Commission, on a monthly basis, the percentage of required clearing fund deposits and actual clearing fund deposits comprised by letters of credit, cash, and cash equivalents for letter of credit users and non-letter of credit users. Letter from Alison N. Hoffman, Associate Counsel, NSCC, to Julius R. Leiman-Carbia, Staff Attorney, Division of Market Regulation, SEC (January 31, 1990).

[32] 15 USC 78q–1(b)(3)(A) & (F).

[33] 15 USC 78s(b)(2).

[Release No. 34–27655; File No. SR–PSE–90–01]

Self-Regulatory Organizations; Notice of Proposed Rule Change by the Pacific Stock Exchange, Inc. Relating to the Deletion of Section 10(a) of PSE Rule IX, Entitled Transaction Charges

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on January 9, 1990, the Pacific Stock Exchange, Inc. ("PSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to delete section 10(a) from Rule IX of the Exchange's Rules of the Board of Governors.

(The material to be deleted is denoted by brackets).

RULE IX

Exchange Memberships

[Sec. 10(a) Transaction Charges

(1) Each member or member firm shall pay a monthly fee applied to the dollar value of his or its Exchange transactions at the following rate:

Dollar Value of Exchange Transactions Per Month	Rate Per Thousand
$0-$10,000,000	16.0 cents.
Over $10,000,000 to and including $50,000,000.	13.0 cents.
Over $50,000,000	10.0 cents.

(2) "Exchange Transactions" shall include the dollar value of a member's purchase and/or sales effected on the Exchange. if a "give-up" is involved, 40% of the dollar value of such transactions shall be considered "Exchange Transactions" for the firm receiving the give-up, and 60% of the dollar value of such transactions shall be considered "Exchange Transactions" for the firm receiving the give-up, and 60% of the dollar value of such transactions shall be considered "Exchange Transactions" for the firm paying the give-up.

(3) Specialists shall pay a fee of 1½% on specialist's commission income, which fee, accompanied by a report of net commissions, shall be paid on or before the 15th day of each month to the Exchange.

(4) "Exchange Transactions" and the Transaction Fees thereon, shall be computed monthly by the Exchange.]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in sections A, B and C below.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The transaction charges set forth in section 10(a) of PSE Rule IX are also contained in a separate publication setting forth the rates and fees applicable to doing transactions on the Exchange, entitled "PSE Schedule of Rates and Fees." [1] For reference purposes, the PSE considers it more efficient to put the transactions charges in the PSE schedule of rates and fees.

The statutory basis for the proposed rule change is section 6(b)(5) of the Act in that it will enable the PSE to enhance its ability to facilitate transactions in securities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and

[1] Section 10(a) was recently amended to reflect new equity transaction rates. See Securities Exchange Act Release No. 27570 (December 27, 1989), 55 FR 381 (January 4, 1990) (File No. SR–PSE–89–30).

publishes its reasons for so finding, or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the PSE. All submissions should refer to File No. SR–PSE–90–01 and should be submitted by February 28, 1990.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: January 30, 1990.

Jonathan G. Katz,

Secretary.

[FR Doc. 90–2735 Filed 2–6–90; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–17326; 812–7397]

Freedom Investment Trust, et al.; Application

January 30, 1990.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 ("1940 Act").

Applicants: Freedom Investment Trust ("Freedom"), Freedom Investment Trust II ("Freedom II") and Freedom Investment Trust III ("Freedom III").

Relevant 1940 Act Sections: Order requested under section 6(c) for an exemption from section 22(d).

Summary of Application: Applicants seek an amendment to prior orders, Investment Company Act Release Nos. 15118 (May 28, 1986), 15455 (December 4, 1986), 15745/15745A (May 19 and June 2, 1987), 16487 (July 20, 1988) and 16997 (June 12, 1989) ("Prior Orders"), permitting the assessment and waiver of a contingent deferred sales load ("CDSL"). The amended order would allow certain additional waivers of the otherwise applicable CDSL, as described below.

Filing Date: The application was filed on September 23, 1989, and amended on January 16, 1990.

Hearing or Notification of Hearing: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on February 26, 1990, and should be accompanied by proof of service on the Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicants, One Beaon Street, Boston, MA 02108.

FOR FURTHER INFORMATION CONTACT: Brion R. Thompson, Special Counsel, at (202) 272–3016 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier who can be contacted at (800) 231–3282 (in Maryland (301) 258–4300).

Applicants' Representations

1. Applicants, each registered under the 1940 Act as an open-end, management investment company, are "series companies" whose shares are offered for sale to the public through broker-dealers pursuant to distribution agreements with Tucker Anthony, Inc. and Freedom Distributors Corporation (the "Distributors"). Applicants' investment adviser is Freedom Capital Management Corporation ("Adviser"). Each of the series of Freedom, Freedom II and Freedom III, except for the Freedom Money Market Fund series of Freedom, currently finances its own distribution expenses under a Plan of Distribution adopted in accordance with Rule 12b–1 under the 1940 Act. Shares of each series of Freedom and Freedom II, except the Freedom Money Market Fund series, are offered without an initial sales load and impose a CDSL upon certain redemptions within six years of purchase of shares. The Freedom Money Market Fund series is a no-load fund with no sales commission of any kind and no Rule 12b–1 distribution fee. Freedom III currently has only one series of shares, Freedom Environment Fund, and its shares are offered with a front-end sales load in accordance with a schedule described in its current prospectus.

2. Under the Prior Orders, Freedom is permitted to impose and waive a CDSL on certain redemptions of shares of its Gold & Government Trust, Regional Bank Fund, Government Plus Fund, Equity Value Fund and Managed Tax Exempt Fund series. Freedom II is permitted to impose and waive a CDSL on certain redemptions of shares of its Global Fund Income Plus Fund series. The Prior Orders also apply to any future series of Freedom and Freedom II which is sold on substantially the same basis as the series noted above.

3. Applicants propose to further waive the otherwise applicable CDSL in connection with an exchange privilege between the shareholders of the Freedom Environmental Fund series of Freedom III and all of the series of Freedom and Freedom II. Under the exchange privilege, shareholders of the Freedom Environmental Fund may exchange their shares for any series of Freedom and Freedom II that has a CDSL. A shareholder may only subsequently exchange back into the Freedom Environmental Fund from such series of Freedom or Freedom II those originally exchanged shares, that is: (i) Those shares on which the investor previously paid the front-end sales load of the Freedom Environmental Fund; plus (ii) shares representing the amounts of the increase, if any, in the net asset value of the investor's shares while invested in the Freedom Environmental Fund above the amount of the total payments for the purchase of shares on which the investor previously paid the front-end sales load; and plus (iii) shares repesenting the amount of the net asset value of the investor's shares, if any, purchased through reinvestment of dividends or distributions while invested in the Freedom Environmental Fund. The applicable CDSL of the series of Freedom and Freedom II will be waived on such exchanges back into the Freedom Environmental Fund and no additional front-end load will be

charged on such shares re-entering the Freedom Environmental Fund.

4. Applicants also propose to waive the CDSL (a) in connection with certain redemptions of shares of a CDSL series of the Applicants that are held in a retirement plan account qualifying under section 401(k) of the Internal Revenue Code, and (b) in the event of redemptions in connection with the combination of any CDSL series of Applicants with another investment company by merger, acquisition of assets or by any similar reorganization transaction.

Applicants' Legal Conclusions

1. Applicants request an order under section 6(c) granting an exemption from section 22(d) to the extent necessary to permit the additional waivers of the CDSL under the circumstances described above. Applicants further request that the SEC extend the order requested to any future series of the Applicants and any future open-end registered investment company or series thereof that hold themselves out to investors as related funds and for which the Adviser is the principal investment adviser, and which have CDSL/sales load structures and exchange privileges substantially similar to the Applicants.

2. Applicants submit that the proposed waivers of the CDSL are appropriate and in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. The additional waivers of the CDSL will comply with the requirements of Rule 22d-1 under the 1940 Act which permits scheduled variations in, or elimination of, sales loads. The proposed waivers will not adversely impact Applicants and their existing shareholders. Applicants will operate the exchange privilege described above in accordance with Rule 11a-3 under the 1940 Act.

Condition: The Applicants agree to comply with the terms and provisions of proposed Rule 6c-10 under the 1940 Act, as it currently exists and as it may be modified or adopted in the future. Investment Company Act Release No. 16619 (Nov. 2, 1988), 53 FR 45275 (Nov. 9, 1988).

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 90-2736 Filed 2-6-90; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Proposed Advisory Circular on Emergency Medical Services/Airplane

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Request for comments on proposed Advisory Circular (AC) for Emergency Medical Services/Airplane (EMS/A).

SUMMARY: The proposed AC is intended to provide information in the conduct of EMS (Airplane) for operators providing service under part 135 of the Federal Aviation Regulations.

Comments Invited: Comments are invited on all aspects of the proposed AC. Commentators must identify file number AC 135-XX.

DATES: Comments must be received on or before March 8, 1990.

ADDRESSES: Send all comments and requests for copies of the proposed AC to: Federal Aviation Administration, Air Transportation Division (Attention: AFS-250), 800 Independence Avenue SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Dick Russell, AFS-250, at the above address; telephone: (202) 267-3762 (8:00 a.m. to 4:30 p.m. e.s.t.).

SUPPLEMENTARY INFORMATION: The guidance material contained in this AC reflects the material to assist all operators in the conduct of EMS.

Issued in Washington, DC, on January 10, 1990.

David S. Potter,

Acting Director, Flight Standards Service.

[FR Doc. 90-2726 Filed 2-6-90; 8:45 am]

BILLING CODE 4910-13-M

Advisory Circular 25-15, Approval of Flight Management Systems in Transport Category Airplanes

AGENCY: Federal Aviation Administration.

ACTION: Notice of issuance of advisory circular.

SUMMARY: This notice announces the issuance of Advisory Circular (AC) 25-15, Approval of Flight Management Systems in Transport Category Airplanes. This AC outlines a method of compliance with the rules for airworthiness approval of flight management systems in transport category airplanes.

DATES: Advisory Circular 25-15 was issued by the Manager, Transport Airplane Directorate, Aircraft Certification Service, on November 20, 1989.

How To Obtain Copies: A copy may be obtained by writing to the U.S. Department of Transportation, M-443.2, Subsequent Distribution Unit, Washington, DC 20590.

Issued in Seattle, Washington, on January 22, 1990.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-2727 Filed 2-6-90; 8:45 am]

BILLING CODE 4910-13-M

Federal Railroad Administration

[BS-Ap No. 2909]

Withdrawal of Signal Petition; CSX Transportation

The Federal Railroad Administration has cancelled the public hearing on the captioned signal petition because the petition has been withdrawn by the railroad. The hearing had been scheduled for February 1, 1990, in Huntington, West Virginia.

In the now-withdrawn application that was to be the subject of this hearing, the CSX Transportation had petitioned the FRA for approval of the proposed discontinuance of the signal systems from Barboursville to Peach Creek, West Virginia, and from FD Cabin to Man, West Virginia. (See the original notice in 54 FR 47643, November 15, 1989.)

The FRA regrets any inconvenience occasioned by the cancellation of this hearing.

Issued in Washington, DC, on January 26, 1990.

J.W. Walsh,

Associate Administrator for Safety.

[FR Doc. 90-2730 Filed 2-6-90; 8:45 am]

BILLING CODE 4910-06-M

Petitions for Exemption of Waiver of Compliance

In accordance with 49 CFR 211.9 and 211.41, notice is hereby given that the Federal Railroad Administration (FRA) has received requests for an exemption from or waiver of compliance with a requirement of its safety standards. The individual petitions are described below, including the party seeking relief, the regulatory provisions involved, and the nature of the relief being requested.

Union Pacific Railroad Company

Missouri Pacific Railroad Company

Waiver Petition Docket Number SA–89–11

The Union Pacific Railroad Company and the Missouri Pacific Railroad Company (collectively "UP") request a permanent waiver of compliance with section 231.30 of the Safety Appliance Standards (49 CFR Part 231) for all of their locomotives built by the Electro-Motive Division of the General Motors Corporation. The UP seeks a waiver of compliance with the provision of section 231.30(c)(6), "Visibility," which requires that, "On locomotives built after March 31, 1977, switching steps shall be illuminated."

The UP states that in light of the fact that these locomotives have operated approximately twelve years without incident, they feel that there is not an unsafe condition present and feel justified in this request for a waiver.

The Tioga Central Rail Excursions

Waiver Petition Docket Number RSGM–89–19

The Tioga Central Rail excursions seeks a permanent waiver of compliance with the provisions of the Safety Glazing Standards (49 CFR part 223) for nine passenger cars. The passenger cars operate in rail excursion trains between Owego, New York and Newark Valley, New York, a round trip of 22 miles. The excursion trains operate in a rural area.

MNVA Railroad, Inc.

Waiver Petition Docket Number RSGM–89–20

The MNVA Railroad, Inc. seeks a permanent waiver of compliance from the provisions of the Safety Glazing Standards (49 CFR part 223) for six additional locomotives, bringing the carrier's total ownership to ten. The petitioner operates over 95 track miles in south central Minnesota. The territory traversed by the carrier is rural in nature. The locomotives operate through 16 communities for a total of 8 track miles, and the remaining 87 track miles are in an agriculture environment. The carrier also has trackage rights over 30 miles of the Soo Line Railroad, over which six to eight trains make a round trip monthly.

Buffalo Ridge Railroad, Inc.

Waiver Petition Docket Number RSGM–89–21

The Buffalo Ridge Railroad, Inc., which is a wholly owned subsidiary of the MNVA Railroad, Inc., seeks a permanent waiver of compliance from the provisions of the Safety Glazing Standards (49 CFR part 223) for ten locomotives, which are owned by the MNVA Railroad, Inc. The petitioner operates over 58.6 track miles in southwest Minnesota and southeast South Dakota. The territory traversed by the carrier is rural in nature. The locomotives operate through nine communities for a total 3.9 track miles and the remaining 54.7 track miles are in an agricultural environment. The carrier also has trackage rights over 3.4 miles of the Chicago and North Western Transportation Company railroad from Agate, Minnesota to Worthington, Minnesota. At the present time a train is operated over this track weekly.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number RST–84–21) and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590. Communications received before March 23, 1990, will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) in room 8201, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590.

Issued in Washington, DC on January 26, 1990.

J.W. Walsh,

Associate Administrator for Safety.

[FR Doc. 90–2728 Filed 2–6–90; 8:45 am]

BILLING CODE 4910–06–M

Maritime Administration

[Docket No. S–858]

Equity Carriers I, Inc., et al.; Application for Waiver of Section 804 of Merchant Marine Act, 1936, as Amended, To Permit Acquisition of Interest in, Operation, or Charter of Up to Six Foreign-flag Tankers

By application of January 24, 1990, Equity Carriers I, Inc., Equity Carriers III, Inc. and Asco-Falcon II Shipping Company (Applicants), requested permission, under the provisions of section 804 of the Act, to own, own an interest in, charter, act as agent or broker for, or operate up to six foreign-flag tankers, in the size range from 10,000 DWT to 180,000 DWT, and/or oil/bulk carriers or oil/bulk/ore carriers in the size range from 60,000 DWT to 180,000 DWT until May 23, 2001, the termination date of the Applicants' Operating-Differential Subsidy Agreement (ODSA), Contract MA/MSB–439.

In support of their application, the Applicants state that U.S.-flag operators do not effectively compete in the foreign trade with the foreign-flag tankers and combination carriers that are the subject of the instant application, and that similar waivers have recently been granted. The Applicants claim that they, and their affiliates, are unable to expand their U.S.-flag operations without the availability of operating-differential subsidy and construction-differential subsidy. The economic results are at best marginal, according to the Applicants, even with the availability of these subsidies.

By earning revenues from foreign-flag tanker or combination carrier activities, the Applicants aver that they will be able to contribute to their U.S. fleet operations. Approval of this waiver, according to the Applicants, will allow them to reduce their per vessel administrative costs, enhance their competitiveness, strengthen their position as U.S.-flag competitors and facilitate the payment of Title XI obligations to the Maritime Administration.

Finally, the Applicants contend that the grant of this waiver will not be inimical to the interests of other U.S. tanker and combination carrier operators, subsidized or unsubsidized, which are not available on any practical basis to serve the foreign trade of the United States.

This application may be inspected in the Office of the Secretary, Maritime Administration. Any person, firm, or corporation having any interest in such application within the meaning of section 804 of the Act and desiring to submit comments concerning the application, must file written comments in triplicate with the Secretary, Maritime Administration, Room 7300, Nassif Building, 400 Seventh Street SW., Washington DC 20590. Comments must be received no later than 5 p.m. on Thursday, February 22, 1990.

This notice is published as a matter of discretion and publication should in no way be considered a favorable or unfavorable decision on the application, as filed or as may be amended. The Maritime Administration will consider any comments submitted and take such action with respect thereto as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 20.804 (Operating-Differential Subsidies)).

By order of the Maritime Administrator

Date: February 2, 1990.

James E. Saari,

Secretary.

[FR Doc. 90-2794 Filed 2-6-90; 8:45 am]

BILLING CODE 9410-81-M

DEPARTMENT OF THE TREASURY

Fiscal Service

[Dept. Circ. 570, 1989 Rev., Supp. No. 11]

Surety Companies Acceptable on Federal Bonds CIGNA Insurance Co. of Ohio

A Certificate of Authority as an acceptable surety on Federal bonds is hereby issued to the following company under sections 9304 and 9308, title 31, of the United States Code. Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570, 1989 Revision, on page 27806 to reflect this addition:

CIGNA INSURANCE COMPANY OF OHIO. Business Address: 1600 Arch Street, Philadelphia, PA 19103. Underwriting Limitation[b]: *$548,000.* Surety Licenses[c]: OH. Incorporated in: Ohio

Certificates of Authority expire on June 30 each year, unless revoked prior to that date. The Certificates are subject to subsequent annual renewal as long as the companies remain qualified (31 CFR, part 223). A list of qualified companies is published annually as of July 1 in Treasury Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information.

Copies of the Circular may be obtained from the Surety Bond Branch, Finance Division, Financial Management Service, Department of the Treasury, Washington, DC 20227, telephone (202) 287-3921.

Dated: January 31, 1990.

Mitchell A. Levine,

Assistant Commissioner, Comptroller, Financial Management Service.

[FR Doc. 90-2745 Filed 2-6-90; 8:45 am]

BILLING CODE 4810-35-M

[Dept. Circ. 570, 1989 Rev., Supp. No. 12]

Surety Companies Acceptable on Federal Bonds; CIGNA Insurance Co. of Texas

A Certificate of Authority as an acceptable surety on Federal bonds is hereby issued to the following company under sections 9304 to 9308, title 31, of the United States Code. Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570, 1989 Revision, on page 27806 to reflect this addition:

CIGNA Insurance Company of Texas. Business Address: 1600 Arch Street, Philadelphia, PA 19103. Underwriting Limitation *b/*: *$1,390,000.* Surety Licenses *c/*: NM, OK, and TX. Incorporated in: Texas.

Certificates of Authority expire on June 30 each year, unless revoked prior to that date. The Certificates are subject to subsequent annual renewal as long as the companies remain qualified 31 CFR, part 223). A list of qualified companies is published annually as of July 1 in Treasury Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information.

Copies of the Circular may be obtained from the Surety Bond Branch, Finance Division, Financial Management Service, Department of the Treasury, Washington, DC 20227, telephone (202) 287-3921.

Dated: January 31, 1990.

Mitchell A. Levine,

Assistant Commissioner, Comptroller, Financial Management Service.

[FR Doc. 90-2746 Filed 2-6-90; 8:45 am]

BILLING CODE 4810-35-M

Sunshine Act Meetings

Federal Register
Vol. 54, No. 26
Wednesday, February 7, 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).

BLACKSTONE RIVER VALLEY

Notice of Special Meeting

Notice is hereby given in accordance with Section 552b of Title 5, United States Code, that a special meeting of the Blackstone River Valley National Heritage Corridor Commission will be held on Thursday, February 16, 1990.

The Commission was established pursuant to Public Law 99-647. The purpose of the Commmission is to assist federal, state and local authorities in the development and implementation of an integrated resource management plan for those lands and waters within the Corridor.

The meeting will convene at 7:00 P.M. at Slater Mill Historic Site, Roosevelt Avenue, Pawtucket, Rhode Island for the following reasons:

1. To Approve the FY '90 Budget.

It is anticipated that about twenty people will be able to attend the session in addition to the Commission members.

Interested persons may make oral or written presentations to the Commission or file written statements. Such requests should be made prior to the meeting to: James Pepper, Executive Director, Blackstone River Valley National Heritage Corridor Commission, P.O. Box 34, Uxbridge, MA 01569. Telephone (508) 278-9400 or (508) 278-5124.

Further information concerning this meeting may be obtained from James Pepper, Executive Director of the Commission at the address below.

Shirley Cleaves,

Acting Executive Director, Blackstone River Valley National Heritage Corridor Commission.

[FR Doc. 90-2863 Filed 2-2-90; 4:26 pm]

BILLING CODE 4310-7-M

FARM CREDIT ADMINISTRATION

Farm Credit Administration Board: Special Meeting

AGENCY: Farm Credit Administration.

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), of the forthcoming special meeting of the Farm Credit Administration Board (Board).

DATE AND TIME: The special meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on February 9, 1990, from 10:00 a.m. until such time as the Board concludes its business.

FOR FURTHER INFORMATION CONTACT: Jeffrey P. Katz, Acting Secretary to the Farm Credit Administration Board, (703) 883-4003, TDD (703) 883-4444.

ADDRESS: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090.

SUPPLEMENTARY INFORMATION: Parts of this meeting of the Board will be open to the public (limited space available), and parts of this meeting will be closed to the public. The matters to be considered at the meeting are:

Open Session

1. Consent Calendar Items;
2. Proposed Tax Service Program—Western Farm Credit Bank;
3. Proposed Appraisal Policy and Fee Appraisal Service Program—St. Louis District;
4. Proposed Escrow Agency—Omaha District;
5. Proposed Amendments to 12 CFR Part 611, Subpart I—Service Corporations;

***Closed Session**

6. Request for Charter—Farm Credit Mortgage Corporation;
7. Proposed Chief Executive Officers' Salary Adjustments and Senior Officer Salary Ranges;
8. Examination and Enforcement Matters; and
9. Jackson FLB/FLBA, in Receivership.

Dated: February 2, 1990.

Jeffrey P. Katz,

Acting Secretary, Farm Credit Administration Board.

*Session closed to the public—exempt pursuant to 5 U.S.C. 552b(c)(4), (6), (8) and (9).

[FR Doc. 90-2985 Filed 2-5-90; 1:24 pm]

BILLING CODE 6705-01-M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 11:00 a.m., Monday, February 12, 1990.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 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: February 2, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-2866 Filed 2-2-90; 4:26 am]

BILLING CODE 6210-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

Agenda

TIME AND DATE: 9:30 a.m. Monday, February 12, 1990.

PLACE: Board Room, Eighth Floor, 800 Independence Avenue, SW., Washington, D.C. 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Hazardous Materials Accident Report: Puncture of Cylinder Containing Mixture of Methyl Bromide and Chloropicrin Following Tractor/Semitrailer Overturn, Collier County, Florida, November 30, 1988.
2. Petition for Reconsideration: Highway Accident Report—Tractor-Semitrailer/Intercity Bus Head-On Collision, Beaumont, Texas, May 4, 1987.

News Media PLEASE Contact MELBA MOYE (202) 382-6600

FOR MORE INFORMATION CONTACT: Bea Hardesty, (202) 382-6525.

Dated: February 2, 1990.

Bea Hardesty,

Federal Register Liaison Officer.

[FR Doc. 90-2900 Filed 2-5-90; 8:50 am]

BILLING CODE 7533-01-M

NEIGHBORHOOD REINVESTMENT CORPORATION

Personnel Committee Meeting
[No. 0-01]

TIME AND DATE: 4:00 p.m. Wednesday, February 7, 1990.

PLACE: National Credit Union Administration, 1776 G Street, NW., 6th Floor, Chairman's Conference Room, Washington, D.C. 20056.

STATUS: Closed.

CONTACT PERSON FOR MORE INFORMATION: Martha Diaz-Ortiz, Assistant Secretary/Paralegal, (202) 376–2421.

MATTERS TO BE CONSIDERED:

I. Executive Director's Performance Appraisal; and

II. Officers' Compensation

Carol J. McCabe,

Secretary.

[FR Doc. 90–2984 Filed 2–5–90; 1:23 pm]

BILLING CODE 7570-01-M

RESOLUTION TRUST CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that on Thursday, February 1, 1990, at 4:45 p.m., the Board of Directors of the Resolution Trust Corporation met in closed session to consider certain matters relating to the preemption of state law and the resolution of thrift institutions.

In calling the meeting, the Board determined, on motion of Director C. C. Hope, Jr. (Appointive), seconded by Director Robert L. Clarke (Comptroller of the Currency), concurred in by Director M. Danny Wall, (Director of the Office of Thrift Supervision), and Chairman L. William Seidman, that Corporation business required its consideration of the matters on less than seven days notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10)).

The meeting was held in the Board Room of the FDIC Building located at 550–17th Street, NW., Washington, DC.

Dated: February 2, 1990.

Resolution Trust Corporation.

John M. Buckley, Jr.,

Executive Secretary.

[FR Doc. 90–2988 Filed 2–5–90; 1:57 pm]

BILLING CODE 6714-01-M

SECURITIES AND EXCHANGE COMMISSION

Agency Meetings.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of February 12, 1990.

Closed meetings will be held on Tuesday, February 13, 1990, at 2:30 p.m. and on Wednesday, February 14, 1990, following the 2:00 p.m. open meeting. Open meeting will be held on Wednesday, February 14, 1990, at 2:00 p.m. and on Thursday, February 15, at 11:00 a.m., in Room 1C30.

The Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secreataries will attend the closed meetings. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10), permit consideration of the scheduled matters at closed meetings.

Commissioner Fleischman, duty officer, voted to consider the items listed for the closed meetings in closed session.

The subject matter of the closed meeting scheduled for Tuesday, February 13, 1990, at 2:30 p.m., will be:

Regulatory matter regarding financial institutions.

Institution of injunctive actions.

Settlement of injunctive actions.

The subject matter of the open meeting scheduled for Wednesday, February 14, 1990, at 2:00 p.m., will be:

The Commission will hear oral argument on an appeal by Thomas J. Flittin, Jr., formerly president and principal shareholder of Fittin, Cunningham & Lauzon, a registered broker-dealer, from an administrative law judge's initial decision. For further information, please contact R. Moshe Simon at (202) 272–7400.

The subject matter of the closed meeting scheduled for Wednesday, February 14, 1990, following the 2:00 p.m. open meeting will be:

Post oral argument discussion.

The subject matter of the open meeting scheduled for Thursday, February 15, 1990, at 11:00 a.m., will be:

1. The Commission will consider whether to adopt proposed rule 52 under the Public Utility Holding Company Act of 1935 ("Act"). Proposed rule 52 exempts from specific Commission approval certain financings by public-utility subsidiary companies of registered public-utility holding companies as long as specified conditions are met. In addition, proposed rule 52 provides a limited exemption from the application requirements of section 9(a) of the Act where the exempt securities are to be acquired by a parent holding company. For further information, contact William C. Weeden at (202) 272–7676 or Yvonne M. Hunold (202) 272–2676.

2. The Commission will consider whether to adopt proposed Rule 12d1–1 under the Investment Company Act of 1940. Rule 12d1–1 would provide an exemption from the limitations imposed by Section 12(d)(1)(A) of that Act for acquisitions of securities of foreign banks and foreign insurance companies, and their finance subsidiaries, by registered investment companies. For further information, please contact Ann M. Glickman at (202) 272–3042.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: David Underhill (202) 272–2100.

Dated: February 2, 1990.

Jonathan G. Katz,

Secretary.

[FR Doc. 90–9018 Filed 2–5–90; 3:58 pm]

BILLING CODE 8010-01-M

COPYRIGHT ROYALTY TRIBUNAL

TIME AND DATE: Thursday, February 22, 1990, 10 a.m.

PLACE: 1111 20th Street NW., Suite 450, Washington, DC 20036.

STATUS: Closed pursuant to a vote taken February 5, 1990.

MATTERS TO BE CONSIDERED: Adjudication of the Music Claimants category of the 1987 cable royalty distribution proceeding.

CONTACT PERSON FOR MORE INFORMATION: Robert Cassler, General Counsel, Copyright Royalty Tribunal, 1111 20th Street NW., Suite 450, Washington, DC 20036, (202) 653–5175.

Dated: February 5, 1990.

J.C. Argetsinger,

Chairman.

[FR Doc. 90–3016 Filed 2–5–90; 3:49 pm]

BILLING CODE 1410-09-M

Corrections

Federal Register
Vol. 55, No. 26
Wednesday, February 7, 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 AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1430

Milk Price Support Program

Correction

In rule document 90-1582 beginning on page 2363 in the issue of Wednesday, January 24, 1990, make the following corrections:

1. On page 2363, in the third column, in the first complete paragraph, in the fourth line should read "marketings, this rule provides that the".

§ 1430.341 [Corrected]

2. On page 2364, in § 31430.34(j)(1), in the second column, in the seventh line, "or" should read "to".

§ 1430.343 [Corrected]

3. On the same page, in the third column, in § 1430.343(e), in the sixth and seventh lines, "(7 U.S.C. 603 *et seq.*)" should read "(7 U.S.C. 601 *et seq.*)".

§ 1430.347 [Corrected]

4. On page 2365, in the second column, in § 1430.347, in the sixth line, "provisions"was misspelled.

BILLING CODE 1505-01-D

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP90-564-000 et al.]

Natural Gas Certificate Filings; Trunkline Gas Co.; Correction

Correction

In notice document 90-2245 beginning on page 3461 in the issue of Thursday, February 1, 1990, make the following correction:

On page 3463, in the second column, the second line should read

[Docket No. CP90-566-000]

BILLING CODE 1505-01-D

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1601

706 Agencies; Designation of Anchorage (AK) Equal Rights Commission

Correction

In rule document 89-23219 appearing on page 40657 in the issue of Tuesday, October 3, 1989, make the following correction:

§ 1601.80 [Corrected]

In the third column, in amendatory instruction 2, in the first line, and in the corresponding section heading above, "1601.60" should read "1601.80".

BILLING CODE 1505-01-D

federal register

Wednesday
February 7, 1990

Part II

Office of Government Ethics

5 CFR Part 2637

Post Employment Conflict of Interest; Final Rule

OFFICE OF GOVERNMENT ETHICS

5 CFR Part 2637

RIN 3209-AA03 [1]

Post Employment Conflict of Interest

AGENCY: Office of Government Ethics.

ACTION: Final rule.

SUMMARY: The Office of Government Ethics is issuing a final regulation under the Ethics in Government Act of 1978 which (1) designates certain executive branch positions subject to the post employment conflict of interest regulations applicable to "Senior Employees," and (2) designates certain statutory and non-statutory executive branch agencies/bureaus for the purpose of limiting the application of the post employment rules which prohibit, for one year after leaving Government service, a former high-level "Senior Employee" from representing anyone in an attempt to influence his or her former agency on a matter pending before, or of substantial interest to, such agency.

Annually, under 18 U.S.C. 207(d)(1)(C), the Director of the Office of Government Ethics must review the position designations and make any such additions and deletions as are necessary. Additionally, 18 U.S.C. 207(e) gives the OGE Director discretionary authority to make determinations as to separate agencies and bureaus within a department or agency which are distinct and separate from the remaining functions of the department or agency.

EFFECTIVE DATES: February 7, 1990.

ADDRESSES: Office of Government Ethics, Suite 500, 1201 New York Avenue, NW., Washington, DC 20005-3917.

FOR FURTHER INFORMATION CONTACT: Joann Barber or Thomas Zorn at (202/FTS) 523-5757.

SUPPLEMENTARY INFORMATION: Subsection 207(d)(1)(C) of title 18 U.S.C., contained in title V of the Ethics in Government Act of 1978, as amended, ("the Act"), (Pub. L. 95-521), gives the Director of the Office of Government Ethics (OGE) authority to designate (1) certain executive branch employee positions for purposes of the restrictions of 18 U.S.C. subsections 207(b)(ii) and 207(c), and (2) executive branch agencies and bureaus, within a parent department or agency, having separate and distinct subject matter jurisdiction; i.e., "separate non-statutory agencies/bureaus." This rulemaking does not reflect the future version of 18 U.S.C. 207 contained in title I of the recently-enacted Ethics Reform Act of 1989 (Public Law 101-194, November 30, 1989), since the changes to the statute do not become effective until January 1, 1991. The Office of Government Ethics, previously part of the Office of Personnel Management, became a separate agency in the executive branch on October 1, 1989.

Regulations implementing the subsection 207(d)(1)(C) authority were published on February 1, 1980 (45 FR 7402). Those regulations designated as "Senior Employees" all employees in a position in any pay system for which the basic rate of pay is equal to or greater than that for GS-17 of the General Schedule, as prescribed by 5 U.S.C. 5332, or positions which are established within the Senior Executive Service (SES) pursuant to the Civil Service Reform Act of 1978, subject to specific exemptions to be made by OGE. The regulations also set forth those separate statutory (18 U.S.C. 207(e)) agencies and bureaus and those separate non-statutory agencies/bureaus (18 U.S.C. 207(d)(1)(C)) as determined by the Director, OGE, to be qualified for designation at the time of publication.

Regarding "Senior Employee" designations, upon review of agency recommendations, made pursuant to the requirement now set forth in 5 CFR 2637.211(b)(1), the Director, OGE, determined that only those non-exempted positions, i.e., those subject to the prohibitions of 18 U.S.C. 207(b)(ii) and (c), would be published in the **Federal Register**. A partial list of such "designated" positions was contained in the February 1, 1980, **Federal Register** publication (45 FR 7402). That list was followed by another partial list which was published on February 8, 1980 (45 FR 8544). Annual amendments to the list were published on November 14, 1980 (45 FR 75500); March 5, 1982 (47 FR 9694); February 25, 1983 (48 FR 8188); March 15, 1984 (49 FR 9808); July 31, 1985 (50 FR 31096); July 16, 1986 (51 FR 25645); November 12, 1987 (52 FR 43442); and December 2, 1988 (53 FR 48756). The combined lists represented all 18 U.S.C. 207(d)(1)(C) positions which were not exempted by the Director, OGE. This regulation consolidates and amends the previously published lists and is based upon a review of agency annual submissions made pursuant to 5 CFR 2637.211(b)(1). All positions designated pursuant to 5 U.S.C. 207(d)(1)(C) not previously designated are marked by an asterisk. In accordance with 5 CFR 2637.211(d), designation of such positions shall not become effective as to incumbents thereof until the last day of the fifth full calendar month after this publication (except as to position shifting, see § 2637.211(i)). Section 2637.211 of this chapter sets forth the standards and procedures to be applied in determining which positions shall be designated. OGE also issued a memorandum to heads of departments, independent agencies, commissions and Government corporations/designated agency ethics officials dated April 26, 1979, giving additional information and guidance on this subject. Section 2637.204 sets forth the standards and procedures to be applied in determining which separate statutory and non-statutory agencies and bureaus shall be designated.

The Director, OGE, in consultation with each department and agency concerned, has determined that the positions set forth in this document qualify for designation as "Senior Employee" positions. 5 CFR 2637.216 is hereby amended accordingly. The Director has further determined, in consultation with each department or agency concerned, the separate statutory and nonstatutory agencies/bureaus set forth below in § 2637.215 qualify for such designation.

The "Senior Employee" positions listed constitute all such positions designated under the provisions of subsection 207(d)(1)(C) of title 18 U.S.C. for the departments and agencies listed. In accordance with 5 CFR 2637.211(d), subsequent designation of positions within the department or agencies listed shall not be effective until the last day of the fifth full calendar month after the first publication of a notice by the Director, OGE, of intention to so designate. Such fair notice shall not apply to subsequent designations made under the rule concerning position shifting set forth in 5 CFR 2637.211(i).

In several cases, a position in one agency has been designated while a position of similar title in another has not. OGE has, in the exercise of its discretion, accorded some deference to the decision of a department or agency to designate a position where that decision was in favor of designation above minimum OGE standards. As OGE conducted the review necessary for these designations, it became apparent that, because of the subject matter of a department's or agency's business, the gravity of the "revolving door" problems varied significantly from agency to agency. Moreover, positions which were ostensibly similarly titled and described nevertheless had different roles from agency to agency. Also, OGE believes it desirable that the balance between post employment restrictions and impact on recruiting and

[1] Formerly 3206-AD72. See **SUPPLEMENTARY INFORMATION** for further explanation.

retention be adjudged on an agency level, as long as minimum standards are met.

Positions automatically designated by 18 U.S.C. subsections 207(d)(1)(A) and (B) are not included in this publication.

Administrative Procedure Act

The Director of the Office of Government Ethics, acting pursuant to 5 U.S.C. 553(b)(3)(A) and (d), has found good cause for waiving the general notice of proposed rulemaking and the 30 day delay in effectiveness because this regulation is interpretive in nature, and therefore exempt from the notice and delayed effectiveness provisions of 5 U.S.C. 553.

Further, this regulation also relates to agency organization and, as noted above, there is a five month fair notice provision as to incumbents of newly-designated "Senior Employee" positions.

E.O. 12291

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

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities, because it only effects federal employees. Further, as discussed above, no notice of proposed rulemaking is required for this regulation. Thus, no Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) analysis is required.

Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) does not apply because this rulemaking does not contain any information collection requirements that require Office of Management and Budget approval thereunder.

Regulation Identifier Number

The Regulation Identifier Number (RIN) in the heading of this document indicates the newly-assigned Office of Government Ethics number for this rulemaking, 3209–AA03. Previously, the rulemaking was assigned an Office of Personnel Management (OPM) RIN (3206–AD72), since the Government Ethics Office was (as noted above) a part of OPM until October 1, 1989. OGE is now a separate agency in the executive branch. Furthermore, the Regulations Concerning Post Employment Conflict of Interest, which this rulemaking amends, were recently transferred, with OPM concurrence, from part 737 of OPM's chapter I of 5 CFR to part 2637 in OGE's new chapter XVI of 5 CFR: the internal numbering of sections in new part 2637 was also changed. See 54 FR 50229–50231 (December 5, 1989).

List of Subjects in 5 CFR Part 2637

Conflict of interests, Government employees.

Approved January 18, 1990.

Donald E. Campbell,

Acting Director, Office of Government Ethics.

Accordingly, pursuant to its authority under the Ethics in Government Act and 18 U.S.C. 207, the Office of Government Ethics hereby amends 5 CFR part 2637 as follows:

PART 2637—[AMENDED]

1. The authority citation for part 2637 continues to read as follows:

Authority: 5 U.S.C. appendixes III, IV; 18 U.S.C. 207.

2. Section 2637.214 is revised to read as follows:

§ 2637.214 Separate statutory agencies: Designations.

In accordance with the provisions of 18 U.S.C. 207(e) and 5 CFR 2637.205, each of the following departments or agencies is determined, for purposes of 18 U.S.C. 207(c), to have within it separate statutory agencies or bureaus as set forth below:

Parent Agency: DEPARTMENT OF THE TREASURY
Separate Statutory Components:
- Bureau of Alcohol, Tobacco and Firearms
- Bureau of Engraving and Printing
- Bureau of the Mint
- Comptroller of the Currency
- Internal Revenue Service
- Bureau of the Public Debt
- Financial Management Service
- United States Customs Service
- United States Secret Service

Parent Agency: FEDERAL EMERGENCY MANAGEMENT AGENCY
Separate Statutory Component: United States Fire Administration
Parent Agency: DEPARTMENT OF HEALTH AND HUMAN SERVICES
Separate Statutory Components:
- Food and Drug Administration
- Public Health Service
- Social Security Administration

Parent Agency: DEPARTMENT OF TRANSPORTATION
Separate Statutory Components:
- Federal Aviation Administration
- Federal Highway Administration
- Federal Railroad Administration
- Maritime Administration
- National Highway Traffic Safety Administration
- Saint Lawrence Seaway Development Corporation
- United States Coast Guard
- Urban Mass Transportation Administration

Parent Agency: DEPARTMENT OF LABOR
Separate Statutory Components:
- Bureau of Labor Statistics
- Mine Safety and Health Administration
- Occupational Safety and Health Administration

Parent Agency: DEPARTMENT OF JUSTICE
Separate Statutory Components:
- Bureau of Prisons (including Federal Prison Industries, Inc.)
- Community Relations Service
- Drug Enforcement Administration
- Federal Bureau of Investigation
- Foreign Claims Settlement Commission
- National Institute of Justice [2]
- Bureau of Justice Assistance [2]
- Office of Juvenile Justice and Delinquency Prevention [2]
- Office for Victims of Crime and [2]
- Bureau of Justice Statistics [2]
- Immigration and Naturalization Service
- Independent Counsel
- United States Parole Commission

Parent Agency: DEPARTMENT OF DEFENSE
Separate Statutory Components:
- Department of the Army
- Department of the Navy
- Department of the Air Force
- Defense Mapping Agency

Parent Agency: DEPARTMENT OF ENERGY
Separate Statutory Component:
- Federal Energy Regulatory Commission

Parent Agency: DEPARTMENT OF COMMERCE
Separate Statutory Components:
- Economic Development Administration
- Patent and Trademark Office
- National Oceanic and Atmospheric Administration
- Bureau of the Census

Parent Agency: NATIONAL CREDIT UNION ADMINISTRATION
Separate Statutory Component:
- Central Liquidity Facility

3. Section 2637.215 is revised to read as follows:

§ 2637.215 Separate components of agencies or bureaus: Designations.

In accordance with the provisions of 18 U.S.C. 207(d)(1)(C) and 5 CFR 2637.205, each of the component agencies or bureaus as set forth below is determined, for purposes of 18 U.S.C. 207(c) and this part 2637, to be separate from the remaining agencies and bureaus of its parent agency (except such agencies and bureaus as specified):

Parent Agency: DEPARTMENT OF HEALTH AND HUMAN SERVICES
Separate Component:
- Health Care Financing Administration

Parent Agency: DEPARTMENT OF LABOR
Separate Components:
- Employment and Training Administration
- Employment Standards Administration

Parent Agency: DEPARTMENT OF DEFENSE
Separate Components:
- Defense Communications Agency
- Defense Intelligence Agency

[2] These five components shall not, for purposes of 18 U.S.C. 207(c), be considered separate from one another but only from other separate components of the Department of Justice.

Defense Nuclear Agency
National Security Agency
Defense Logistics Agency
Parent Agency: DEPARTMENT OF STATE
Separate Components:
Foreign Service Grievance Board
International Joint Commission, United States and Canada (American Section)
Parent Agency: DEPARTMENT OF JUSTICE
Separate Components:
Office of United States Attorney (for each Judicial district (94))—however, each such Office is not designated as separate from the Office of the U.S. Marshal for the same Judicial district.
Office of the United States Marshal (for each Judicial district (94))—however, each such Office is not designated as separate from the Office of the U.S. Attorney for the same Judicial district.
Antitrust Division
Civil Rights Division
Land and Natural Resources Division
Tax Division
Criminal Division
Civil Division
Parent Agency: DEPARTMENT OF COMMERCE
Separate Components:
International Trade Administration
Minority Business Development Administration
National Telecommunication and Information Administration

4. Section 2637.216 is revised to read as follows:

§ 2637.216 "Senior Employee" designations.

In accordance with § 2637.211(b)(1), the following employee positions have been designated as "Senior Employee" positions for purposes of subsections 207(b)(ii) and (c) of title 18, U.S.C.[3]

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT (OFFICE OF ADMINISTRATION)

Positions:

AD Director, Automated Systems Division

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT (COUNCIL OF ECONOMIC ADVISERS)

Positions: No Section 207(d)(1)(C) Designations.

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT (COUNCIL ON ENVIRONMENTAL QUALITY)

Positions: No Section 207(d)(1)(C) Designations.

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT (OFFICE OF MANAGEMENT AND BUDGET)

Positions:

SES Executive Associate Director
SES Executive Assistant to the Director
SES General Counsel
SES Deputy General Counsel
SES* Counselor and Director, External Affairs
SES* Budget Advisor to the Director
SES Associate Director for Legislative Affairs
SES Associate Director for Economic Policy
SES Deputy Associate Director for Economic Policy
SES Assistant Director for Legislative Reference
SES Deputy Assistant Director for Legislative Reference
SES Assistant Director for Administration
SES Assistant Director for Budget Review
SES Deputy Assistant Director for Budget Review
SES Deputy Administrator, Office of Information and Regulatory Management
SES Associate Director for Management
SES Deputy Assistant Director (Management)
SES Assistant Director for Financial Management
SES* Assistant Director for General Management
SES Associate Director for National Security and International Affairs
SES Deputy Associate Director for Special Studies, National Security and International Affairs
SES Deputy Associate Director for National Security
SES Deputy Associate Director for International Affairs
SES Associate Director for Human Resources, Veterans, and Labor
SES Deputy Associate Director for Special Studies, Human Resources, Veterans and Labor
SES Deputy Associate Director for Health and Income Maintenance
SES Deputy Associate Director for Labor, Veterans and Education
SES Associate Director for Natural Resources, Energy and Science
SES Deputy Associate Director for Special Studies, Natural Resources, Energy and Science
SES Deputy Associate Director for Natural Resources
SES Deputy Associate Director for Energy and Science
SES Associate Director for Economics and Government
SES Deputy Associate Director for Special Studies, Economics and Government
SES Deputy Associate Director for Transportation, Commerce and Justice
SES Deputy Associate Director for Housing, Treasury and Finance

Office of Federal Procurement Policy

SES Deputy Administrator for Procurement
SES Associate Director for Privatization

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT (NATIONAL SECURITY COUNCIL)

Positions:

GS–18 Special Assistant to the President (12)
GS–17 Director, International Programs
GS–17 Director, European and Soviet Affairs
GS–17 Senior Director, White House Situation Support Staff
FEMC Director, African Affairs
FEMC Director, European and Soviet Affairs
FEMC Director, International Economic Affairs

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT (OFFICE OF SCIENCE AND TECHNOLOGY POLICY)

Positions:

SES Executive Director
SES Assistant Director for Defense Technology and Systems
SES Assistant Director for Energy, Natural Resources, and International Affairs
SES Assistant Director for General Science
SES Assistant Director for Institutional Relations
SES Assistant Director for Life Sciences
SES Assistant Director for Space Science and Technology

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT (OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE)

Positions:

SES General Counsel
SES Chief Textile Negotiator
SES Assistant U.S. Trade Representative—Congressional Affairs
SES Assistant U.S. Trade Representative—Public, Private, Intergovernmental Affairs
SES Special Negotiator for U.S.-Canada
SES Senior Deputy General Counsel
SES Deputy General Counsel
SES Assistant U.S. Trade Representative—Trade Policy Coordination
SES Assistant U.S. Trade Representative—Industry and Services
SES Assistant U.S. Trade Representative—Agriculture
SES Assistant U.S. Trade Representative—Europe and the Mediterranean
SES Assistant U.S. Trade Representative—Japan and China
SES Assistant U.S. Trade Representative—Trade Policy and Analysis
SES Assistant U.S. Trade Representative—Asia and the Pacific
SES Assistant U.S. Trade Representative—GATT Affairs
SES Assistant U.S. Trade Representative—Multilateral Negotiations
SES Assistant U.S. Trade Representative—Latin America, Caribbean and Africa
SES Counsellor to USTR
SES Deputy Assistant U.S. Trade Representative—Industry and Services
SES Deputy Assistant U.S. Trade Representative—GATT Affairs
SES Director—Computer Operations
SES Assistant U.S. Trade Representative—Administration

[3] All positions designated pursuant to section 207(d)(1)(C) not previously designated before the most recent **Federal Register** publication, February 7, 1990, are marked by an asterisk (*). Positions automatically designated by sections 207(d)(1) (A) and (B) are not shown.

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT (OFFICE OF THE VICE PRESIDENT OF THE UNITED STATES)

Positions: No Section 207 (d)(1)(C) Designations.

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT (THE WHITE HOUSE OFFICE)

Positions: No Section 207(d)(1)(C) Designations.

AGENCY: DEPARTMENT OF AGRICULTURE

Positions:

Office of the Secretary

SES Deputy Assistant Secretary for Administration
SES Deputy Assistant Secretary for Food and Consumer Services
SES Deputy Assistant Secretary for Natural Resources and Environment (2)
SES Deputy Under Secretary for Small Community and Rural Development
SES Deputy Under Secretary for International Affairs and Commodity Programs
SES Deputy Assistant Secretary for Marketing and Inspection Services (2)
SES Deputy Assistant Secretary for Economics
SES Deputy Assistant Secretary for Science and Education
SES Deputy Assistant Secretary for Governmental and Public Affairs

Office of the Inspector General

SES Deputy Inspector General
SES Assistant Inspector General for Audit
SES* Assistant Inspector General for Policy Development and Resource Management
SES Assistant Inspector General for Investigations
SES Deputy Assistant Inspector General for Audit (2)
SES Deputy Assistant Inspector General for Investigations

Office of the General Counsel

SES Deputy General Counsel

Office of Administrative Law Judges

No Section 207(d)(1)(C) Designations

Office of Personnel

SES Director
SES Deputy Director

Office of Advocacy and Enterprise

SES Director
SES Associate Director, Equal Opportunity
SES Associate Director, SBDU

Office of Finance and Management

SES Director
SES Deputy Director
SES Assistant Director, Program Development
SES Director, National Finance Center (NFC)
SES Director, Information Resources Management Division
SES Director, Financial Services Division
SES Director, Application Systems Division
SES Director, Thrift Savings Plan Development Division

Office of Information Resources Management

SES Director
SES Associate Director for Policy
SES Associate Director for Operations

Office of Operations

SES Director

Office of Budget and Program Analysis

SES Director

World Agricultural Outlook Board

SES Chairperson
SES Deputy Chairperson

Economic Research Service

SES Administrator
SES Associate Administrator

National Agricultural Statistics Service

SES Administrator
SES Deputy Administrator for Programs
SES Deputy Administrator for Operations

Economics Management Staff

SES Director

Economic Analysis Staff

SES Director

Agricultural Cooperatives Service

SES Administrator

Rural Electrification Administration

SES Deputy Administrator—Program Operations
SES Deputy Administrator—Policy and Program Support
SES Assistant Administrator, Electric
SES Assistant Administrator, Telephone
SES* Program Advisor

Farmers Home Administration

SES Associate Administrator
SES Deputy Administrator for Management
SES Deputy Administrator Program Operations

Agricultural Research Service

SES Deputy Administrator, National Program Staff
SES Associate Deputy Administrator, National Program Staff (2)
SES Deputy Administrator, Administrative Management
SES Associate Deputy Administrator, Administrative Management
SES Administrator, Agricultural Research Service
SES Associate Administrator, Agricultural Research Service

Extension Service

SES Administrator
SES Associate Administrator

Cooperative State Research Service

SES Administrator
SES Associate Administrator
SES Associate Administrator, Grants and Program Systems

National Agricultural Library

SES* Director, National Agricultural Library

Soil Conservation Service

SES Chief
SES Associate Chief
SES Deputy Chief for Administration
SES Deputy Chief for Technology
SES Deputy Chief for Programs
SES Assistant to the Chief, Strategic Planning and Budget Analysis

Forest Service

SES Chief
SES Associate Chief
SES Deputy Chief for Administration
SES Deputy Chief for Research
SES Associate Deputy Chief for Research (2)
SES Deputy Chief, National Forest System
SES Associate Deputy Chiefs, National Forest System (2)
SES Deputy Chief, State and Private Forestry
SES Associate Deputy Chief, State and Private Forestry
SES Deputy Chief for Programs and Legislation
SES Associate Deputy Chief for Programs and Legislation

Agricultural Stabilization and Conservation Service

SES Administrator
SES Associate Administrator
SES Deputy Administrator, State and County Operations
SES Deputy Administrator, Management
SES Deputy Administrator for Program Planning and Development
SES Deputy Administrator, Commodity Operations

Federal Crop Insurance Corporation

SES Manager
SES Deputy Manager
SES Assistant Manager for Actuarial and Underwriting Services

Foreign Agricultural Service

SES Administrator
SES Associate Administrator
SES Associate Administrator and General Sales Manager

Office of International Cooperation and Development

SES Administrator
SES Associate Administrator
SES Assistant Administrator for International Research and Development

Food Safety and Inspection Service

SES Administrator
SES Associate Administrator
SES Deputy Administrator, Meat and Poultry Inspection Operations
SES Deputy Administrator, Technical Services
SES Deputy Administrator, Administrative Management
SES Deputy Administrator, Science
SES Deputy Administrator, International Programs

Food and Nutrition Service

SES Administrator
SES Associate Administrator

Agricultural Marketing Service

SES Administrator
SES Deputy Administrator, Marketing Programs

Packers and Stockyards

SES Administrator
SES Deputy Administrator

Animal and Plant Health Inspection Service

SES Administrator
SES Associate Administrator
SES Deputy Administrator, Veterinary Services
SES Deputy Administrator, Plant Protection and Quarantine
SES Deputy Administrator for Management and Budget
SES Deputy Administrator, Animal Damage Control
SES* Deputy Administrator, Regulatory Enforcement and Animal Care
SES* Director, Biotechnology, Biologics and Environmental Protection
SES* Director, Policy and Program Development
SES* Director, Science and Technology
SES* Deputy Administrator, International Services

Federal Grain Inspection Service

SES Deputy Administrator

Office of Transportation

SES Director

AGENCY: DEPARTMENT OF COMMERCE

Positions:

Office of the Secretary

SES Counselor to the Secretary
SES* Chief of Staff

Office of the Associate Deputy Secretary

SES Associate Deputy Secretary

Office of Congressional and Intergovernmental Affairs

SES Deputy Assistant Secretary for Congressional Affairs
SES Deputy Assistant Secretary for Intergovernmental Affairs

Office of Public Affairs

SES Director

Office of General Counsel

SES Deputy General Counsel

Office of Under Secretary for Travel and Tourism

SES Deputy Under Secretary
SES Assistant Secretary for Tourism Marketing
SES* Deputy Assistant Secretary for Tourism Marketing
SES* Director, Office of Policy and Planning
SES Director, Office of World's Fairs and International Expositions

Office of Inspector General

SES Deputy Inspector General

Minority Business Development Agency

SES Director
SES Deputy Director
SES* Associate Director for Operations
SES* Assistant Director for Program Development

Office of Assistant Secretary for Administration

SES Deputy Assistant Secretary for Administration
SES Director for Budget, Planning, and Organization
SES Director, Office of Budget
SES Director for Procurement and Administrative Services
SES Deputy Director for Procurement and Administrative Services
SES Deputy Director for Procurement

Office of the Under Secretary for Economic Affairs

SES Deputy Under Secretary
SES Chief Economist

Office of Assistant Secretary for Technology Policy

SES Director, Office of Productivity, Technology and Innovation

Bureau of Economic Analysis

SES Director
SES Deputy Director

National Technical Information Service

SES Director
SES Deputy Director

National Telecommunications and Information Administration

SES Deputy Assistant Secretary

Office of Planning and Policy Coordination

SES Director, Office of Policy Coordination and Management

Office of Chief Counsel

SES Chief Counsel

Office of Spectrum Management

SES Associate Administrator
SES Deputy Associate Administrator

Office of Policy Analysis and Development

SES Associate Administrator

Institute for Telecommunications Sciences

SES Associate Administrator

Office of International Affairs

SES Associate Administrator

Bureau of the Census

SES Deputy Director

Demographic Programs

SES Associate Director

Management Services

SES Associate Director

Statistical Standards and Methodology

SES Associate Director

Field Operations

SES Associate Director

Decennial Census

SES Associate Director

Economic Programs

SES Associate Director

Economic Development Administration

SES Deputy Assistant Secretary
SES Deputy Assistant Secretary for Loan Programs
SES Deputy Assistant Secretary for Grant Programs
SES Deputy Director for Grant Programs
SES Deputy Assistant Secretary for Management Support

International Trade Administration

SES Deputy Under Secretary
SES Deputy Assistant Secretary for Planning
SES Deputy Assistant Secretary for U.S. and Foreign Commercial Services
SES Deputy Assistant Secretary for Foreign Operations
SES Deputy Assistant Secretary for Domestic Operations

Office of the Assistant Secretary for International Economic Policy

SES Deputy Assistant Secretary
SES Deputy Assistant Secretary for Europe
SES Deputy Assistant Secretary for Western Hemisphere
SES Deputy Assistant Secretary for East Asia and Pacific
SES Deputy Assistant Secretary for Africa, Near East, South Asia
SES* Deputy Assistant Secretary for Japan

Office of the Assistant Secretary for Import Administration

SES* Deputy Assistant Secretary for Import Administration
SES* Deputy Assistant Secretary for Compliance
SES* Deputy Assistant Secretary for Investigations

Office of the Assistant Secretary for Trade Development

SES Deputy Assistant Secretary
SES Deputy Assistant Secretary for Services
SES Deputy Assistant Secretary for Basic Industries
SES Deputy Assistant Secretary to Capital Goods and International Construction
SES Deputy Assistant Secretary for Aerospace
SES Deputy Assistant Secretary for Trade Information and Analysis
SES Deputy Assistant Secretary for Trade Adjustment Assistance
SES Deputy Assistant Secretary for Science and Electronics
SES Deputy Assistant Secretary for Automotive Affairs and Consumer Goods
SES Deputy Assistant Secretary for Textiles and Apparel

Bureau of Export Administration

Office of the Under Secretary for Export Administration

SES* Deputy Under Secretary for Export Administration
SES* Deputy Assistant Secretary for Industrial Resources Administration
SES Deputy Assistant Secretary for Export Administration
SES Deputy Assistant Secretary for Export Enforcement

National Institute of Standards and Technology

SES Deputy Director

Office of Associate Director for Programs, Budget and Finance

SES Associate Director for Programs, Budget and Finance

National Measurement Laboratory

SES Director
SES Deputy Director for Resources and Operations
SES Deputy Director for Programs

Institute for Materials Science and Engineering

SES Director
SES** Deputy Director

Office of Associate Director for Industry and Standards

SES Associate Director

National Engineering Laboratory

SES Director
SES Deputy Director

National Computer Systems Laboratory

SES Director
SES Deputy Director

National Oceanic and Atmospheric Administration

Office of the Assistant Secretary for Oceans and Atmosphere

SES* Deputy Assistant Secretary for International Interests

Office of the General Counsel

SES General Counsel

National Marine Fisheries Service

SES* Executive Director
SES Assistant Administrator for National Marine Fisheries Services
SES Deputy Assistant Administrator

Office of Oceanic and Atmospheric Research

SES Assistant Administrator for Oceanic and Atmospheric Research
SES Deputy Assistant Administrator

National Weather Service

SES Assistant Administrator for Weather Services
SES Deputy Assistant Administrator

National Ocean Services

SES Assistant Administrator for Ocean Services and Coastal Zone Management
SES Deputy Assistant Administrator for Ocean Services

National Environmental Satellite Data and Information Service

SES Assistant Administrator
SES Deputy Assistant Administrator for Satellites

NOAA Corps

08 Director

Patent and Trademark Office

GS–18 Deputy Assistant Secretary and Deputy Commissioner

Office of Assistant Commissioner for Patents

GS–18 Assistant Commissioner
SES Deputy Assistant Commissioner

Office of Assistant Commissioner for Trademarks

GS–17 Assistant Commissioner
SES Deputy Assistant Commissioner

Office of Assistant Commissioner for External Affairs

SES Assistant Commissioner

Office of the Assistant Commissioner for Finance and Planning

SES Assistant Commissioner

Office of the Assistant Commissioner for Administration

SES Assistant Commissioner

Office of the Solicitor

SES Solicitor
SES Deputy Solicitor

Office of the Assistant Commissioner for Information Systems

SES* Assistant Commissioner

Board of Patents Appeals and Interferences

SES* Chairman

AGENCY: DEPARTMENT OF DEFENSE

Positions:

Immediate Office of the Secretary of Defense

SES Assistant to the Secretary of Defense (Intelligence Oversight)
SES Assistant to the Secretary of Defense and Deputy Secretary of Defense
0–7 Senior Military Assistant to the Deputy Secretary of Defense

Office of the Director, Operational Test and Evaluation

SES Deputy Director for Policy, External Affairs, and Special Programs
SES Deputy Director for Plans and Programs
SES Director, Strategic Defense System Operational Test Organization
SES Deputy Director for Resources and Administration

Office of the Under Secretary of Defense (Policy)

SES Deputy Under Secretary of Defense for Trade Security Policy/Director, Defense Technology Security Administration
SES Deputy Under Secretary of Defense (Planning and Resources)/Special Advisor for NATO Armaments
SES Assistant Deputy Under Secretary of Defense (Trade Security Policy)

Net Assessment

SES Director of Net Assessment

Office of the Deputy Under Secretary of Defense (Policy)

SES Director, Special Advisory Staff
SES Deputy Under Secretary of Defense for Policy
SES Assistant Deputy Under Secretary of Defense (Policy)
SES Assistant Deputy Under Secretary of Defense (Counterintelligence and Security)
SES Director for Security Plans and Programs
SES Director, Counterintelligence and Investigative Programs
SES Director, International Security Programs
SES Director, Defense Security Institute

Office of the Assistant Secretary of Defense (International Security Policy)

SES Principal Director, European and NATO Policy
SES Special Assistant to the Deputy Assistant Secretary of Defense (European and NATO Policy)
SES Director, Strategic Arms Control Policy
SES Director, European Policy
SES Director, Regional Policy
SES Deputy Assistant Secretary of Defense (Nuclear Forces and Arms Control Policy)
SES Deputy Assistant Secretary of Defense (Negotiations Policy)
SES Director, Strategic Forces Policy
SES Director, Verification Policy
SES Principal Director and Counselor, Negotiations Policy
SES Director, Multilateral Negotiations
SES Director, Theater Nuclear Forces Policy
SES Principal Director, Nuclear Forces Arms Control Policy
SES Director, Strategic Defense and Space Arms Control Policy
SES Deputy Assistant Secretary of Defense (European and NATO Policy)
SES Principal Deputy Assistant Secretary of Defense (International Security Policy)
0–8 Advisor for NATO Affairs/Director, NATO Policy
SES* OSD Representative to the Special Verification Commission (SVC)
SES* Director for European Security Negotiations
SES* Deputy Assistant Secretary of Defense (Nuclear Forces & Arms Control Policy)

Office of the Assistant Secretary of Defense (International Security Affairs)

SES Director, Foreign Military Rights Affairs
SES Director, Africa Region
SES Deputy Assistant Secretary of Defense (Inter-American Affairs)
SES Director, Policy Planning
SES Director, Humanitarian Assistance
SES Director, Near East and South Asia Region
SES Deputy Assistant Secretary of Defense (East Asia and Pacific Affairs)
SES Principal Deputy Assistant Secretary of Defense (International Security Affairs)
SES Deputy Assistant Secretary of Defense for African Affairs
SES Deputy Assistant Secretary of Defense for Policy Analysis
SES Principal Director, Policy Analysis
SES Deputy Assistant Secretary of Defense (Near Eastern and South Asian Affairs)
0–7 Director, Inter-American Region
0–7 Director, East Asia Pacific Region
SES* Director, Strategic Countermeasures Planning

Defense Security Assistance Agency

SES Director, Security Assistance Operations
SES Deputy Comptroller, Defense Security Assistance Agency
SES Deputy Director for Policy and Plans
SES Comptroller, Defense Security Assistance Agency
SES Director for Plans
SES Deputy Director, Defense Security Assistance Agency

Office of the Assistant Secretary of Defense (Special Operations and Low Intensity Conflict)

SES Deputy Assistant Secretary of Defense (Resources)
0-7 Deputy Assistant Secretary of Defense (Special Operations and Low Intensity Conflict)
SES* Principal Deputy Assistant Secretary of Defense (Special Operations & Low Intensity Conflict)

Office of the Under Secretary of Defense (Acquisition)

SES Director, Small and Disadvantaged Business Utilization
SES Deputy Director, Program Assessment
SES Deputy Director, Acquisition Systems Management
SES Director, Program Integration
SES Deputy Director, Program and Budget Integration
0-7 Director, Special Programs
SES* Director (Land Warfare)
SES* Assistant Deputy Under Secretary of Defense (Asia/Southern Hemisphere)
SES* Director, DOD Contracted Advisory and Assistance Services
SES* Deputy Under Secretary of Defense (Industrial and International Programs)
SES* Assistant Deputy Under Secretary of Defense (Planning and Analysis)
SES* Assistant Deputy Under Secretary of Defense (Manufacturing and Industrial Programs)
SES* Assistant Deputy Under Secretary of Defense (International Technology and Trade)
SES Assistant Deputy Under Secretary of Defense (International Development and Production Programs)
0-7* Special Assistant, Program Integration

Office of the Director Defense Research and Engineering

SES Assistant Deputy Under Secretary of Defense (Defensive Systems)
SES Assistant Deputy Under Secretary of Defense (Strategic Aeronautical and Theater Nuclear Systems)
SES Director, Engineering Technology
SES Deputy Under Secretary of Defense (Research and Advanced Technology)
SES Director, Defensive Programs
SES Director, Strategic Aeronautical and Theatre Nuclear Systems
SES Director, Offensive and Space Systems
SES Deputy Assistant to the Secretary of Defense (Chemical Matters)
SES Director, Office of Munitions
SES Director, Environmental and Life Sciences
SES Assistant Deputy Under Secretary of Defense (Land Warfare)
SES Deputy Director, Defense Technology Security Administration
SES Director, Office of Conventional Initiatives
SES Director, Force Analysis Concepts and Plans
SES Director, Live Fire Test
SES Director, Research and Laboratory Management
SES Director, Electronic Systems Technology
SES Deputy Director of Defense Research and Engineering (Test and Evaluation)
SES Director, Weapon Systems Assessment
0-7 Assistant Deputy Under Secretary of Defense (Tactical Warfare Programs)
0-7 Assistant Deputy Under Secretary (Strategic and Theater Nuclear Forces)
0-7 D/ATSD (Atomic Energy)(MA) and Executive Secretary (MILC)
SES* Director (Naval Warfare and Mobility)
SES* Deputy Director Research & Engineering (Strategic & Theater Nuclear Forces)
SES* Deputy Director Defense Research & Engineering (Tactical Warfare Programs)
SES* Director (Air Warfare)
SES* Director (Start & Arms Control Office)
SES* Deputy Director of Defense Research and Engineering for Research and Advanced Technology
SES* Director, Special T&E Programs

Office of the Assistant Secretary of Defense (Production and Logistics)

SES Deputy Assistant Secretary of Defense (Procurement)
SES Deputy Assistant Secretary of Defense (Installations)
SES Director, Cost, Pricing and Finance
SES Director, Standardization and Acquisition Support
SES Director for Maintenance Policy
SES Director, Industrial Resources
SES Director, Automated Systems Research and Information
SES Director, Facility Requirements and Resources
SES Director, Installations Management
SES Deputy Assistant Secretary of Defense (Logistics)
SES Director, Weapon Support
SES Director, Logistics Planning and Analysis
SES Director, Installations Planning
SES Director, International Logistics
SES Director, Contract Policy and Administration
SES Deputy Director, Weapon Support
SES Director, Spares Program Management
SES Director, Transportation Policy
SES Director, Supply Management Policy
SES Deputy Director, Supply Management Policy
SES Director, Energy Policy
SES Director, Computer Aided Logistics Support Office
SES Deputy Assistant Secretary of Defense (Environment)
SES Director, Industrial Productivity and Quality
SES Deputy Director, Manufacturing and Quality
SES Deputy Assistant Secretary of Defense (Systems)
SES Director, Defense Systems Procurement Strategies
SES Executive Director, Defense Secretary's Commission on Base Realignment and Closure
SES Asst. to the Asst. Secretary of Defense (P&L) for Stockpile Policy and Programs
SES* Principal Director, Environmental Restoration
SES* Director, Strategic and Critical Defense Materials
SES* Deputy Assistant Secretary of Defense (Total Quality Management)
0-7* Military Deputy to the Assistant Secretary of Defense (Production & Logistics)
SES Director, Defense Acquisition Regulatory System and Council

Office of the Assistant Secretary of Defense (Command, Control, Communications and Intelligence)

SES Director, National Intelligence Systems
SES Director, Information Systems
SES Director, Theater and Tactical C3
SES Director, Strategic and Theater Nuclear Forces C3
SES Assistant Director, Electronic Combat Systems (Electronic Warfare)
SES Deputy Assistant Secretary of Defense (Intelligence)
SES Deputy Assistant Secretary of Defense (Plans and Resources)
SES Director, Resource Management
SES Assistant Director for Electronic Combat (Command, Control, Communications Countermeasures)
SES Director, Mission Assessment and Evaluation
SES Director, Special Operations
SES Director, Electronic Combat and Special Systems
SES Staff Assistant for Strategic C3
SES Director, Tactical Intelligence Systems
SES Deputy Director, Tactical Intelligence System
SES Deputy Director, National Intelligence Systems
SES Principal Deputy Assistant Secretary of Defense (Command, Control, Communications and Intelligence)
SES Director, Intelligence Resources and Training
SES Deputy Director, Theater and Tactical Command, Control and Communications
SES* Director, Special Technology Support
SES* Deputy Assistant Secretary of Defense (Command, Control, and Communications)
SES* Director, Electronic Combat

Defense Advanced Research Projects Agency

SES Director, Directed Energy Office
SES Director, Program Management Office
SES Director, Tactical Technology Office
SES Director, Strategic Technology Office
SES Director, Defense Sciences Office
SES Director, Technology Assessment and Long Range Planning Office
SES Director, Aero-Space and Technology Office
SES Director, Naval Technology Office
SES Director, Prototype Projects Office
SES Director, Contracts Management Office
SES Deputy Director for Systems and Technology

SES Deputy Director for Research
SES Director, Information Sciences and Technology Office
SES Director, Defense Advanced Research Projects Agency Liaison Office—Europe
SES Director, Nuclear Monitoring Research Office
SES Assistant Director for Armor/Anti-Armor
SES Director, Defense Advanced Research Projects Agency
SES* Assistant Director, Smart Weapons and Sensors
SES* Associate Director Research
SES* Assistant Director, Technology
SES* Assistant Director, Communications, Command, Control, and Intelligence
SES* Director, Prototype Planning Office
SES* Chief Scientist
SES* Assistant Director, Systems
SES* Deputy Director, Defense Manufacturing Office
SES* General Counsel

Office of the Assistant Secretary of Defense (Reserve Affairs)

SES Deputy Assistant Secretary of Defense (Guard/Reserve Material and Facilities)
SES Principal Deputy Assistant Secretary of Defense (Reserve Affairs)
SES Deputy Assistant Secretary of Defense (Guard/Reserve Program and Budget)
0–7 Deputy Assistant Secretary of Defense (Guard/Reserve Readiness and Training)
0–8 Military Advisor/Executive Officer RFPB (Negotiations)
SES* Deputy Assistant Secretary of Defense (Guard/Reserve Manpower and Personnel)
SES* Principal Director (Guard/Reserve Readiness and Training)
SES* Principal Director (Guard/Reserve Manpower and Personnel)

Strategic Defense Initiative

SES Deputy Director, Strategic Defense Initiative Organization
SES Director, Innovative Science and Technology
SES Director, Directed Energy Office
SES General Counsel
SES Director, Strategic Defense Initiative Programs
SES Deputy for Technology
SES Associate Deputy for Technology
SES Associate Deputy for Programs and Systems
SES Deputy Comptroller
SES Special Advisor for International and Governmental Affairs
SES Deputy Program Manager, SDS Phase I
0–8 Deputy for Programs and Systems
SES* Director, Program Planning
SES* Deputy Director, Resource Management

Office of the Assistant Secretary of Defense (Force Management and Personnel)

SES Director for Safety and Occupational Health Policy
SES Director, Intergovernmental Affairs
SES Director, Civilian Requirements and Analysis
SES Director, Accession Policy
SES Deputy Director for Compensation and Overseas Employment Policy
SES Deputy Assistant Secretary of Defense (Resource Management and Support)
SES Principal Deputy Assistant Secretary of Defense (Force Management and Personnel)
SES Deputy Assistant Secretary of Defense (Family Support, Education and Safety)
SES Director for Workforce Relations, Training and Staffing Policy
SES Deputy Assistant Secretary for Defense (Civilian Personnel Policy)
SES Director, Personnel Management
SES Deputy Director for Civilian Employment Stability Nonappropriated Funds and Special Projects
SES Director for Civilian Equal Opportunity Program
SES Director, Mobilization Planning and Requirements
SES Director, Educational Liaison
0–8 Deputy Assistant Secretary of Defense Mobilization Planning & Requirements

Department of Defense Dependents Schools

SES Director, Department of Defense Dependents Schools
SES Director, Pacific Region, Department of Defense Dependents Schools
SES Director, Germany Region
SES* Deputy Director, DODDS

Office of Economic Adjustment

SES Director, Office of Economic Adjustment
SES* Associate Director for Community Planning

Defense Mobilization Systems Planning Activity

SES Assistant Director for Resource Management
SES Deputy Assistant Director for Resource Management
SES Deputy Assistant Director for Mobilization Systems
SES Deputy Director, Defense Mobilization Systems Planning Activity
SES Deputy Assistant Director for Engineering
SES Special Assistant to the Deputy Director, Defense Mobilization Systems Planning Activity
SES Director for Systems Engineering and Integration
SES Assistant Director for Program Analysis and Implementation
SES Chief, Facilities Plans Division

Office of the Assistant Secretary of Defense (Legislative Affairs)

SES Deputy Assistant Secretary of Defense (Senate Affairs)
SES Deputy Assistant Secretary of Defense (House Affairs)

Office of the Assistant Secretary of Defense (Comptroller)

SES Director for Program and Financial Control
SES Director for Research and Development
SES Director for Military Personnel
SES Director for Procurement
SES Associate Director for Budget
SES Director for Construction
SES Director for Operations
SES Deputy Comptroller Management Systems
SES Director for Accounting Policy
SES Deputy Director for Plans and Systems
SES Director for Financial Services Policy
SES Director for Plans and Systems
SES Principal Deputy Comptroller
SES Director for Management Improvement
SES Director, Policy and Systems Division
SES Director, Finance and Operations Division
SES Deputy Assistant Secretary of Defense (Information Resources Management)
SES Director, Policy and Standards
SES* Assistant Deputy Comptroller (Program/Budget)
SES* Deputy Director for Construction
SES* Director, Systems and Services
SES* Deputy Director for Military Personnel
SES* Deputy Director for Management Improvement
SES* Director, Resources and Assessment
SES* Deputy Director for Financial Services Policy
SES* Director, Review and Control
SES* Deputy Comptroller (Program/Budget)
SES* Deputy Comptroller (Information Resources Management)
SES* Assistant Director for Cost Management

Office of the Assistant Secretary of Defense (Health Affairs)

SES Principal Deputy Assistant Secretary of Defense (Health Affairs)
SES Director, Defense Medical Systems Support Center
SES Deputy Assistant Secretary of Defense for Medical Resources Administration
SES Principal Director for Professional Affairs and Quality Assurance
SES Deputy Assistant Secretary of Defense for Health Program Management
SES Principal Director for Medical Resources Administration
SES* Deputy Assistant Secretary of Defense (Health Management Systems)
0–8* Deputy Assistant Secretary of Defense for Professional Affairs and Quality Assurance

Office of the Assistant Secretary of Defense of Program Analysis and Evaluation

SES Director, Land Forces Division
SES Director, Naval Forces Division
SES Deputy Assistant Secretary of Defense (Strategic Programs)
SES Director, Strategic Offensive Forces Division
SES Director, Strategic Defensive and Theater Nuclear Forces Division
SES Deputy Assistant Secretary of Defense (Resource Analysis)
SES Deputy Assistant Secretary of Defense (General Purpose Programs)
SES Director, Tactical Air Division
SES Director, Program Analysis and Evaluation
SES Deputy Assistant Secretary of Defense (Theater Assessments and Planning)
SES Principal Deputy Assistant Secretary of Defense (Program Analysis and Evaluation)
SES Director, Economic Analysis and Resource Planning Division
SES Director, Force Structure and Support Cost Analysis Division
SES Director, Research and Development/Procurement Cost Analysis Division

SES Director, Europe and Pacific Forces Division
SES Director, Projection Forces Division

Office of the Assistant Secretary of Defense (Public Affairs)

SES Principal Deputy Assistant Secretary of Defense (Public Affairs)
SES Director, Freedom of Information and Security Review
SES Director, American Forces Information Service
SES Deputy Assistant Secretary of Defense (Public Affairs)

Office of the General Counsel

SES Assistant General Counsel (Personnel and Health Policy)
SES Deputy General Counsel
SES Assistant General Counsel (Fiscal and Inspector General)
SES Assistant General Counsel (Logistics)
SES Assistant General Counsel (Legal Counsel)
SES Assistant General Counsel (International and Intelligence)

U.S. Mission to the North Atlantic Treaty Organization

SES Defense Advisor, U.S. Mission to North Atlantic Treaty Organization
SES Director, Communications and Electronics Division
SES Director, Infrastructure and Logistics Division
SES Director, Defense Plans Division
SES Special Deputy to the Defense Advisor for Policy Analysis
SES Administrative Advisor to the U.S. Ambassador to NATO
SES Deputy Defense Advisor

Washington Headquarters Services

SES Director of Personnel and Security
SES Director, Information Operations and Reports
SES Director of Budget and Finance
SES Director for Real Estate and Facilities
SES Senior Director, Asian Affairs Directorate
SES Deputy Executive Secretary for External Affairs
SES Director of NSC Security Operations
SES* Deputy Director, Real Estate and Facilities
SES* Deputy Director, Budget and Finance/Chief Budget Division
SES* Deputy Director, Personnel & Security
SES* Deputy Director for Organizational and Management Planning

Office of the Director Administration and Management

SES Policy Analyst and Historian
SES Director of Administration and Management/Director, Washington Headquarters Services
SES Director for Organizational and Management Planning
SES* Deputy Director for Organizational and Management Planning

On-site Inspection Agency

SES* Principal Deputy Director, On-Site Inspection Agency
0–7* Director, On-Site Inspection Agency

International Military Activities Staff

SES Director of Logistics (NAMSA)
SES* General Manager, NATO Maintenance and Supply Agency (NAMSA)

Organization of the Joint Chiefs of Staff

SES Assistant Deputy Director for Plans, Concepts and Analysis
SES* JCS Representative for Conventional Stability Talks (CST) and Chief, U.S. Military Delegation in Vienna
SES* Deputy Director for Command, Control and Communications Systems Integration
0–7* Deputy Director for Planning, Concepts, Analysis
0–8* Deputy Director, Medical Mobilization Program
0–7* Deputy Director for PMA J–5
0–7* Assistant Deputy Director, International Negotiations J–5
0–7* JCS Representative for Space J–5
0–7* Deputy Director, Unified & Specified Command C3 Support J–6
0–8* Deputy Director, Defense-Wide C3 Support J–6
0–8* Director, OPLN and Interoperability Directorate J–7
0–7* Vice Director for Operational Plans and Integration J–7
0–8* Director, Force Structure Resources & Assessment Directorate J–8
0–7* Deputy Director for Force Structure & Resources J–8
0–7* Deputy Director for Assessment J–8

Department of Defense Inspector General

SES Deputy Inspector General
SES Assistant Inspector General for Investigations
SES Director for Contract and External Audit Oversight and Evaluation
SES Deputy Assistant Inspector General for GAO Reports Analysis
SES Director, Major Acquisition Programs
SES Director, Contract Audit Programs
SES Assistant Inspector General for Criminal Investigations Policy and Oversight
SES Assistant Inspector General for Audit Policy and Oversight
SES Deputy Assistant Inspector General (Analysis and Followup)
SES Deputy Assistant Inspector General for Auditing
SES Director, Financial Manpower and Security Assistance Audits
SES Deputy Assistant Inspector General for Investigations
SES Assistant Inspector General for Special Programs
SES Deputy Assistant Inspector General for Inspections
SES Director, Acquisition Support Programs
SES Director, Intelligence, Communications and Related Programs
SES Assistant Inspector General for Auditing
SES Assistant Inspector General for Analysis and Followup
SES Assistant Inspector General for Administration and Information Management
0–7 Assistant Inspector General for Inspections
SES* Deputy Assistant Inspector General for Audit Policy and Oversight
SES* Deputy Assistant Inspector General for Administration and Information Management
SES* Director, Audit Support

National Security Agency/Central Security Service

0–7 Deputy Director, National Security Agency/Central Security Service

U.S. Court of Military Appeals

SES Clerk of the Court

AGENCY: DEPARTMENT OF THE AIR FORCE

Positions:

Civilian

Secretariat

Under Secretary of the Air Force

SES* Deputy Under Secretary of the Air Force (International Affairs)
SES Deputy Assistant Secretary (Force Support)
SES Deputy Assistant Secretary (Environment, Safety and Occupational Health)
SES Deputy Assistant Secretary (Installations)
SES Deputy Assistant Secretary (Logistics)

Assistant Secretary of the Air Force for Acquisition

SES Deputy Assistant Secretary (Acquisition Management and Policy)
SES Deputy Assistant Secretary (Command, Control, Communications and Computer Systems Management)
SES Associate Director, Contracting and Manufacturing Policy
SES The Air Force Competition Advocate General

Assistant Secretary of the Air Force for Financial Management and Comptroller

SES Principal Deputy Assistant Secretary of the Air Force, Financial Management (Financial Management)
SES* Deputy Assistant Secretary (Accounting and Finance)
SES* Deputy Assistant Secretary (Cost and Economics)
SES Deputy Assistant Secretary (Plans, Systems and Analysis)
SES Deputy for Budget
SES Deputy for Policy and Banking
SES Assistant Deputy for Accounting
SES Management Systems Deputy
SES* Director, Plans and Systems, Air Force Accounting and Finance Center
SES* Director, Security Assistance Accounting Center

Assistant Secretary of the Air Force for Manpower and Reserve Affairs

SES Principal Deputy Assistant Secretary of the Air Force (Manpower and Reserve Affairs)
SES Deputy Assistant Secretary (Manpower Resources and Military Personnel)
SES Deputy Assistant Secretary (Reserve Affairs)

Assistant Secretary of the Air Force for Space

SES* Principal Deputy Assistant Secretary of the Air Force (Space)
SES* Deputy Assistant Secretary (Space Plans and Policy)
SES Deputy for Contracting

Office of the Auditor General

SES The Auditor General
SES Assistant Auditor General (Acquisition and Logistics Systems), Air Force Audit Agency

Office of Small and Disadvantaged Business Utilization

SES Director, Office of Small and Disadvantaged Business Utilization

Administrative Assistant to the Secretary of the Air Force

SES Administrative Assistant to the Secretary of the Air Force

General Counsel

SES Deputy General Counsel
SES Assistant General Counsel, Procurement

Air Staff

Assistant Chief of Staff, Systems for Command, Control, Communications and Computers

SES* Director, Technology and Architecture

Deputy Chief of Staff, Logistics and Engineering

SES Associate Director, Engineering and Services
SES Associate Director, Logistics Plans and Programs
SES Chief, Combat Support Programs Division
SES Chief, Modification and Operations and Maintenance Programs Division
SES Deputy to the Commander, Air Force Commissary Service

Major Commands

Air Force Communications Command

SES* Deputy Commander, Standard Systems Center

Air Force Logistics Command

SES Chairperson, Air Force Logistics Command Procurement Committee
SES Assistant Deputy Chief of Staff, Distribution
SES Assistant Deputy Chief of Staff, Logistics Management Systems
SES Assistant Deputy Chief of Staff, Materiel Management
SES Assistant Deputy Chief of Staff, Maintenance
SES Assistant Deputy Chief of Staff, Plans and Programs
SES Assistant Deputy Chief of Staff, Contracting and Manufacturing
SES* Deputy Staff Judge Advocate
SES Assistant Deputy for Aeronautical Programs, Air Force Acquisition Logistics Center
SES Assistant to the Commander, Air Force Electronic Combat Office (AFECO) (AFLC/AFSC)
SES Deputy Director, Contracting and Manufacturing, Ogden Air Logistics Center
SES Deputy Director, Materiel Management, Ogden Air Logistics Center
SES Deputy Director, Contracting and Manufacturing, Oklahoma City Air Logistics Center
SES Deputy Director, Materiel Management, Oklahoma City Air Logistics Center
SES Deputy Director, Contracting and Manufacturing, Sacramento Air Logistics Center
SES Deputy Director, Materiel Management, Sacramento Air Logistics Center
SES Deputy Director, Contracting and Manufacturing, San Antonio Air Logistics Center
SES Deputy Director, Materiel Management, San Antonio Air Logistics Center
SES Deputy Director, Contracting and Manufacturing, Warner Robins Air Logistics Center
SES Deputy Director, Materiel Management, Warner Robins Air Logistics Center

Air Force Systems Command (AFSC)

Headquarters AFSC

SES Principal Assistant Deputy Chief of Staff, Contracting
SES* Principal Assistant Deputy Chief of Staff, Product Assurance and Acquisition Logistics
SES* Assistant Deputy Chief of Staff, Plans and Programs
SES* Director, Contract Clearance and Policy Development
SES Chief Engineer
SES* Assistant for Intelligence
SES Assistant to Staff Judge Advocate

Air Force Office of Scientific Research

SES* Director, Air Force Office of Scientific Research
SES Director, Aerospace Sciences
SES Director, Chemical and Atmospheric Sciences
SES Director, Electronics and Materiel Sciences
SES Director, Life Sciences
SES Director, Mathematical and Information Systems

Aeronautical Systems Division

SES* Deputy for Development Planning
SES Assistant Deputy for Contracting and Manufacturing
SES Assistant Deputy (Deputy for Tactical Systems)
SES Assistant Deputy for Reconnaissance, Strike and Electronic Warfare
SES* Director, Flight Systems
SES* Director, Systems Engineering
SES* Deputy Program Director, Propulsion System Program Office
SES* Deputy Program Director, Systems Program Office

Wright Research and Development Center Aero-Propulsion Laboratory

SES Director, Air Force Aero-Propulsion Laboratory

Avionics Laboratory

SES* Director, Avionics Laboratory

Electronic Technology Laboratory

SES* Director, Electronic Technology Laboratory

Materials Laboratory

SES Research and Development Executive (Director, ML)
SES Director, Manufacturing Technology Division

Electronic Systems Division

SES Deputy Commander for Development Plans and Support Systems
SES* Deputy for Product Assurance and Acquisition Logistics
SES Assistant Deputy for Contracting and Manufacturing
SES Assistant Deputy for Strategic Systems
SES Assistant Deputy Commander for Tactical Systems, Joint Tactical Information Distribution System (JTIDS), and Airborne Warning and Control System (AWACS)

Munition Systems Division

SES* Deputy for Range Systems
SES* Deputy Program Director, Advanced Medium Range Air-to-Air Missile (AMRAAM) Systems Program Office

Space Systems Division

SES Assistant Deputy for Acquisition Management and Competition
SES* Deputy Program Director, Launch Systems

Air Force Space Technology Center Astronautics Laboratory

SES* Director, Astronautics Laboratory

Contract Management Division

SES Assistant for Contract Administration Services

Joint and Executive Agencies, National Aerospace Plane Joint Program Office

SES* Director, National Aerospace Plane Joint Program Office

United States Transportation Command

SES* Deputy Director, Command, Control, Communications and Computer Systems

Military

Secretariat

Assistant Secretary of the Air Force for Acquisition

0-7/0-8 Principal Deputy Assistant Secretary of the Air Force for Acquisition
0-7/0-8 Director, Contracting and Manufacturing Policy
0-7/0-8 Director, Program Planning and Integration
0-7/0-8 Director, Space and Strategic Defense Initiative (SDI) Programs; and Assistant to Vice Commander AFSC, for SDI
0-7/0-8 Director, Tactical Programs

Assistant Secretary of the Air Force for Financial Management and Comptroller

0-7/0-8 Deputy Assistant Secretary (Budget)
0-7/0-8 Director, Budget Operations
0-7/0-8 Commander, Air Force Accounting and Finance Center; Assistant Comptroller for Accounting and Finance; and Assistant Director, Security Assistance Accounting, Defense Security Assistance Agency

The Auditor General of the Air Force

0–7/0–8 Commander, Air Force Audit Agency; and Deputy Auditor General

The Inspector General of the Air Force

0–7/0–8 Deputy Inspector General of the Air Force
0–7/0–8 Commander, Air Force Office of Special Investigations; and Assistant Inspector General for Special Investigations

Office of Space Systems

0–7/0–8 Director, Office of Space Systems

Office of Special Projects

0–7/0–8 Director of Special Projects; and Assistant Vice Commander, Space Systems Division (AFSC)

Air Staff

Office of Air Force Reserve

0–7/0–8 Chief of Air Force Reserve; and Commander, Air Force Reserve

National Guard Bureau

0–7/0–8 Director, Air National Guard

Assistant Chief of Staff, Systems for Command, Control, Communications and Computers

0–7/0–8 Assistant Chief of Staff, Systems for Command, Control, Communications and Computers
0–7/0–8 Deputy Assistant Chief of Staff, Systems for Command, Control, Communications and Computers

Assistant Chief of Staff, Studies and Analyses

0–7/0–8 Assistant Chief of Staff, Studies and Analyses; and Commander, Air Force Center for Studies and Analyses

Office of the Judge Advocate General

0–7/0–8 The Judge Advocate General; and Commander, Air Force Legal Services Center
0–7/0–8 Deputy Judge Advocate General

Deputy Chief of Staff, Logistics and Engineering

0–7/0–8 Director, Logistics Plans and Programs
0–7/0–8 Director, Engineering and Services
0–7/0–8 Director, Transportation
0–7/0–8 Special Assistant to the Principal Deputy Assistant Secretary of the Air Force for Acquisition, and the Deputy Chief of Staff, Logistics and Engineering, for Reliability and Maintainability
0–7/0–8 Commander, Air Force Commissary Service

Deputy Chief of Staff, Plans and Operations

0–7/0–8 Director, Plans

Deputy Chief of Staff, Programs and Resources

0–7/0–8 Assistant Deputy Chief of Staff, Programs and Resources
0–7/0–8 Director, Programs and Evaluation
0–7/0–8 Director, International Programs; and Commander, Air Force Center for International Programs

Major Commands

Air Force Communications Command

0–7/0–8 Commander, Air Force Communications Command
0–7/0–8* Commander, Computer Systems Division; and Commander, Standard Systems Center

Air Force Logistics Command

0–7/0–8 Chief of Staff
0–7/0–8 Deputy Chief of Staff, Contracting and Manufacturing
0–7/0–8 Deputy Chief of Staff, Materiel Management
0–7/0–8 Deputy Chief of Staff, Maintenance
0–7/0–8 Deputy Chief of Staff, Plans and Programs
0–7/0–8 Staff Judge Advocate
0–7/0–9 Commander, Acquisition Logistics Division
0–7/0–8 Commander, Air Force Logistics Command, International Logistics Center; and Assistant for International Logistics
0–7/0–8 Commander, Air Force Logistics Command Logistics Management Systems Center; and Deputy Chief of Staff, Communications-Computer Systems
0–7/0–8 Commander, Air Force Logistics Command Logistics Operations Center; and Assistant Deputy Chief of Staff, Systems and Requirements
0–7/0–8 Commander, Ogden Air Logistics Center
0–7/0–8 Commander, Oklahoma City Air Logistics Center
0–7/0–8 Commander, Sacramento Air Logistics Center
0–7/0–8 Commander, San Antonio Air Logistics Center
0–7/0–8 Commander, Warner Robins Air Logistics Center

Air Force Systems Command

Headquarters AFSC

0–7/0–8 Chief of Staff
0–7/0–8 Deputy Chief of Staff, Contracting
0–7/0–8 Deputy Chief of Staff, Technology and Requirements Planning
0–7/0–8 Deputy Chief of Staff, Test and Resources
0–7/0–8 Deputy Chief of Staff, Systems
0–7/0–8 Deputy Chief of Staff, Product Assurance and Acquisition Logistics; and Special Assistant to Commander, AFSC, for Total Quality Management
0–7/0–8 Staff Judge Advocate

Aeronautical Systems Division

0–7/0–8 Vice Commander, Aeronautical Systems Division
0–7/0–8 Program Director, B–2 Systems Program Office
0–7/0–8 Program Director, C–17 Systems Program Office
0–7/0–8 Program Director, F–16 Systems Program Office
0–7/0–8 Program Director, Advanced Tactical Fighter

Munition Systems Division

0–7/0–8 Commander, Munition Systems Division
0–7/0–8 Vice Commander, Munition Systems Division
0–7/0–8 Program Director for Advanced Medium Range Air-to-Air Missile

Electronic Systems Division

0–7/0–8 Vice Commander, Electronic Systems Division
0–7/0–8 Deputy Commander for Tactical Systems

Space Systems Division

0–7/0–8 Vice Commander, Space Systems Division; and Deputy Commander for Defense and Surveillance
0–7/0–8 Deputy Commander for Communications, Operations Support and Control Systems

Contract Management Division

0–7/0–8 Commander, Contract Management Division

Air Force Flight Test Center

0–7/0–8 Commander, Air Force Flight Test Center

Ballistic Systems Division

0–7/0–8 Commander, Ballistic Systems Division

Joint and Executive Agencies

Army and Air Force Exchange Service

0–7/0–8 Commander, Army and Air Force Exchange Service
0–7/0–8 Vice Commander, Army and Air Force Exchange Service

AGENCY: DEPARTMENT OF THE ARMY

Positions:

Civilian Positions

Office of the Secretary

SES Administrative Assistant to the Secretary of the Army
SES Deputy Administrative Assistant to the Secretary of the Army
SES Director of Small & Disadvantaged Business Utilization

Army Audit Agency (OSA FOA)

SES The Auditor General
SES Deputy Auditor General
SES Director, Audit Policy, Plans and Resources
SES Director, Logistical & Financial Audits
SES Director, Personnel & Force Management Audits
SES Director, Acquisition & Systems Audits

Office of the Under Secretary

SES Deputy Under Secretary of the Army
SES Deputy Under Secretary of the Army (Operations Research)

Office of the General Counsel

SES General Counsel
SES Principal Deputy General Counsel/ Chief of Legal Services

Office, Assistant Secretary of the Army (Financial Management)

SES Principal Deputy Assistant Secretary of the Army (Financial Management)
SES* Director, Review & Oversight
SES* Director, Business Management Practices
SES* Director, Independent Resource Analysis
SES* Director, Finance & Accounting

SES Director, Cost Analysis

Office, Assistant Secretary of the Army (Installations and Logistics)

SES Principal Deputy Assistant Secretary of the Army (Installations and Logistics)
SES Deputy Assistant Secretary of the Army (Installations and Housing)
SES Deputy Assistant Secretary of the Army (Logistics)
SES Deputy for Environment, Safety and Occupational Health
SES Deputy for Programs and Installation Assistance

Office, Assistant Secretary of the Army (Manpower and Reserve Affairs)

SES Principal Deputy ASA (Manpower and Reserve Affairs) and Deputy ASA (Reserve Affairs & Mobilization)
SES Deputy Assistant Secretary of the Army (Military Personnel Management & Equal Opportunity Policy)
SES Deputy Assistant Secretary of the Army (Civilian Personnel Policy, NAF & Personnel Security)
SES Deputy Assistant Secretary of the Army (Readiness, Force Management & Training)

Office, Assistant Secretary of the Army (Civil Works)

SES Principal Deputy Assistant Secretary of the Army (Civil Works)
SES Deputy for Policy and Evaluation
SES Deputy for Management and Budget
SES Deputy for Policy, Planning & Legislative Affairs

Office, Assistant Secretary of the Army (Research, Development and Acquisition)

SES* Competition Advocate of the Army
SES* Chief Scientist, & Director, Research & Technology
SES Deputy Director for Advanced Concepts and Technology Assessment
SES Deputy Director for Research (Research and Laboratory Management)
SES Deputy Assistant Secretary of the Army (Procurement)
SES Director for Procurement Policy
SES* Director, Systems Management Integration and Coordination Office
SES Deputy for Plans & Programs
SES Deputy for Program Evaluation
SES Chief, Policy & Procedures Div, USA Contract Support Agency (Acting Competition Advocate)

Program Executive Officers—Office of the Under Secretary of the Army

SES* PEO, Standard Army Management Information Systems (STAMIS)
SES* PEO, Management Information Systems (MIS)
SES* Program Executive Officer, Strategic Information Systems
SES* Program Executive Officer for Armaments
SES* PEO, Combat Support
SES Program Executive Officer, Troop Support
SES PEO, Chemical & Nuclear

Military Positions

The Army Staff

O–8 Director, Management
O–8 Director, Program Analysis and Evaluation
O–7 Assistant Deputy Chief of Staff for Logistics (Security Assistance)
O–7/SES Competition Advocate
SES Chief, Contracting Policy and Procedures Division
O–8 Assistant Deputy Chief of Staff for Personnel
O–8 Assistant Deputy Chief of Staff for Operations and Plans
O–8 Director of Army Budget
O–8 Chief, Army Reserve
O–7 Deputy Chief, Army Reserve
O–8 Director, Army National Guard
O–7 Deputy Assistant Chief of Staff for Intelligence
O–8 Chief of Chaplains
O–8 The Judge Advocate General
O–8 The Assistant Judge Advocate General
O–8 The Deputy Surgeon General
O–8 Deputy Chief of Engineers and Chairman, Board of Engineers for Rivers and Harbors

Army Staff Field Operating Agencies

Office, Chief of Staff

O–8 Commanding General, U.S. Army Operational Test and Evaluation Agency, Falls Church, Virginia

Office, Deputy Chief of Staff for Personnel

O–8 Commanding General, U.S. Total Army Personnel Command, Alexandria, Virginia

Office of the Surgeon General

O–7/O–8 Commanding General, U.S. Army Medical Research and Development Command, Fort Detrick, Maryland

U.S. Army Research Institute for Infectious Diseases (USAMRIID)

SES Special Advisor for Biotechnology

Miscellaneous Army Staff FOA's

O–7 Joint Program Manager/Director, Joint Tactical Fusion Project Management Office, McLean, Virginia

Army Commands

U.S. Army Materiel Command, Alexandria, Virginia

O–7 Program Executive Officer, Combat Aviation, Aviation Systems Command, St. Louis, Missouri
O–7 Program Manager, LHX, Aviation Systems Command, St. Louis, Missouri
O–8 Commanding General, U.S. Army Tank-Automotive Command, Warren, Michigan
O–8 Commanding General, U.S. Army Aviation Systems Command, St. Louis, Missouri
O–8 Commanding General, U.S. Army Troop Support Command—St. Louis, Missouri
O–8 Commanding General, U.S. Army Armament Munitions and Chemical Command—Rock Island, Illinois
O–7 Commanding General, U.S. Army Armament Research and Development Center—Picatinny Arsenal, New Jersey
O–7 Commanding General, U.S.A. Chemical Research and Development Center—Picatinny Arsenal, New Jersey
O–8 Commander, U.S. Army Missile Command—Redstone Arsenal, Alabama
O–8 Commanding General, Laboratory Command, Adelphi, Maryland, U.S. Army Materiel Command, Major CONUS Command
O–7 Program Executive Officer, Forward Area Air Defense, Missile Command, Redstone Arsenal, Alabama, U.S. Army Materiel Command, Major CONUS Command
O–7 Program Executive Officer, Fire Support, Missile Command, Redstone Arsenal, Alabama, U.S. Army Materiel Command, Major CONUS Command
O–7 Program Executive Officer, Close Combat Missiles, Missile Command, Redstone Arsenal, Alabama, U.S. Army Materiel Command, Major CONUS Command
O–7 Program Executive Officer, Heavy Force Mod, Tank-Automotive Command, Warren, Michigan, U.S. Army Materiel Command, Major CONUS Command
O–8 Commanding General, Test and Evaluation Command, Aberdeen Proving Ground, Maryland, U.S. Army Materiel Command, Major CONUS Command
O–8 Commanding General, White Sands Missile Range/Deputy Commanding General, Test and Evaluation Command, White Sands, New Mexico, U.S. Army Materiel Command, Major CONUS Command
O–8 Commanding General, Communications Electronics Command, Fort Monmouth, New Jersey, U.S. Army Materiel Command, Major CONUS Command
O–7 Program Executive Officer, Army Command and Control Systems, Communications-Electronics Command, Fort Monmouth, New Jersey, U.S. Army Materiel Command, Major CONUS Command
O–7 Program Executive Officer, Communications Systems, Communications-Electronics Command, Fort Monmouth, New Jersey, U.S. Army Materiel Command, Major CONUS Command
O–8 Commanding General, Depot Systems Command, Chambersburg, Pennsylvania, U.S. Army Materiel Command, Major CONUS Command
O–7 Program Manager, Chemical Demilitarization, Armament, Munitions, and Chemical Command, Aberdeen Proving Ground, Maryland, U.S. Army Materiel Command, Major CONUS Command

U.S. Army Health Services Command, Fort Sam Houston, Texas

O–8 Commanding General

U.S. Army Intelligence and Security Command, Arlington Hall Station, Virginia

O–7 Program Executive Officer, Intelligence-Electronic Warfare

U.S. Army Military Traffic Management Command, Falls Church, Virginia

O–8 Commanding General

AGENCY: DEPARTMENT OF THE NAVY

Positions:

Office of the Under Secretary of the Navy

SES Deputy Under Secretary of the Navy (Policy)
SES Deputy Under Secretary of the Navy (Special Review and Analysis)
SES Director, Naval Industrial Improvement Program
SES Deputy Assistant Secretary of the Navy (Technology, Transfer and Security Assistance)
SES Executive Director, President's Foreign Intelligence Advisory Board
SES Auditor General of the Navy
SES Special Assistant to the Under Secretary of the Navy

Office of the Assistant Secretary of the Navy (Manpower and Reserve Affairs)

SES Deputy Assistant Secretary of the Navy (Reserve Affairs)
SES Deputy Assistant Secretary of the Navy (Force Support and Families)
SES Deputy Assistant Secretary of the Navy (Civilian Personnel Policy/Equal Employment Opportunity)
SES Director, Office of Civilian Personnel Management
SES Deputy Assistant Secretary of the Navy (Manpower)

Office of the Assistant Secretary of the Navy (Shipbuilding and Logistics)

SES Director of Small and Disadvantaged Business Utilization
SES Director, Installations and Facilities
SES Director, Shipbuilding
SES Director, Aviation and Ordnance Programs
SES Director, Resources and Policy Evaluation
SES Director, Contracts and Business Management
SES Director, Reliability, Maintenance, and Quality Assurance
SES Specification Control Advocate General
SES Assistant Director, Contract Pricing
SES Assistant for Acquisition (Special Programs)
SES Assistant Deputy Under Secretary of the Navy for Safety and Survivability

Office of the Assistant Secretary of the Navy (Research, Engineering and Systems)

SES DASN (Command, Control, Communications, Intelligence and Space)
SES Director, Acquisition Management and International Programs
SES Special Assistant for Software Application
SES Principal Deputy Assistant Secretary of the Navy (Research, Engineering and Systems)
SES Director, Surface Warfare
SES Director, Air Warfare

Office of the General Counsel

SES General Counsel
SES Principal Deputy General Counsel
SES Deputy General Counsel (Logistics)

U.S. Marine Corps

SES Fiscal Director of the Marine Corps
SES Special Assistant to the Deputy Chief of Staff for Installations and Logistics
SES Director, Contracts Division
0-7/0-8 Commanding General of Marine Corps, Research, Development and Acquisition

Office of Naval Research

SES Director, Acquisition

Chief of Naval Education and Training

0-7/0-8* Vice Chief of Naval Education and Training
SES Deputy CNET

Military Sealift Command

SES Vice Commander
0-7/0-8 Deputy Commander

Navy Regional Data Automation Center, Washington

SES Technical Director

Strategic Systems Programs

SES Director, Plans and Program Division

Naval Air Systems Command HQ

SES Executive Director for Contracts Management
SES Deputy Commander
SES Technical Director, Cruise Missiles and Unmanned Aerial Vehicles Programs
SES* Deputy Acquisition Executive
SES* Program Director, Air for Weapons Programs
SES* Program Director, Air for EW and Mission Support Programs

Naval Facilities Engineering Command HQ

SES Assistant Commander for Contracts

Naval Sea Systems Command HQ

SES Deputy Chief Engineer for Logistics (CEL)
SES Assistant Deputy Commander for Contracts
SES Deputy Commander
SES Deputy Commander for Acquisition Planning and Appraisal

Space and Naval Warfare Systems Command

SES Deputy Commander
SES Executive Director, Contracts
SES Director, Office of Naval Laboratories
SES Assistant Commander, Research and Development

CNO

0-7/0-8 Director, Combat Logistics Auxiliaries, Amphibious and Mine Warfare Division (OP-37)
0-8 Assistant Deputy Chief of Naval Operations (Logistics) (OP-04B)
0-7/0-8 Director, Logistics Plans Division (OP-40)
0-7/0-8 Director, Material Division (OP-41)(sc)
0-7/0-8 Director, Ships Maintenance and Modernization (OP-43)
0-7/0-8 Director, Shore Activities Planning and Programming Division (OP-44)(CEC)

NAVAIRSYSCOM

0-8 Vice Commander (NAIR-09)
0-8 Acquisition Executive and Deputy Commander for Operations (NAIR-01)
0-7 Assistant Commander for Contracts (NAIR-02)
0-7* Comptroller
0-7* Program Director, Air for Tactical Aircraft Programs
0-7* Program Director, Air for ASW and Assault Programs
0-8* Commander, Pacific Missile Test Centers
0-8* Commander, Naval Air Test Center
0-8 Assistant Commander for Fleet Support and Field Activity Management (NAIR-04)
0-8 Assistant Commander for Systems and Engineering (NAIR-05)
0-7 Deputy Assistant Commander for Aviation Depots (NAIR-43)
0-7* Program Director Air (PDA) for Cruise Missiles and Unmanned Aerial Vehicles Programs

NAVCOMPT

0-7/0-8 Deputy Comptroller of the Navy (NCD)
0-7/0-8 Director of Budget and Reports/ Fiscal Management Reports (NCB)
0-7/0-8 Assistant Comptroller, Financial Management Systems/Commander, Navy Accounting and Finance Center (NCF)
0-7/0-8 Director of Information Resources Management (IRM)

Space and Warfare Systems Command

0-8 Commander (00)
0-8 Vice Commander (09)
0-8 Director, Space and Sensors Systems Directorate (PD-40)
0-7/0-8 Director, Warfare Systems, Engineering and Architecture (003)
0-7/0-8 Assistant Commander, Space and Technology (004)

Designated Project Managers

0-8 Director, Strategic Systems Programs (NSP-00)
0-7 Director, Technical Division, Strategic Systems Programs, SSP (NSP-20)
0-7/0-8 Program Manager, ASW Systems Project Office
0-7 Project Manager, Saudi Naval Expansion Program (PM-5)
0-7 Project Manager, Theater Nuclear Warfare Project Office (PM-23)

Naval Sea Systems Command

0-7/0-8 Deputy Commander/Comptroller (01)
0-8 Vice Commander (09)
0-7/0-8 Deputy Commander for Weapons and Combat Systems (06)
0-7/0-8 Project Manager, AEGIS Shipbuilding Project (PMS-400)
0-7/0-8 Deputy Commander for Industrial and Facility Management (07)
0-7/0-8 Deputy Commander for Submarines (92)
0-7/0-8 Deputy Commander for Ship Design and Engineering (05)
0-7 Deputy Commander for Surface Combatants (91)
0-7 Deputy Commander for Contracts
0-7 Assistant Deputy Commander for ASW and Undersea Warfare Systems (06U)
0-7 Assistant Deputy Commander for AAW and Surface Warfare Systems (06A)

Supply Systems Command

0-8 Commander and Chief of Supply Corps (NSUP-00)

0-7/0-8 Assistant Commander, Inventory and Systems Integrity (NSUP-00X)
0-7/0-8 Vice Commander (NSUP-09)
0-7 Deputy Commander, Financial Management/Comptroller (NSUP-01)
0-7 Deputy Commander, Fleet Support, Corporate Planning, Logistics and Support (NSUP-03)

Supply Corps Billets

0-8 Competition Advocate General of the Navy
0-7/0-8 Commander, Navy Resale and Services Support Office/Deputy Commander, NAVSUPPSYSCOM Navy Resale and Services Support Programs
0-7/0-8 C.O., Navy Aviation Supply Office, Philadelphia
0-7/0-8 C.O., Navy Ships Parts Control Center, Mechanicsburg, PA
0-7 Commander, Defense Fuel Support Center, Alexandria, VA

CEC Billets

0-8 Commander/Chief of Civil Engineers (NFAC-00)
0-7/0-8 Vice Commander (NFAC-09)
0-7 Deputy Commander for Planning, ADDU to OP-04E
0-7/0-8 C.O., Shore Activity, Atlanta Division; ADDU: ACOS, FACENG to CINCLANTFLT, Area Civil Engineer
0-7/0-8 C.O., Shore Activity, Pacific Division ADDU: FLT Civil Engineer CINCPACFLT
0-7 C.O., Shore Activity, Northern Division, Philadelphia
0-7 C.O., Shore Activity, Western Division, San Bruno, CA

East Coast

0-7 Commander, Naval Telecommunications Command
0-7/0-8 Commander, Naval Oceanography Command
0-7/0-8 Vice Commander, Military Sealift Command
0-7 Supervisor for Shipbuilding, Conversion and Repair, Newport News Shipbuilding and Drydock Co., Newport News, VA
0-7 Supervisor, Shipbuilding, Conversion and Repair
0-7 Deputy Auditor General, Naval Auditor Services Command
0-7 Commander, Naval Space Command

MEDCOM

0-8 Commander
0-7 Deputy Commander, Readiness and Logistics

AGENCY: DEFENSE COMMUNICATIONS AGENCY

Positions:

0-7 Director, Defense Communications System Organization (DCSO)
0-7 Commander, White House Communications Agency
SES Deputy Director, WWMCCS ADP Technical Support, JDSSC
SES Deputy Director for Resource Management
SES Director, Center for C3 Systems
0-8 Vice Director, Defense Communications Agency
SES Deputy Manager, National Communications System
SES General Counsel, DCA
SES Deputy Director, Military Satellite Communications Systems
SES Deputy Director, DCSO
SES Deputy Director, Switched Network Engineering Division, DCEC
SES Director, Joint Data Systems Support Center (JDSSC)
SES Assistant Director for Technology Exploitation
SES Chief Regulatory Counsel—Telecommunications
SES Deputy Director, Strategic Systems
SES Assistant Director, C3I Integration
SES Deputy Director, DSC Telecommunication Networks
SES Director, Defense Communications Engineering Center
SES Deputy Director, NMCS ADP Directorate
SES Deputy Director, Command Center Systems
SES Special Assistant to the Director, C3 Systems, Integrated Digital Architectures
SES Deputy Director for DCS Integration
SES Deputy Director, Special Programs Organization
SES Special Assistant to the Director, C3 Systems—Satellite Communications Systems
SES Special Assistant to the Director, C4S
SES Special Assistant to the Director, C3 Systems—NATO and International C3
SES Deputy WWMCCS System Engineer, EUCOM
SES Assistant Manager (Plans and Programs), NCS
SES Associate Director for Technical and Management Support
SES Chief, Interoperability and Standards Office, DCEC
SES Associate Director for Engineering Technology and Corporate Planning
SES Deputy Director for Personnel and Administration
SES Assistant Director, JTC3A
SES Assistant Director, Washington Operations, JTC3A
0-7 Director, JTC3A
SES* Deputy Director, Testing, JTC3A
SES* Deputy Director, Architectures, JTC3A
SES* Director, Defense Commercial Communications Office and Deputy Director Acquisition Management

AGENCY: DEFENSE CONTRACT AUDIT AGENCY

Positions:

SES Director
SES Deputy Director
SES General Counsel
SES Assistant Director, Operations
SES Assistant Director, Policy and Plans
SES Assistant Director, Resources
SES Director, Field Detachment
SES Regional Director, Eastern Region
SES Regional Director, Northeastern Region
SES Regional Director, Central Region
SES Regional Director, Southwestern Region
SES Regional Director, Mid-Atlantic Region
SES Regional Director, Western Region

AGENCY: DEFENSE INTELLIGENCE AGENCY

Positions:

Civilian Positions

DISES Executive Director
DISES GDIP Staff Director
DISES Staff Director, Intelligence Communications Architecture Project Office
DISES* Deputy Director for Resources
DISES* Deputy Director for Information Systems

Military Positions

0-8 Deputy Director, Defense Intelligence Agency
0-8 Deputy Director for Foreign Intelligence
0-8* Deputy Director for Attaches and Operations
0-7* Deputy Director for Command Support and Plans

AGENCY: DEFENSE INVESTIGATIVE SERVICE

Positions:

SES Director
SES Deputy Director (Industrial Security)
SES Deputy Director (Investigations)
SES* Deputy Director (Resources)

AGENCY: DEFENSE LOGISTICS AGENCY

Positions:

Headquarters

0-8 Deputy Director
0-8 Deputy Director (Acquisition Management)
0-7 Executive Director, Supply Operations
0-7/0-8 Executive Director, Quality Assurance
SES Comptroller, DLA
SES General Counsel, DLA
SES Executive Director, Technical and Logistics Services
SES Executive Director, Contracting
SES Deputy Executive Director, Supply Operations
SES Executive Director, Contract Management
SES Deputy General Counsel, DLA
SES Chief, Logistics Programs Division, Directorate of Supply Operations
SES Chief, Contracts Division, Directorate of Contracting
SES Assistant Director, Office of Telecommunications and Information Systems
SES Deputy Executive Director, Quality Assurance
SES Staff Director, Small and Disadvantaged Business Utilization
SES Chief, Accounting and Finance Division, Office of Comptroller
SES Deputy Comptroller, Office of Comptroller
SES Chief, AIS Development and Control Division, Office of Telecommunications and Information Systems
SES Staff Director, Office for Contracting Integrity
SES Chief, Plans, Policies and Systems Division, Directorate of Contract Management

SES Program Manager, DLA Logistics Systems Modernization
SES* Chief, Supply Management Division
SES* Executive Director, Stockpile Management

Field Activities

0-8 Commander, Defense Construction Supply Center
0-7 Commander, Defense Electronics Supply Center
0-8 Commander, Defense Fuel Supply Center
0-7 Commander, Defense General Supply Center
0-7 Commander, Defense Industrial Supply Center
0-8 Commander, Defense Personnel Support Center
0-7 Commander, Defense Contract Administration Services Region, Los Angeles
0-7 Commander, Defense Contract Administration Services Region, New York
0-7 Commander, Defense Reutilization and Marketing Service
SES Executive Director, Acquisition Management Planning and Support, Defense Personnel Support Center

AGENCY: DEFENSE MAPPING AGENCY

Positions:

0-8 Director, Defense Mapping Agency
0-7 Deputy Director, Defense Mapping Agency
SES Deputy Director, Management and Technology
0-7 Deputy Director for Plans and Requirements
SES Deputy Director for Programs, Production and Operations
SES Deputy Director for Research and Engineering
SES Comptroller
SES Director of Personnel
SES Assistant Deputy Director for Programming
SES Assistant Deputy Director for Production and Distribution
SES Assistant Deputy Director for Research and Engineering
SES Director, Defense Mapping Agency Systems Center
SES Deputy Director for Systems Development, Defense Mapping Agency Systems Center
SES Technical Director, Defense Mapping Agency Reston Center
SES Director, Defense Mapping Agency Telecommunications Services Center/ Deputy Director for Information Systems
SES General Counsel
SES Director of Acquisition
SES Technical Director, Defense Mapping Agency Aerospace Center
SES Technical Director, Defense Mapping Agency Hydrographic/Topographic Center
SES Deputy Director, Programs, Production/ Operations, Defense Mapping Agency Hydrographic Topographic Center
SES Assistant Deputy Director for Plans and Requirements
SES Deputy Director for Programs Production and Operations, Defense Mapping Agency Aerospace Center
SES Chief, Scientific Data Department, Defense Mapping Agency Aerospace Center
SES Chief, Scientific Data Department, Defense Mapping Agency Hydrographic/ Topographic Center
SES Technical Director/Deputy Director, Defense Mapping Agency Combat Support Center
SES Deputy Director for Programs, Production and Operations, Defense Mapping Agency Reston Center
SES Deputy Director for Program Integration and Operations, Defense Mapping Agency Systems Center
SES* Chief, Digital Products Department, Defense Mapping Agency Aerospace Center
SES* Chief, Digital Products Department, Defense Mapping Agency Hydrographic/ Topographic Center
SES* Chief, Digital Products Department, Defense Mapping Agency Reston Center
SES* Chief, Data Services Department, Defense Mapping Agency Reston Center
SES* Deputy Director for Transition Management
SES* Deputy Director for Modernization Development, Defense Mapping Agency Systems Center

AGENCY: DEFENSE NUCLEAR AGENCY

Positions:

SES Deputy Director
SES Director for Plans, Programs and Requirements
SES Director for Test
SES Director for Radiation Sciences
SES Director for Shock Physics
SES Director for Acquisition Management
SES Comptroller
SES Scientific Director, AFRRI
0-8 Director for Operations
SES Deputy Director for Operations
0-7 Commander, Field Command

AGENCY: NATIONAL SECURITY AGENCY

Positions:

Civilian Positions

SCES Deputy Director
SCES Inspector General
SCES General Counsel

AGENCY: DEPARTMENT OF EDUCATION

Positions:

Office of the Secretary

SES Counselor/Chief of Staff to the Secretary

Deputy Under Secretary for Management

SES Comptroller
SES Director, Office of Financial Management Service
SES Director, Grants and Contracts Service
SES Administrator for Management Services
SES Director, Management Improvement Service
SES Director, Personnel Management Service
SES Director, Administrative Resource Management Service
SES Director, Information Technology Services
SES Deputy Director, Information Technology Service

Deputy Under Secretary for Planning, Budget and Evaluation

SES Director of Budget Services
SES Deputy Director of Budget Service
SES Director, Division of Budget Systems
SES Director, Division of Elementary, Secondary and Vocational Education Analysis
SES Director, Division of Postsecondary Education Analysis
SES Director, Division of Special Education, Rehabilitative Service and Research Analysis
SES Director of Planning and Evaluation Services
SES Deputy Director of Planning and Evaluation Service
SES Director of Public Affairs

Deputy Under Secretary for Intergovernmental and Interagency Affairs

SES Chairperson, Education Appeal Board
SES Director, Intergovernmental Affairs

Assistant Secretary for Legislation

SES Deputy Assistant Secretary for Legislation

General Counsel

SES Senior Counsel to the General Counsel
SES Deputy General Counsel for Departmental Services
SES Assistant General Counsel for Business and Administrative Law
SES Assistant General Counsel for Educational Equity
SES Deputy General Counsel for Regulations and Legislation
SES Assistant General Counsel for Regulations
SES Deputy General Counsel for Program Service
SES Assistant General Counsel for Elementary, Secondary, Adult and Vocational Education

Inspector General

SES Assistant Inspector General for Investigation
SES Assistant Inspector General for Policy, Planning and Management
SES Assistant Inspector General for Audit
SES Deputy Assistant Inspector General for Audit Operations
SES Deputy Assistant Inspector General for Technical Audit Services

Office for Civil Rights

SES Deputy Assistant Secretary for Civil Rights (Operations)
SES Deputy Assistant Secretary for Civil Rights (Policy)
SES Director, Policy and Enforcement Service

Office of Bilingual Education and Minority Language Affairs

SES Director Office of Bilingual Education and Minority Languages Affairs

Office of Special Education and Rehabilitative Services

SES Deputy Assistant Secretary

SES Executive Administrator
SES Director, Office of Special Education Programs
SES Deputy Commissioner, Rehabilitation Services Administration

Office of Postsecondary Education

SES Deputy Assistant Secretary for Student Financial Assistance
SES Director, Student Financial Assistance Programs
SES Deputy Assistant Secretary for Higher Education Programs
SES Director, Debt Collection and Management Assistance Service

Office of Vocational and Adult Education

SES Deputy Assistant Secretary for Vocational and Adult Education
SES Director, Division of Adult Education

Office of Elementary and Secondary Education

SES Deputy Assistant Secretary for Programs and Administration
SES Deputy Assistant Secretary for Regulations, Innovation and Development
SES Director, Office of State and Local Education Programs
SES Director, Office of Indian Education Programs
SES Director, Office of School Improvement Programs

Office of Education Research & Improvement

SES Deputy Assistant Secretary for Educational Research and Improvement
SES Commissioner, National Center for Education Statistics
SES Director, Programs for the Improvement of Practice

National Commission on Libraries and Information Science

SES Executive Director

AGENCY: DEPARTMENT OF ENERGY

Positions:

Office of the Secretary

SES Special Assistant to the Secretary
SES Manager, Albuquerque Operations Office
SES Deputy Manager, Albuquerque Operations Office
SES Manager, Chicago Operations Office
SES Deputy Manager, Chicago Operations Office
SES Manager, Idaho Operations Office
SES Deputy Manager, Idaho Operations Office
SES Manager, Nevada Operations Office
SES Deputy Manager, Nevada Operations Office
SES Manager, Oak Ridge Operations Office
SES Deputy Manager, Oak Ridge Operations Office
SES Manager, Richland Operations Office
SES Deputy Manager, Richland Operations Office
SES Executive Assistant to the Secretary
SES Manager, Savannah River Operations Office
SES Manager, San Francisco Operations Office
SES Deputy Manager, San Francisco Operations Office
SES Deputy Manager, Savannah River Operations Office

Office of the Inspector General

SES Associate Inspector General
SES Assistant Inspector General for Audits
SES Assistant Inspector General for Inspections
SES Assistant Inspector General for Investigations

Office of the General Counsel

SES Deputy General Counsel
SES Deputy General Counsel for Environment, Conservation and Legislation
SES Deputy General Counsel for Litigation
SES Deputy General Counsel for Programs
SES Deputy General Counsel for Legal Services

Economic Regulatory Administration

SES Chief Counsel

Energy Information Administration

SES Deputy Administrator, Energy Information Administration
SES Director, Office of Oil and Gas
SES Director, Office of Energy Markets and End Use
SES Director, Office of Statistical Standards
SES Director, Office of Coal, Nuclear, Electric and Alternative Fuels

Assistant Secretary for Conservation and Renewable Energy

SES Principal Deputy Assistant Secretary for Conservation and Renewable Energy
SES Administrator, Alaska Power Administration
SES Administrator, Southeastern Power Administration
SES Administrator, Southwestern Power Administration
SES Deputy Assistant Secretary for Conservation
SES Deputy Assistant Secretary for Renewable Energy

Assistant Secretary for Environment, Safety and Health

SES Principal Deputy Assistant Secretary
SES Director, Office of Environmental Guidance and Compliance, Deputy Assistant Secretary for Environment
SES Deputy Assistant Secretary for Safety, Health and Quality Assurance
SES Deputy Assistant Secretary for Environment

Assistant Secretary for Defense Programs

SES Executive Assistant
SES Principal Deputy Assistant Secretary for Defense Programs
SES Deputy Assistant Secretary for Security Affairs
SES Associate Deputy Assistant Secretary for Military Applications
SES Director, Office of Inertial Fusion
SES Director, Office of Classification and Technology Policy
SES Deputy Director, Office of Classification
SES Deputy Director, Office of Safeguards and Securities
SES Director, Office of Safeguards and Securities
SES Director, Office of Nuclear Materials Production, Deputy Assistant Secretary for Nuclear Materials Production
SES Deputy Director, Office of Nuclear Materials Production, Deputy Assistant Secretary for Nuclear Materials Production
SES Deputy Assistant Secretary for Nuclear Materials
SES Director, Office of Defense Waste and Transportation Management, Deputy Assistant Secretary for Nuclear Materials
SES Deputy Director, Office of Defense Waste and Transportation Management, Deputy Assistant Secretary for Nuclear Materials
SES Deputy Assistant Secretary for Intelligence
0–8 Deputy Assistant Secretary for Military Applications/Director of Military Applications

Assistant Secretary for International Affairs and Energy Emergencies

SES Principal Deputy Assistant Secretary for International Affairs
SES Deputy Assistant Secretary for Energy Emergencies
SES Deputy Assistant Secretary for International Affairs

Office of Energy Research

SES Deputy Director, Office of Energy Research
SES Associate Director, Office of Health and Environmental Research
SES Deputy Associate Director, Office of Health and Environmental Research
SES Associate Director, Office of Fusion Energy
SES Deputy Associate Director, Office of Fusion Energy
SES Director, Office of Field Operations Management
SES Director, Office of Program Analysis
SES Associate Director, Office of Basic Energy Sciences
SES Deputy Associate Director for Basic Energy Sciences, Office of Basic Energy Sciences
SES Associate Director of High Energy and Nuclear Physics

Assistant Secretary for Fossil Energy

SES Principal Deputy Assistant Secretary for Fossil Energy
SES Deputy Assistant Secretary for Strategic Petroleum Reserve
SES Deputy Assistant Secretary for Management, Fundamental Research and Cooperative Development
SES Deputy Assistant Secretary for Oil, Gas, Shale and Special Technologies
SES Deputy Assistant Secretary for Coal Technology

Assistant Secretary for Nuclear Energy

SES Associate Deputy Assistant Secretary for Reactor Deployment
SES Principal Deputy Assistant Secretary for Nuclear Energy
SES Deputy Director for Naval Reactors, Deputy Assistant Secretary for Naval Reactors
SES Deputy Assistant Secretary for Uranium Enrichment

0–8 Deputy Assistant Secretary for Naval Reactors

Assistant Secretary, Management and Administration

SES Principal Deputy Assistant Secretary for Management and Administration
SES Director, Office of Equal Opportunity
SES Deputy Director, Office of Equal Opportunity
SES Deputy Director, Office of Administrative Services
SES Deputy Assistant Secretary for Administration
SES Associate Deputy Assistant Secretary for Administration
SES Director, Office of Personnel
SES Director, Office of Organization and Management Systems
SES Deputy Director, Office of Organization and Management Systems
SES Deputy Director of Project and Facilities Management
SES Director, Office of Project and Facilities Management
SES Director, Office of Administrative Services
SES Director, Office of ADP Management
SES Deputy Director, Office of ADP Management
SES Director, Office of Computer Services and Telecommunications Management
SES Deputy Director, Office of Computer Services and Telecommunications Management
SES Director, Office of Industrial Relations
SES Director, Office of Small and Disadvantaged Business Utilization
SES Director, Office of Policy
SES Director, Office of Financial Policy
SES Director, Office of Departmental Accounting and Financial Systems Development
SES Director, Office of Review and Analysis
SES Director, Office of Procurement Operations
SES Deputy Director, Office of Procurement Operations
SES Deputy Assistant Secretary for Financial Management and Controller
SES Associate Deputy Assistant Secretary for Financial Management and Controller
SES Director, Office of Budget
SES Deputy Director, Office of Budget
SES Director, Procurement and Contract Management
SES Deputy Director, Procurement and Contract Management

Assistant Secretary, Congressional, Intergovernmental and Public Affairs

SES Deputy Assistant Secretary for House Liaison
SES Principal Deputy Assistant Secretary for Congressional, Intergovernmental and Public Affairs
SES Deputy Assistant Secretary for Senate Liaison

Office of Hearings and Appeals

SES Director, Office of Hearings and Appeals

Board of Contract Appeals

GM–18 Chairman, Board of Contract Appeals

Office of Policy, Planning and Analysis

SES Director, Office of Planning and Analysis

Bonneville Power Administration

SES Administrator, Bonneville Power Administration
SES Assistant Administrator for Engineering and Construction, Bonneville Power Administration
SES Assistant Administrator for Power Management, Bonneville Power Administration
SES Deputy Administrator, Bonneville Power Administration
SES Assistant Administrator for Conservation, Bonneville Power Administration

Western Area Power Administration

SES Administrator, Western Area Power Administration
SES Deputy Administrator, Western Area Power Administration

AGENCY: DEPARTMENT OF HEALTH AND HUMAN SERVICES

Positions:

Office of the Secretary

Immediate Office of the Secretary

SES Chief of Staff
SES Executive Assistant to the Secretary
SES Executive Secretary
SES Deputy Executive Secretary to the Department (3)
SES Executive Administrative Assistant
SES Senior Advisor to the Secretary
SES Senior Special Assistant to the Secretary
SES Special Assistant to the Secretary (4)
SES Senior Executive Assistant to the Chief of Staff
SES Senior Advisor to the Chief of Staff

Immediate Office of the Under Secretary

SES Counselor to the Under Secretary
SES Deputy Under Secretary
SES Director for Intergovernmental Affairs
SES Regional Director—Region I
SES Regional Director—Region II
SES Regional Director—Region III
SES Regional Director—Region IV
SES Regional Director—Region V
SES Regional Director—Region VI
SES Regional Director—Region VII
SES Regional Director—Region VIII
SES Regional Director—Region IX
SES Regional Director—Region X
SES Chairman, Departmental Grant Appeals Board

Office of Planning and Evaluation

SES Assistant Secretary for Planning and Evaluation
SES Deputy Assistant Secretary for Income Security Policy
SES Deputy Assistant Secretary for Health Policy
SES Deputy Assistant Secretary for Program Systems
SES Deputy Assistant Secretary for Social Services Policy

Office of Inspector General

SES Assistant Inspector General for Audit
SES Senior Assistant Inspector General for Auditing and Systems
SES Assistant Inspector General for Investigations
SES Deputy Assistant Inspector General Criminal Investigations Division, Office of Investigations
SES Assistant Inspector General for Analysis and Inspections
SES Deputy Assistant Inspector General for Health Care Financing Audits
SES Deputy Assistant Inspector General for Grants, Internal Systems, and EDP Audits
SES Deputy Assistant Inspector General for Analysis and Inspections
SES Deputy Assistant Inspector General for Social Security Audits
SES Deputy Assistant Inspector General for Audit, Management, Operations and Evaluation
SES Deputy Assistant Inspector General, Civil Fraud Division, Office of Investigations
SES Deputy Assistant Inspector General, Headquarters Operations Division, Office of Investigations
SES* Deputy Assistant Inspector General for Audit, Public Health Service Audits Division

Office of Management and Budget

SES Assistant Secretary for Management and Budget
SES Principal Deputy Assistant Secretary for Management and Budget
SES Deputy Assistant Secretary, Budget
SES Deputy Assistant Secretary, Finance
SES Deputy Assistant Secretary for Information Resources Management
SES Director, Division of Health Benefits and Income Security Budget Analysis, Office of Budget, Office of Management and Budget
SES Director, Division of Public Health and Social Services Budget Analysis, Office of Budget, Office of Management and Budget
SES Director, Office of Grant and Contract Financial Management, Office of Finance, Office of Management and Budget
SES Director, Office of Financial Policy, Office of Finance, Office of Management and Budget
SES* Deputy Assistant Secretary for Management and Acquisition, Office of Management and Budget
SES* Director, Office of Acquisition and Grants Management, Office of Management and Acquisition, Office of Management and Budget
SES* Director, Division of OS Budget Analysis, Office of Budget, Office of Management and Budget
SES* Director, Office of Management and Operations, Office of Management and Acquisition, Office of Management and Budget
SES* Director, Management Programs, Office of Budget, Office of Management and Budget
SES* Director, Program Coordination Staff, Office of Finance, Office of Management and Budget
SES* Director, Division of Budget Policy and Management, Office of Budget, Office of Management and Budget

Legislation

SES Principal Deputy Assistant Secretary for Legislation
SES Deputy Assistant Secretary for Legislation (Health)
SES Deputy Assistant Secretary for Legislation (Human Services)
SES Deputy Assistant Secretary for Legislation (Congressional Liaison)

Office for Civil Rights

SES Special Assistant to the Secretary for Civil Rights, Director, Office for Civil Rights
SES Deputy Director, Office for Civil Rights
SES Associate Deputy Director for Program Operations, Office for Civil Rights
SES Associate Deputy Director for Management, Planning and Evaluation, Office for Civil Rights

Office for Personnel Administration

SES Assistant Secretary for Personnel Administration
SES Deputy Assistant Secretary, Personnel Administration

Office of Public Affairs

SES Deputy Assistant Secretary for Public Affairs
SES Deputy Assistant Secretary for News
SES Director, News Division

Office of the General Counsel

SES Principal Deputy General Counsel
SES Deputy General Counsel
SES Deputy General Counsel, Legal Counsel
SES Associate General Counsel, Legislation Division
SES Associate General Counsel, Public Health Division
SES Associate General Counsel, Social Security
SES Associate General Counsel, Food and Drug Administration
SES Associate General Counsel, Health Care Financing
SES Associate General Counsel, Civil Rights Division
SES Associate General Counsel, Business and Administrative Law Division
SES Associate General Counsel, Inspector General Division
SES Associate General Counsel, Family Support and Human Development Division
SES Chief Counsels, Regions I–X

Office of Consumer Affairs

SES Deputy Director, Office of Consumer Affairs
SES Director, Office of Consumer Affairs

Office of Human Development Services

SES Deputy Assistant Secretary, Human Development Services
SES Director, Office of Management Services
SES Director, Office of Regional Operations
SES Commissioner, Administration for Native Americans
SES Commissioner, Administration on Development Disabilities
SES* Deputy Commissioner, Administration on Developmental Disabilities
GS–18 Commissioner, Administration for Children, Youth and Families
SES Deputy Commissioner, Administration for Children, Youth and Families
SES Associate Commissioner, Administration for Children, Youth and Families
SES Deputy Commissioner, Administration on Aging
SES Associate Commissioner, Office of State and Tribal Programs, Administration on Aging
SES Associate Commissioner, Office of Programs Operations, Administration on Aging

Health Care Financing Administration

SES Deputy Administrator, Health Care Financing Administration
SES Executive Associate Administrator
SES Director, Bureau of Program Operations
SES Deputy Director, Bureau of Program Operations
SES Director, Office of Prepaid Health Care
SES Deputy Director, Office of Prepaid Health Care
SES Director, Health Standards and Quality Bureau
SES Director, Office of Budget and Administration
SES Director, Office of Research and Demonstrations
SES Associate Administrator for Management
SES Associate Administrator for Program Development
SES Associate Administrator for Communications
SES Director, Office of Executive Operations
SES Deputy Director, Office of Executive Operations
SES Regional Administrator, Region I
SES Regional Administrator, Region II
SES Regional Administrator, Region III
SES Regional Administrator, Region IV
SES Regional Administrator, Region V
SES Regional Administrator, Region VI
SES Regional Administrator, Region VII
SES Regional Administrator, Region VIII
SES Regional Administrator, Region IX
SES Regional Administrator, Region X
SES Director, Bureau of Eligibility Reimbursement and Coverage
SES Deputy Director, Bureau of Eligibility Reimbursement and Coverage
SES Director, Bureau of Quality Control
SES Director, Office of Legislation and Policy
SES Director, Bureau of Data Management and Strategy
SES Deputy Director, Bureau of Data Management and Strategy
SES Chief Actuary, Office of the Actuary

Public Health Service

Office of the Assistant Secretary for Health

SES* Deputy Assistant Secretary for Health
SES Deputy Assistant Secretary, Health Operations
SES Deputy Assistant Secretary, Planning and Evaluation
SES Deputy Assistant Secretary, Population Affairs
SES/0–7/0–8 Regional Health Administrators—Regions I–X
SES Executive Director, President's Council on Physical Fitness and Sports
SES Director, National Center for Health Services Research and Health Care Technology Assessments
0–8 Deputy Surgeon General, Public Health Service
0–7 Deputy Director, Office of International Health
0–8 Senior Advisor for Environmental Affairs
0–7 Deputy Assistant Secretary for Health for Disease Prevention and Health Promotion
SES Deputy Assistant Secretary for Health (Communications)
SES Director, National AIDS Program Office
SES Vaccine Coordinator, National Vaccine Program Office
SES Director, News Division

Center for Disease Control

0–8 Director, Centers for Disease Control
SES Deputy Director, Centers for Disease Control
SES Assistant Director for International Health
SES Director, Office of Program Support, Centers for Disease Control
0–7 Program Manager, Expanded Program on Immunization, World Health Organization, International Health Program Office
SES Director, Division of Environmental Health Laboratory Science and Injury Control, Center for Environmental Health
SES Director, Center for Infectious Diseases
SES Assistant Director for Management, Center for Disease Control
SES Assistant Director for Laboratory Science, Center for Infectious Diseases
SES Director, Chronic Disease Prevention and Health Promotion
0–8 Director, National Institute for Occupational Safety and Health
SES Associate Administrator, Agency for Toxic Substances and Disease Registry
SES Deputy Director, Center for Prevention Services
SES Director, Division of Viral Diseases
0–7 Assistant Director, Washington Office
SES Deputy Director, National Institute for Occupational Safety and Health
0–7* Director, Center for Environmental Health and Injury Control
0–7* Director, Center for Prevention Services
0–7* Deputy Director, AIDS
SES* Assistant Director for Public Health Practice
SES* Deputy Director, Center for Environmental Health and Injury Control
SES* Director, Office of Program Planning and Evaluation
SES Director, National Center for Health Statistics
SES Deputy Director, National Center for Health Statistics

Health Resources and Services Administration

0–8 Administrator, Health Resources and Services Administration
SES Deputy Administrator
0–8 Director, Bureau of Health Care Delivery and Assistance
SES Deputy Director, Bureau of Health Care Delivery and Assistance

0–7 Director, Bureau of Health Professions
SES Deputy Director, Bureau of Health Professions
0–8 Director, Bureau of Maternal and Child Health and Resources Development, Health Resources and Services Administration

Indian Health Service

0–8 Director, Indian Health Service
SES Deputy Director, Indian Health Service
0–7* Director of Headquarters Operations
SES* Director, Aberdeen Area Indian Health Service
SES Director, Alaska Area Indian Health Service
0–7* Director, Albuquerque Area Indian Health Service
SES Director, Bemdiji Area Indian Health Service
SES* Director, Billings Area Indian Health Service
SES Director, California Area Indian Health Service
0–7* Director, Nashville Area Indian Health Service
SES Director, Navajo Area Indian Health Service
SES* Director, Oklahoma Area Indian Health Service
SES Director, Phoenix Area Indian Health Service
SES* Director, Portland Area Indian Health Service
SES* Director, Tucson Area Indian Health Service
0–7* Chief Pharmacy Officer, Indian Health Service
0–7* Associate Director, Office of Environmental Health and Engineering, Indian Health Service
SES* Associate Director for Administration and Management, Indian Health Service
SES* Associate Director for Planning, Evaluation and Legislation, Indian Health Service
SES* Associate Director for Tribal Activities, Indian Health Service
0–7* Associate Director, Office of Health Programs, Indian Health Service

Alcohol, Drug Abuse, and Mental Health Administration

SES Deputy Administrator, Alcohol, Drug Abuse, and Mental Health Administration
SES Director, National Institute on Alcohol Abuse and Alcoholism
SES Deputy Director, National Institute on Alcohol Abuse and Alcoholism
SES Director, National Institute of Mental Health
SES Deputy Director, National Institute of Mental Health
SES Director, National Institute on Drug Abuse
SES Deputy Director, National Institute on Drug Abuse

National Institutes of Health

0–8 Director, National Institutes of Health
SES Deputy Director, National Institutes of Health
SES Deputy Director for Intramural Research
SES Deputy Director for Extramural Research and Training
SES Associate Director for Program Planning and Evaluation
SES Associate Director for Administration
SES Associate Director for Communications
SES Associate Director for Research Services
SES Associate Director for Clinical Care, National Institutes of Health and Director of Clinical Center
SES Associate Director for Intramural Affairs
SES Associate Director for Extramural Affairs
SES Director, Fogarty International Center
SES Director, Division of Computer Research and Technology
0–7 Director, Division of Research Grants
SES Deputy Director, Division of Research Grants
0–8 Director, National Cancer Institute
SES Deputy Director, National Cancer Institute
SES Director, National Center for Nursing Research
SES Director, Division of Research Resources
SES Deputy Director, Division of Research Resources
0–7 Director, Division of Research Services
SES Director, National Eye Institute
SES Deputy Director, National Eye Institute
SES Director, National Heart, Lung, and Blood Institute
0–7 Deputy Director, National Heart, Lung, and Blood Institute
0–8 Director, National Institute of Allergy and Infectious Diseases
SES Deputy Director, National Institute of Allergy and Infectious Diseases
SES Director, National Institute of Arthritis and Musculosketal and Skin Diseases
0–7 Director, National Institute on Aging
SES Deputy Director, National Institute on Aging
SES Director, National Institute of Child Health and Human Development
SES Deputy Director, National Institute of Child Health and Human Development
SES* Director, National Institute on Deafness and Other Communication Disorders
SES Director, National Institute of Dental Research
0–7 Deputy Director, National Institute of Dental Research
0–8 Director, National Institute of Environmental Health Sciences
SES Deputy Director, National Institute of Environmental Health Sciences
SES Director, National Institute of General Medical Sciences
SES* Deputy Director, National Institute of General Medical Sciences
SES Director, National Institute of Diabetes and Digestive and Kidney Diseases
0–7 Deputy Director, National Institute of Diabetes and Digestive and Kidney Diseases
0–8 Director, National Institute of Neurological Disorders and Stroke
SES Deputy Director, National Institute of Neurological Disorders and Stroke
SES Director, National Library of Medicine
SES Deputy Director, National Library of Medicine

Food and Drug Administration

0–8 Commissioner of Food and Drugs
SES Deputy Commissioner of Food and Drugs
SES Associate Commissioner for Consumer Affairs
SES Associate Commissioner for Health Affairs
SES Associate Commissioner for Planning and Evaluation
SES Associate Commissioner for Science
SES Director, Parklawn Computer Center
0–7 Director, Orphan Products Development
SES Associate Commissioner for Public Affairs
SES Special Assistant to the Commissioner for Program Policy
SES Associate Commissioner for Legislative Affairs
SES Associate Commissioner for Management and Operations
SES Director of Executive Operations
SES* Health Affairs Advisor

Center for Food Safety and Applied Nutrition

SES Director, Center for Food Safety and Applied Nutrition
SES Deputy Director, Center for Food Safety and Applied Nutrition
SES Associate Director, Office of Toxicological Sciences
SES Associate Director for Laboratory Investigations
SES Director, Division of Chemistry and Physics
SES Director, Division of Microbiology
SES Director, Office of Compliance
SES Director, Office of Physical Sciences
SES Deputy Director, Office of Physical Sciences
SES Director, Division of Food Technology
SES Director of Mathematics
SES Director, Division of Food and Color Additives
SES Director, Division of Chemical Technology
SES Director, Office of Nutrition and Food Sciences
SES Director, Division of Regulatory Guidance
SES Director, Office of Management
SES Deputy Director, Office of Nutrition and Food Sciences
SES Director, Division of Nutrition

Center for Drug Evaluation and Research

0–8 Director, Center for Drug Evaluation and Research
SES Deputy Director, Center for Drug Evaluation and Research
SES Director, Office of Compliance
SES Deputy Director for Program Management
SES Director, Division of Oncology and Radiopharmaceutical Drug Products
SES Director, Division of Scientific Investigations Staff
SES Director, Division of Anti-Infective Drug Products
SES Deputy Director for Medical Activities
SES Director, Division of Metabolism and Endocrine Drug Products
SES Director, Division of Surgical-Dental Drug Products
SES Director, Division of OTC Drug Evaluation
SES Director, Office of Drug Standards

SES Deputy Director, Office of Drug Standards
SES Director, Division of Neuropharmacological Drug Products
SES Director, Office of Epidemiology and Biostatistics
SES Deputy Director, Division of Epidemiology and Biostatistics
SES Director, Division of Biometrics
SES Director, Division of Epidemiology and Surveillance
SES Director, Office of Drug/Evaluation I
SES Director, Division of Generic Drugs
SES Director, Division of Biopharmaceutics
SES Director, Division of Gastrointestinal and Coagulation Drug Products
SES* Director, Division of Cardio-Renal Drug Products
SES* Director, Office of Drug/Evaluation II
SES* Director, Division of Anti-Viral Drug Products
SES* Director, Office of Research
SES* Deputy Director, Office of Research

Center for Biologics Evaluation and Research

SES Director, Center for Biologics Evaluation and Research
SES* Deputy Director, Center for Biologics Evaluation and Research
SES Deputy Director for Program Management
SES Director, Office of Management
SES Director, Division of Biochemistry and Biophysics
SES Director, Division of Product Quality Control
SES Director, Division of Blood and Blood Products
SES Director, Division of Bacterial Products
SES* Director, Office of Biologics Research

Center for Veterinary Medicine

SES Director, Center for Veterinary Medicine
SES Deputy Director, Center for Veterinary Medicine
SES Director, Office of New Animal Drug Evaluation
SES Associate Director for Surveillance and Compliance
SES Director, Office of Science
SES Director, Division of Biometrics and Production Drugs
SES Director, Division of Therapeutic Drugs for Food Animals

Center for Devices and Radiological Health

SES Director, Office of Device Evaluation
SES Associate Director, Office of Regulations
SES Director, Office of Compliance
SES Deputy Director, Office of Compliance
0-8 Director, Center for Devices and Radiological Health
SES Director, Office of Science and Technology
SES Deputy Director, Center for Devices and Radiological Health
SES Deputy Director, Office of Science and Technology
SES Deputy Director, Office of Device Evaluation

National Center for Toxicological Research

SES Director, National Center for Toxicological Research
SES Director, Division of Biometry
SES Associate Director for Research
SES Deputy Director, National Center for Toxicological Research

Office of Regulatory Affairs

SES Associate Commissioner for Regulatory Affairs
SES Deputy Associate Commissioner for Regulatory Affairs (Enforcement)
SES Deputy Associate Commissioner for Regulatory Affairs (Regional Operations)
SES Deputy Director, Office of Regional Operations
SES Deputy Director, Office of Enforcement
SES Director, Office of Regulatory Resource Management
SES Regional Food and Drug Director (Northeast Region)
SES Regional Food and Drug Director (Mid-Atlantic Region)
SES Regional Food and Drug Director (Southeast Region)
SES Regional Food and Drug Director (Midwest Region)
SES Regional Food and Drug Director (Southwest Region)
SES Regional Food and Drug Director (Pacific Region)
0-7 Regional Medical Officer, Region X

Social Security Administration

SES Senior Executive Officer
SES Chief Financial Officer
SES Associate Commissioner, Program and Integrity Reviews
SES Deputy Associate Commissioner, Program and Integrity Reviews
SES Associate Commissioner, Financial Policy and Operations
SES Deputy Associate Commissioner, Financial Policy and Operations
SES Director, Information Technology Systems Review Staff
SES Deputy Commissioner for Management
SES Assistant Deputy Commissioner for Management
SES Associate Commissioner for Human Resources, Training and Management Analysis
SES* Deputy Associate Commissioner for Human Resources, Training and Management Analysis
SES Associate Commissioner for Material and Information Resources
SES Deputy Commissioner for Policy and External Affairs
SES Associate Commissioner, Policy
SES Associate Commissioner, Governmental Affairs
SES Deputy Commissioner, Programs
SES Associate Commissioner, Hearings and Appeals
SES Deputy Associate Commissioner, Hearings and Appeals
SES Associate Commissioner, Disability
SES Deputy Associate Commissioner, Disability
SES Associate Commissioner, Supplemental Security Income
SES Deputy Associate Commissioner, Supplemental Security Income
SES Associate Commissioner, Retirement and Survivors Insurance
SES Deputy Associate Commissioner, Retirement and Survivors Insurance
SES Chief Actuary
SES Deputy Commissioner, Operations
SES* Associate Deputy Commissioner for Central Processing
SES* Associate Deputy Commissioner for Systems Support
SES* Associate Deputy Commissioner for Regional Operations
SES* Associate Commissioner for Legislation and Congressional Affairs
SES* Director, Office of Executive Operations
SES* Director, Office of Information Management
SES Regional Commissioner, Boston—Region I
SES Regional Commissioner, New York—Region II
SES Regional Commissioner, Philadelphia—Region III
SES Regional Commissioner, Atlanta—Region IV
SES Regional Commissioner, Chicago—Region V
SES Regional Commissioner, Dallas—Region VI
SES Regional Commissioner, Kansas City—Region VII
SES Regional Commissioner, Denver—Region VIII
SES Regional Commissioner, San Francisco—Region IX
SES Regional Commissioner, Seattle—Region X
SES Director, Office of System Support and Planning
SES Associate Commissioner, System Operations
SES Deputy Associate Commissioner, System Operations
SES Associate Commissioner, System Integration
SES Deputy Associate Commissioner, System Design and Development
SES Associate Commissioner, System Requirements

Family Support Administration

SES Assistant Secretary for Family Support
SES Deputy Administrator, Family Support Administration
SES Associate Administrator for Financial Management
SES Associate Administrator for Management and Information Systems
SES Director, Office of Family Assistance
SES Director, Office of Refugee Resettlement
SES Deputy Director, Office of Child Support Enforcement
SES Associate Deputy Director, Office of Child Support Enforcement
SES Director, Office of Community Services
SES Director, Office of State and Project Assistance, Office of Community Services
SES* Associate Administrator, Office of Planning and Policy Development
SES* Associate Administrator, Office of Program Evaluation

AGENCY: DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Positions:

Office of the Secretary

SES Deputy Under Secretary for Intergovernmental Relations
SES Executive Assistant to the Secretary
SES Exec. Assistant to the Under Secretary
SES Deputy Under Sec. for Field Coordination
SES Assistant to the Secretary for International Affairs
SES Assistant to the Secretary for Labor Relations
SES* Senior Advisor to the Secretary, Office of the Secretary

Office of the General Counsel

SES Deputy General Counsel
SES Deputy General Counsel (Operations)
SES* Associate General Counsel for Programs Enforcement, Office of the General Counsel
SES* Associate General Counsel for Litigation, Office of the General Counsel
SES* Associate General Counsel for Assisted Housing and Community Development, Office of the General Counsel
SES* Associate General Counsel for Legislation and Regulations, Office of the General Counsel
SES* Associate General Counsel for Equal Opportunity and Administrative Law, Office of the General Counsel
SES Associate General Counsel for Insured Housing and Finance, Office of the General Counsel

Office of the Assistant Secretary for Public Affairs

SES General Deputy Assistant Secretary for Public Affairs
SES Deputy Assistant Secretary for Public Affairs
SES Special Assistant to the Secretary for Public Affairs (Director of Public Affairs)

Office of the Assistant Secretary for Legislation and Congressional Relations

SES Deputy Assistant Secretary for Legislations
SES Deputy Assistant Secretary for Congressional Relations

Office of the Assistant Secretary for Housing

SES Deputy Assistant Secretary for Multifamily Housing Programs
SES Deputy Assistant Secretary for Single-Family Housing
SES Deputy Assistant Secretary for Policy and Financial Management, and Administration
SES General Deputy Assistant Secretary for Housing/Deputy Federal Housing Commissioner
SES* Senior Program Advisor, Office of the Assistant Secretary for Housing
SES* Director, Office of Insured Multifamily Housing Development, Office of the Assistant Secretary for Housing
SES* Director, Office of Multifamily Housing Management, Office of the Assistant Secretary for Housing
SES Director, Office of Insured Single Family Housing, Office of the Assistant Secretary for Housing
SES* Director, Office of Management, Office of the Assistant Secretary for Housing
SES* Director, Office of Elderly and Assisted Housing, Office of the Assistant Secretary for Housing
SES* Director, Office of Financial Management, Office of the Assistant Secretary for Housing
SES* Director, Existing Housing Division, Office of the Assistant Secretary for Housing
SES* Director, Transitional Housing Development Staff Office of the Assistant Secretary for Housing

Office of the Assistant Secretary for Public and Indian Housing

SES General Deputy Assistant Secretary for Public and Indian Housing
SES* Director, Office of Public Housing, Office of the Assistant Secretary for Public and Indian Housing
SES* Director, Office of Indian Housing, Office of the Assistant Secretary for Public and Indian Housing

Office of the Assistant Secretary for Community Planning and Development

SES Deputy Assistant Secretary for Program Policy Development and Evaluation
SES General Deputy Assistant Secretary for Community Planning and Development
SES Deputy Assistant Secretary for Program Management
SES Deputy Assistant Secretary for Program Development
SES* Director Office of Field Operations and Monitoring, Office of the Assistant Secretary for Community Planning and Development
SES* Director, Office of Program Policy Development, Office of the Assistant Secretary for Community Planning and Development
SES* Deputy Director, Office of Program Policy Development, Office of the Assistant Secretary for Community Planning and Development
SES* Director, Office of Block Grant Assistance, Office of the Assistant Secretary for Community Planning and Development
SES* Deputy Director, Office of Block Grant Assistance, Office of the Assistant Secretary for Community Planning and Development
SES* Director, Office of Environment and Energy, Office of the Assistant Secretary for Community Planning and Development
SES* Director, Office of Urban Rehabilitation, Office of the Assistant Secretary for Community Planning and Development
SES* Executive Assistant for Economic Development/Public-Private Partnership, Office of the Assistant Secretary for Community Planning and Development

Office of the Assistant Secretary for Policy Development and Research

SES Deputy Assistant Secretary for Policy Development
SES Deputy Assistant Secretary for Economic Affairs
SES Deputy Assistant Secretary for Research
SES General Deputy Assistant Secretary for Policy Development and Research
SES Associate Deputy Assistant Secretary for Economic Affairs
SES* Senior Advisor for Policy Development, Office of the Assistant Secretary for Policy Development and Research
SES* Director, Policy Development Division, Office of the Assistant Secretary for Policy Development and Research
SES* Senior Advisor for Research Management, Office of the Assistant Secretary for Policy Development and Research

Office of the Assistant Secretary for Administration

SES Deputy Assistant Secretary for Administration
SES* Director, Office of Finance and Accounting, Office of the Assistant Secretary for Administration
SES* Director, Office of Personnel and Training, Office of the Assistant Secretary for Administration
SES* Director, Office of Budget, Office of the Assistant Secretary for Administration
SES* Director, Office of Procurement and Contracts, Office of the Assistant Secretary for Administration
SES* Director, Mortgage Insurance Accounting and Servicing Group, Office of the Assistant Secretary for Administration
SES* Director, Office of Administrative and Management Services, Office of the Assistant Secretary for Administration
SES* Director, Office of Information Policies and Systems, Office of the Assistant Secretary for Administration
SES* Director, General and Program Accounting Group, Office of the Assistant Secretary for Administration
SES* Director, Office of Productivity and Management Improvements, Office of the Assistant Secretary for Administration

Office of the Assistant Secretary for Fair Housing and Equal Opportunity

SES Deputy Assistant Secretary for Operations and Management
SES General Deputy Assistant Secretary for Fair Housing and Equal Opportunity
SES Deputy Assistant Secretary for Enforcement and Compliance
SES* Director, Office of HUD Program Compliance, Office of the Assistant Secretary for Fair Housing and Equal Opportunity
SES* Director, Office of Management and Field Coordination, Office of the Assistant Secretary for Fair Housing and Equal Opportunity
SES* Director, Office of Fair Housing Enforcement and Section 3 Compliance, Office of the Assistant Secretary for Fair Housing and Equal Opportunity
SES* Director, Office of Program Standards and Evaluation, Office of the Assistant Secretary for Fair Housing and Equal Opportunity

GS–17* Special Assistant to the General Deputy Assistant Secretary for Fair Housing and Equal Opportunity, Office of the Assistant Secretary for Fair Housing and Equal Opportunity

Government National Mortgage Association

SES Vice President (Asset Management)
SES Vice President (Mortgage Backed Securities)
SES Executive Vice President

Office of the Inspector General

SES Deputy Inspector General
SES Assistant Inspector General for Investigations
SES Assistant Inspector General for Audit
SES Assistant Inspector General for Fraud Control and Management Operations
SES* Deputy Assistant Inspector General for Audit Operations, Office of the Inspector General
SES* Deputy Assistant Inspector General for Audit Planning and Quality Assurance, Office of the Inspector General

HUD Board of Contract Appeals

GS–18 Chairperson of the Board of Contract Appeals, Department of Housing and Urban Development, Board of Contract Appeals
GS–17 Vice Chairperson of the Board of Contract Appeals, Department of Housing and Urban Development, Board of Contract Appeals

Field Offices

Region I

SES Regional Administrator—Regional Housing Commissioner
SES Deputy Regional Administrator

Region II

SES Regional Administrator—Regional Housing Commissioner
SES Deputy Regional Administrator
SES Area Manager, Newark Area Office

Region III

SES Regional Administrator—Regional Housing Commissioner
SES Deputy Regional Administrator
SES Manager, Pittsburgh Office

Region IV

SES Regional Administrator—Regional Housing Commissioner
SES Deputy Regional Administrator
SES Manager, Jacksonville Office

Region V

SES Regional Administrator—Regional Housing Commissioner
SES Deputy Regional Administrator
SES Manager, Detroit Office
SES Manager, Columbus Office
SES Manager, Minneapolis/St. Paul Office
SES Manager, Indianapolis Office

Region VI

SES Regional Administrator—Regional Housing Commissioner
SES Deputy Regional Administrator
SES Manager, New Orleans Office
SES Manager, Oklahoma City Office

Region VII

SES Regional Administrator—Regional Housing Commissioner
SES Deputy Regional Administrator

Region VIII

SES Regional Administrator—Regional Housing Commissioner

Region IX

SES Regional Administrator—Regional Housing Commissioner
SES Deputy Regional Administrator
SES Manager, Los Angeles Office

Region X

SES Regional Administrator—Regional Housing Commissioner
SES Deputy Regional Administrator

AGENCY: DEPARTMENT OF THE INTERIOR

Positions:

Office of the Secretary

SES Executive Assistant to the Secretary
SES* Special Assistant for Policy Programs (Chief of Staff)
SES Assistant to the Secretary and Director, External Affairs
SES* Counselor to the Secretary
SES* Principal Deputy Under Secretary
SES Deputy Under Secretary
SES* Deputy Under Secretary for Alaska
SES Assistant to the Secretary and Director of Public Affairs
SES Assistant to the Secretary and Director, Office of Congressional Affairs
SES Deputy Director, Congressional and Legislative Affairs
SES Deputy Director, House
SES Legislative Counsel
SES Director, Office of Small and Disadvantaged Business Util
SES Director, Office of Hist Black Colleges and Univ Pro and Job Corp
SES Special Assistant to the Secretary
SES* Special Assistant to the Secretary for Administration
SES Director, Office of Equal Opportunity
SES* Executive Director, OCS Leasing & Development Task Force
AD Commissioner, Delaware River Basin
AD Commissioner, Susquehanna River Basin Commission
AD Federal Co-Chairman, Alaska Land Use Council

Office of Inspector General

SES Deputy Inspector General
SES Assistant Inspector General (Audit)
SES Assistant Inspector General (Investigations)

Office of Hearings and Appeals

SES Director
GS–18 Chairman, Board of Contract Appeals
GS–17 Vice Chairman, Board of Contract Appeals

Office of the Solicitor

SES Deputy Solicitor
SES Associate Solicitor (Conservation and Wildlife)
SES Associate Solicitor (Energy and Resources)
SES Associate Solicitor (Surface Mining)
SES Associate Solicitor (General Law)
SES Associate Solicitor (Indian Affairs)
SES Deputy Associate Solicitor (Surface Mining)
SES Associate Solicitor (Audit and Investigations)
SES Deputy Associate Solicitor (General Law)
SES Regional Solicitor (Sacramento)
SES Regional Solicitor (Portland)
SES Regional Solicitor (Anchorage)
SES Regional Solicitor (Denver)
SES Regional Solicitor (Boston)
SES Regional Solicitor (Tulsa)
SES Regional Solicitor (Atlanta)
SES Regional Solicitor (Salt Lake City)

Office of Territorial and International Affairs

SES Deputy Assistant Secretary

Office of the Assistant Secretary for Fish and Wildlife and Parks

SES Deputy Assistant Secretaries (2)
SES* Special Assistants (2)
SES Staff Assistant

National Park Service

SES Director
SES Assistant Director, Legislative and Congressional Affairs
SES Deputy Director
SES* Associate Director, Management System
SES Associate Director, National Resources
SES Associate Director, Operations
SES Associate Director, Planning and Development
SES Associate Director, Cultural Resources
SES Associate Director, Budget and Administration
SES Director, National Capital Region
SES Regional Director (Seattle)
SES Regional Director (Atlanta)
SES Regional Director (Philadelphia)
SES Regional Director (Omaha)
SES Regional Director (Boston)
SES Regional Director (Santa Fe)
SES Regional Director (San Francisco)
SES* Regional Director (Alaska)
SES Regional Director (Denver)

U.S. Fish and Wildlife Service

SES Deputy Director, Line
SES* Deputy Director, Staff
SES Assistant Director, External Affairs
SES Assistant Director, Fish and Wildlife Enhancement
SES Regional Director, Region 8 (Research and Development)
SES Assistant Director, Fisheries
SES Assistant Director, Policy, Budget and Administration
SES Assistant Director, Refuges and Wildlife
SES Deputy Regional Director, Region 8
SES Special Assistants to the Director (2)
SES* Director, Fort Collins Research
SES Regional Director, Portland
SES Regional Director, Twin Cities
SES Regional Director, Atlanta
SES Regional Director, Boston
SES Regional Director, Anchorage
SES Regional Director, Denver
SES Regional Director, Albuquerque
SES Research Director, Patuxent

Office of the Assistant Secretary for Water and Science

SES Deputy Assistant Secretary
SES Deputy Assistant Secretary for Science
SES Staff Assistant to the Assistant Secretary
SES Irrigation Drainage Coordinator

Bureau of Reclamation

SES Assistant Commissioner, Administration
SES Deputy Commissioner
SES Assistant Commissioner, Engineering and Research
SES Director, Administrative Services Center
SES Assistant Commissioner, Resources Management
SES Regional Director, Lower Colorado (Boulder City)
SES Regional Director, Mid-Pacific (Sacramento)
SES Regional Director, Pacific Northwest (Boise)
SES Regional Director, Great Plains Region (Billings)
SES Regional Director, Upper Colorado (Salt Lake City)

Bureau of Mines

SES Deputy Director
SES Special Assistant to the Director
SES Chief Staff Officer
SES Associate Director, Research
SES Associate Director, Information and Analysis
SES Associate Director, Finance and Management

U.S. Geological Survey

SES Associate Director
SES Assistant Director, Research
SES Assistant Director, Engineering Geology
SES Assistant Director for Administration
SES Assistant Director for Information Systems
SES Assistant Director for Programs
SES Assistant Director, Intergovernmental Affairs
SES* Chief Hydrologist
SES* Chief Geologist

Office of the Assistant Secretary for Land and Minerals Management

SES Deputy Assistant Secretaries (2)

Minerals Management Service

SES Director
SES Deputy Director
SES Associate Director for Offshore Minerals
SES Assistant Director for Administration
SES Assistant Director for Program Review
SES Associate Director for Royalty Management
SES Regional Director, Gulf of Mexico OCS Region
SES Regional Director, Pacific OCS Region
SES Regional Director, Atlantic OCS Region
SES Regional Director, Alaska OCS Region

Bureau of Land Management

SES* Special Assistant to the Director
SES Assistant to the Director and Director, Office of External Affairs
SES Assistant Director, Support Services
SES Deputy Director
SES Assistant Director, Energy and Mineral Resources
SES Assistant Director, Lands and Renewable Resources
SES Chief, Planning and Environmental Coordination
SES Assistant Director, Management Services
SES Assistant Director, Solid Leasable Minerals
SES Assistant Director, Fluid Leasable Minerals
SES ALMRS–GIS Program Manager
SES State Director, Eastern States
SES State Director, Utah
SES State Director, Wyoming
SES State Director, Montana
SES State Director, Colorado
SES State Director, California
SES State Director, Alaska
SES State Director, Oregon
SES State Director, Arizona
SES State Director, New Mexico
SES State Director, Idaho
SES State Director, Nevada
SES Director, Denver Service Center
SES Director, Boise Interagency Fire Center

Office of Surface Mining

SES Director, External Affairs
SES Deputy Director, Operations and Technical Service
SES Deputy Director, Administration and Finance
SES Assistant Director for Program Operations
SES Assistant Director for Budget and Administration
SES Assistant Director for Finance and Accounting
SES Assistant Director, Western Field Operations
SES Assistant Director, Eastern Field Operations
SES* Assistant Director for Information Systems Management

Office of the Assistant Secretary Policy, Budget and Administration

SES Deputy Assistant Secretary
SES* Deputy Assistant Secretary for Policy and Analysis
SES Director of Security and Drug Enforcement
SES Director, Management Services
SES* Special Assistant to the Assistant Secretary
SES Director, Office of Construction
SES Principal Deputy Assistant Secretary
SES Director of Acquisition, Construction and Property Management
SES Director of Budget and Finance
SES Deputy Agency Ethics and Audit Coordination Official
SES Deputy Director, Office of Construction
SES Director, Office of Acquisition and Property Management
SES Deputy Director, Acquisition and Property Management
SES Director, Office of Information Resources Management
SES Deputy Director, Office of Information Resources Management
SES Director, Office of Management Improvement
SES Director, Office of Environmental Project Review
SES Director, Office of Administrative Services
SES Director, Office of Budget
SES* Director, Office of Program Analysis
SES Deputy Director, Program Analysis
SES Assistant Director for Special Analysis
SES* Assistant Director of Energy and Natural Resource Analysis
SES Assistant Director for Economics
SES Director, Office of Personnel
SES Deputy Director, Office of Personnel
SES Director, Office of Financial Management
SES Deputy Director, Office of Financial Management
SES Director, Office of Aircraft Services

Bureau of Indian Affairs

SES Area Operations Officer (Northern)
SES Deputy to the Assistant Secretary (Operations)
SES Deputy to the Assistant Secretary (Tribal Services)
SES Deputy to the Assistant Secretary (Trust & Economic Development)
SES Deputy to the Assistant Secretary (Indian Education Programs)
SES Director, Office of Data Systems
SES Director of Administration
SES Area Director, Muskogee
SES Area Director, Anadarko
SES Area Director, Navajo
SES Area Director, Albuquerque
SES Area Director, Portland
SES Area Director, Juneau
SES Area Director, Minneapolis
SES Area Director, Eastern Area
SES Area Director, Aberdeen
SES Area Director, Billings
SES Area Director, Sacramento
SES Deputy Area Director (Albuquerque)

Navajo-Hopi Indian Relocation Commission

SES Commissioners (3)
SES Executive Director

AGENCY: DEPARTMENT OF JUSTICE

Positions:

Office of the Attorney General

SES Executive Assistant to the Attorney General
SES Assistant to the Attorney General for Administration and Management
SES Assistant to the Attorney General for Criminal Matters
SES* Assistant to the Attorney General
SES Assistant to the Attorney General for Civil Matters
SES* Assistant to the Attorney General for Communications

Office of the Deputy Attorney General

SES All Associate Deputy Attorneys General

Office of the Associate Attorney General

SES All Deputy Associate Attorneys General
SES Executive Assistant to the Associate Attorney General for Management Issues

Office of the Solicitor General

SES All Deputy Solicitors General (5)

Legal Divisions: Antitrust, Civil, Civil Rights, Criminal, Land and Natural Resources, and Tax

SES All Deputy Assistant Attorneys General in Legal Divisions (20)
SES Director of Operations, Antitrust Division
SES Deputy Director of Operations, Antitrust Division
SES Chief, Organized Crime and Racketeering Section, Criminal Division

Office of Legal Counsel

SES All Deputy Assistant Attorneys General (3)

Office of Legislative Affairs

No Section 207(d)(1)(C) Designations.

Office of Liaison Services

SES Director
SES Deputy Director

Justice Management Division

SES Assistant Attorney General for Administration
SES All Deputy Assistant Attorneys General (4)

Office of Public Affairs

SES Director

Office of the Pardon Attorney

No Section 207(d)(1)(C) Designations.

United States Parole Commission

GS–18 All Commissioners (9)

United States Marshals Service

SES Director
SES Assistant Director for Financial Management
SES Assistant Director for Inspections
SES Deputy Director
SES Associate Director for Operations
SES Associate Director for Administration
SES* Assistant Director for Operations Support

United States Attorneys

SES United States Attorneys (92)

Drug Enforcement Administration

SES All Assistant Administrators (3)
SES Chief Counsel
SES All Deputy Assistant Administrators (7)
SES Special Agent in Charge, Office of Training

Federal Bureau of Investigation

SES Executive Assistant Directors (3)
SES All Assistant Directors (11)
SES Assistant Director in Charge, New York Office
SES All Inspectors/Deputy Assistant Directors (21)
SES Inspector in Charge, Office of Liaison and International Affairs
SES All Special Agents in Charge of Field Offices above GS–16 (26)
SES Deputy Assistant Director in Charge, New York Office
SES Special Assistant to the Director

Immigration and Naturalization Service

SES Deputy Commissioner
SES All Associate Commissioners (4)
SES All Regional Commissioners (4)
SES General Counsel

Bureau of Prisons

SES Director
SES Deputy Director
SES All Assistant Directors (4)
SES All Regional Directors (5)
SES Associate Commissioner for Prison Industries
SES Wardens (15)
SES General Counsel
SES Director, National Institute of Corrections

Community Relations Service

SES Deputy Director

Office of Justice Programs

SES Deputy Assistant Attorney General
SES Comptroller
SES General Counsel
SES Director, Office for Victims of Crime

National Institute of Justice

SES Assistant Director, Office of Development Testing and Dissemination
SES Assistant Director, Office of Research Programs

Office of Juvenile Justice and Delinquency Prevention

SES Deputy Administrator

Bureau of Justice Statistics

SES Deputy Director

Office of Policy Development

SES Deputy Assistant Attorneys General (3)

Office of Intelligence Policy Review

SES Counsel for Intelligence Policy
SES Deputy Counsel for Intelligence Policy
SES Deputy Counsel for Intelligence Operations

Executive Office for Immigration Review

SES Director
SES Assistant to the Director
SES Chief Administrative Hearing Officer
SES Chief Immigration Judge
SES Chairman, Board of Immigration Appeals

Interpol-United States National Central Bureau

SES Chief

Office of Special Counsel for Immigration Related Unfair Employment Practices

GS–17* Special Counsel for Immigration Related Unfair Employment Practices

AGENCY: DEPARTMENT OF LABOR

Positions:

Office of the Deputy Secretary of Labor (O/Deputy SECY)

SES* Associate Deputy Secretary of Labor (2)

Office of the Inspector General (OIG)

SES Deputy Inspector General
SES Assistant Inspector General for Investigations
SES Assistant Inspector General for Audit
SES Deputy Assistant Inspector General for Audit
SES Assistant Inspector General for/Director Office of Resource Management and Legislative Assessment
SES* Assistant Inspector General for Labor Racketeering

Women's Bureau

GS–17 Director
SES Deputy Director

Office of Congressional and Intergovernmental Affairs (OCIA)

SES* Deputy Assistant Secretary for Congressional and Intergovernmental Affairs

Office of the Assistant Secretary Administration and Management

SES* Assistant Secretary for Administration and Management
SES Deputy Assistant Secretary
SES Director, Administrative and Procurement Programs
SES Comptroller for the Department
SES Deputy Comptroller

Office of Administrative Law Judges (ALJ)

No Section 207(d)(1)(C) Designations.

Office of Public Affairs (OPA)

SES* Deputy Assistant Secretary for/Director, Office of Public Affairs

Bureau of Labor-Management Relations (BLMR)

SES* Deputy Under Secretary for Labor-Management Relations

Office of Labor-Management Standards (OLMS)

SES* Deputy Assistant Secretary for Labor-Management Standards

Pension and Welfare Benefits Administration (PWBA)

SES* Deputy Assistant Secretary for Program Operations
SES* Deputy Assistant Secretary for Policy

Occupational Safety and Health Administration (OSHA)

SES Deputy Assistant Secretary (2)
SES Director of Policy
SES* Director of Field Programs
SES Director, Federal-State Operations
SES* Director of Compliance Programs
SES Director, Safety Standards Programs
SES Director, Health Standards Programs
SES Director, Technical Support

Mine Safety and Health Administration (MSHA)

SES Deputy Assistant Secretary for Mine Safety and Health
SES Administrator for Metal and Nonmetal Mine Safety and Health
SES Deputy Administrator for Metal and Nonmetal Mine Safety and Health
SES Administrator for Coal Mine Safety and Health
SES Deputy Administrator for Coal Mine Safety and Health
SES Director of Technical Support

SES Director of Educational Policy and Development
SES Chief, Standards, Regulations and Variances

Employment Standards Administration (ESA)

SES* Deputy Assistant Secretary for Employment Standards (2)
SES Director, Office of Federal Contract Compliance Programs (OFCCP)
SES Deputy Director, OFCCP
SES Deputy Administrator, Wage and Hour Division (WH)
SES Director, Office of Workers' Compensation Programs (OWCP)
SES Deputy Director, OWCP

Bureau of Labor Statistics (BLS)

SES Deputy Commissioner for Administration and Internal Operations

Office of the Solicitor of Labor

SES Deputy Solicitor for National Operations
SES Deputy Solicitor for Regional Operations
SES* Deputy Solicitor for Planning and Coordination

Employment and Training Administration (ETA)

SES* Deputy Assistant Secretary, ETA (3)
SES Administrator, Office of Strategic Planning and Policy Development (OSPPD)
SES Deputy Administrator, (OSPPD)
SES* Administrator, Office of Regional Management (ORM)
SES Administrator, Office of Employment Security (OES)
SES Administrator, Office of Job Training Programs (OJTP)
SES Deputy Administrator, (OJTP)
SES Administrator, Office of Financial and Administrative Management (OFAM)

Bureau of International Labor Affairs (ILAB)

SES Deputy Under Secretary for International Affairs

Office of the Assistant Secretary for Policy (ASP)

SES Deputy Assistant Secretary for Regulatory Economics and Economic Policy Analysis
SES Deputy Assistant Secretary for Program Economics and Research and Technical Support

National Commission for Employment Policy (NCEP)

AD Director

President's Committee on Employment of People with Disabilities

SES Executive Director

Office of the Assistant Secretary for Veteran's Employment and Training (VETS)

SES Deputy Assistant Secretary

AGENCY: DEPARTMENT OF STATE

Positions:

ESOO* Advisor to Deputy Secretary for Strat Pol, D
ESOO* Economic Advisor, E
FEMC SA to Sec & Coord Int'l Lab Aff, S/IL
FEMC* Coordinator, S/CT
ESOO Chief of Protocol, S/CPR
FEMC* Associate Coordinator, S/CT (2)
FEMC Exec Sec of Dept., S/S
FEMC Deputy Director, Policy Planning Staff, S/P (1)
ESOO Director, Policy Planning Staff, S/P (2)
SES* Advisor for Plans and Programs, S/R
FEMC Executive Assistant to Deputy Secretary, D
FEMC Senior Advisor to the Under Secretary, P
SROO Coord, Int'l Comm & Info Pol, CIP
FEMC Deputy Coordinator, CIP
ESOO* Deputy Director, CIP
FEMC Senior Rep. for Strategic Technology Policy, T/ST
FEMC Executive Assistant, M
FEMC Special Coordinator, M
ESOO* Director, MEBCO M
ESOO Deputy Assistant Secretary, S/EEOCR
ESOO Ombudsman for the Dept., S/CSO
ESOO* U.S. Negotiator, S/DEL
FEMC Director of Management Operations, M/MP
FEMC Deputy Director of Management Operations, M/MP (2)
SROO Director, Office of Foreign Missions, M/OFM
FEMC* Deputy Assistant Secretary M/OFM
ESOO Program Director, M/OFM
FEMC Deputy Inspector General, OIG (1)
ESOO State Representative, PM/SREP
FEMC Negotiator for Nuclear Testing Talks, PM
ESOO Deputy Representative—START Negotiations, PM/SREP
FEOC Deputy Representative—INF Negotiations, PM/SREP
FEMC United States Representative, PM/CDE
FEMC Deputy Assistant Secretary, PM/RASA
ESOO Deputy Assistant Secretary, PM/TTC
FEMC Deputy Assistant Secretary, PM/PDAS
ESOO Deputy Assistant Secretary, PM/DAC
ESOO Deputy Assistant Secretary, HA
FEOC Deputy Assistant Secretary, HA
ESOO Deputy Assistant Secretary, INM
FEMC Deputy Assistant Secretary, INM
ESOO Principal Deputy Assistant Secretary, OES
ESOO Deputy Assistant Secretary, OES/O
ESOO Deputy Assistant Secretary, OES/S
ESOO Deputy Assistant Secretary, OES/E
ESOO Deputy Assistant Secretary, OES/N
ESOO Director of Refugee Programs, RP
FEMC Deputy Assistant Secretary, RP/MGT
FEMC Deputy Assistant Secretary, RP/IA
ESOO Deputy Assistant Secretary, RP/RA
ESOO Deputy Legal Adviser, L (4)
FEMC Deputy Assistant Secretary, EB
FEMC Deputy Assistant Secretary, EB/TDC
FEMC Deputy Assistant Secretary, EB/IFD
ESOO Deputy Assistant Secretary, EB/TRA
FEMC Deputy Assistant Secretary, EB/ERP
ESOO Deputy Assistant Secretary, EB/ITC
FEMC Deputy Assistant Secretary, INR
ESOO Deputy Assistant Secretary, INR/RA
FEMC Deputy Assistant Secretary, INR/C
FEMC Deputy Assistant Secretary, INR/FAR
ESOO Deputy Assistant Secretary, INR/ID
ESOO Deputy Assistant Secretary, H (3)
FEMC Deputy Assistant Secretary, H
ESOO Comptroller, M/COMP
ESOO Deputy Assistant Secretary, PA
FEMC Deputy Assistant Secretary, PA
ESOO Deputy Assistant Secretary, ARA (2)
FEMC Deputy Assistant Secretary, ARA (3)
FEMC Deputy United States Representative, ARA/USOAS
ESOO Deputy Assistant Secretary, EUR
FEMC Deputy Assistant Secretary, EUR (4)
FEMC Deputy Assistant Secretary, EAP (4)
ESOO United States Representative, EAP/PIA
ESOO Deputy Assistant Secretary, NEA
FEMC Deputy Assistant Secretary, NEA (5)
ESOO Deputy Assistant Secretary, AF
FEMC Deputy Assistant Secretary, AF (3)
ADOO Deputy United States Representative, USUN
ADOO Deputy U.S. Representative in the Security Council, USUN
ADOO United States Representative, Economic & Social Affairs Council, USUN
ADOO* Alternate U.S. Representative for Special Political
ESOO Deputy Assistant Secretary Private Sector Initiates
FEMC Deputy Assistant Secretary, IO (3)
ESOO Deputy Assistant Secretary, IO
FEMC Deputy Assistant Secretary, DS/DSS
FEMC Deputy Assistant Secretary, A/CDC
FEMC Deputy Assistant Secretary, A/FBO
FEMC Deputy Assistant Secretary, DGP/PER (3)
ESOO Deputy Assistant Secretary, DGP/PER
FEMC Deputy Assistant Secretary, A/ISO
FEMC Deputy Assistant Secretary, A/OPR
ESOO Deputy Assistant Secretary for Policy and Counter Terrorism, DS/P
FEMC* Medical Director, M/MED
FEMC Director Foreign Service Inst, M/FSI
FEMC Deputy Assistant Secretary, A/OC
FEMC Deputy Assistant Secretary, CA
FEMC Deputy Assistant Secretary, CA/PPT
FEMC Deputy Assistant Secretary, CA/VO
ESOO Deputy Assistant Secretary, CA/OCS
FEMC Deputy Chief of Mission, Buen Aires
FEMC Deputy Chief of Mission, Brasilia
FEMC Principal Officer, Rio De Jan
FEMC Principal Officer, Sao Paulo
FEMC Deputy Chief of Mission, Bogota
FEOC* Deputy Chief of Mission, Tunis
FEOC* Deputy Chief of Mission, Rabat
FEOC* Deputy Chief of Mission, Damascus
FEOC* Principal Officer, Dhahran
FEOC* Deputy Chief of Mission, Dhaka
FEOC* Principal Officer, Jeddah
FEOC* Deputy Chief of Mission, Kuwait
FEMC* Deputy Chief of Mission, Pretoria
FEOC* Deputy Chief of Mission, Abidjan
FEOC* Deputy Chief of Mission, Khartoum
FEMC Principal Officer, Havana
FEMC Charge d'Affaires, St. Georges
FEMC Deputy Chief of Mission, Kingston
FEMC Deputy Chief of Mission, Mexico D.F.
FEMC Deputy Chief of Mission, Panama
FEMC Deputy Chief of Mission, Lima
FEMC Deputy Chief of Mission, Caracas
FEMC Deputy Chief of Mission, Vienna
FEMC United States Representative, UNVIE Vienna

FEMC Deputy United States Representative, UNVIE Vienna
FEMC United States Representative, MBFR Vienna
FEMC Deputy United States Representative, MBFR Vienna
ESOO Director of Interagency Affairs, A/OC/IAA
FEMC Deputy Chief of Mission, Brussels
FEMC Deputy Chief of Mission, Brussels-EC
FEMC United States Representative, Brussels NATO
FEMC Deputy Chief of Mission, Brussels NATO
FEMC Deputy Chief of Mission, Athens
FEMC United States Representative, Montreal
FEMC Deputy Chief of Mission, Ottawa
FEMC Principal Officer, Montreal
FEMC Principal Officer, Toronto
FEMC Deputy Chief of Mission, London
FEMC Deputy Chief of Mission, Paris
FEMC Deputy Chief of Mission, OECD Paris
FEMC United States Representative, OECD Paris
FEMC Deputy Chief of Mission, Bonn
FEMC Assistant Chief of Mission, Berlin
FEMC Principal Officer, Frankfurt
FEMC Principal Officer, Munich
FEMC Deputy Chief of Mission, Rome
FEMC Principal Officer, Milan
FEMC Principal Officer, Naples
FEMC United States Representative, USM FAO Rome
FEMC Deputy United States Representative, USM FAO Rome
FEMC Charge d'Affaires, Warsaw
FEMC Deputy Chief of Mission, Madrid
FEMC Deputy Chief of Mission, Stockholm
FEMC United States Representative, US MIS GEN
FEMC Deputy United States Representative, US MIS GEN
FEMC United States Negotiator, Geneva (3)
FEMC Deputy Chief of Mission, Ankara
FEMC Principal Officer, Istanbul
FEMC Deputy Chief of Mission, Moscow
FEMC Principal Officer, Hong Kong
FEMC Deputy Principal Officer, Hong Kong
FEMC Deputy Chief of Mission, Beijing
FEMC Principal Officer, Guangzhou
FEMC Deputy Chief of Mission, Jakarta
FEMC Deputy Chief of Mission, Canberra
FEMC Principal Officer, Melbourne
FEMC Principal Officer, Sydney
FEMC Deputy Chief of Mission, Tokyo
FEMC Deputy Chief of Mission, Seoul
FEMC Deputy Chief of Mission, Vientiane
FEMC Deputy Chief of Mission, Manila
FEMC Director, Asian Develop Bank, ASIAN DEV BK
FEMC Deputy Chief of Mission, Bangkok
FEMC Deputy Chief of Mission, Cairo
FEMC Deputy Chief of Mission, New Delhi
FEMC Principal Officer, Bombay
FEMC Principal Officer, Baghdad
FEMC Deputy Chief of Mission, Tel Aviv
FEMC Principal Officer, Jerusalem
FEMC Deputy Chief of Mission, Beirut
FEMC Deputy Chief of Mission, Islamabad
FEMC Principal Officer, Karachi
FEMC Deputy Chief of Mission, Riyadh
FEMC Deputy Chief of Mission, Kinshasa
FEMC Charge d'Affaires, Add. Ababa
FEMC Deputy Chief of Mission, Nairobi
FEMC Deputy Chief of Mission, Lagos
ADOO Commissioner, IJC
SROO Commissioner International Joint Comm, IJC
SROO Commissioner International Joint Comm, IJC

AGENCY: DEPARTMENT OF TRANSPORTATION

Positions:

Office of the Secretary of Transportation

SES Deputy General Counsel
SES Deputy Assistant Secretary for Policy and International Affairs
SES Deputy Assistant Secretary for Policy and Program Development
SES Deputy Assistant Secretary for Safety
SES Deputy Assistant Secretary for Budget and Programs
SES Deputy Assistant Secretary for Governmental Affairs
SES Deputy Assistant Secretary for Governmental Affairs (Intergovernmental and Consumer)
SES Deputy Assistant Secretary for Public Affairs
SES Assistant Secretary for Administration
SES Deputy Assistant Secretary for Administration (2)
SES Chief of Staff
SES Director, Office of Commercial Space Transportation
SES Director, Office of Civil Rights
SES* Director, Office of Small and Disadvantaged Business Utilization

Office of the Inspector General

SES Assistant Inspector General for Auditing, Office of the Secretary
SES Deputy Assistant Inspector General for Auditing
SES Director, Office of Surface Transportation and Secretarial Programs, Assistant Inspector General for Auditing
SES Director, Office Aviation, Marine and Research Programs, Assistant Inspector General for Auditing
SES Director, Office of ADP Audits and Technical Support, Assistant Inspector General for Auditing
SES Assistant Inspector General for Investigations
SES Assistant Inspector General for Policy, Planning and Resources

United States Coast Guard

0-7/0-8 Chief Counsel
SES Deputy Chief Counsel
0-7/0-8 Chief of Staff
0-7/0-8* Comptroller/Resource Director
0-7/0-8 Chief, Office of Engineering and Development
0-7/0-8 Chief, Office of Marine Safety, Security and Environmental Protection
0-7/0-8 Chief, Office of Navigation, Safety and Waterway Services
0-7/0-8 Chief, Office of Command, Control and Communication
0-7/0-8 Chief, Office of Law Enforcement and Defense Operations
0-7/0-8 Commanders, Maintenance and Logistics Commands (2)
0-7/0-8 District Commanders (10)
0-7/0-8* Commander, Joint Task Force Five
0-7/0-8* Chief, Office of Acquisition

Federal Aviation Administration

SES Chief of Staff, Office of the Administrator
SES Associate Administrator for Administration
SES Deputy Associate Administrator for Administration
SES Associate Administrator for Airports
SES Deputy Associate Administrator for Airports
SES Associate Administrator for Aviation Standards
SES Deputy Associate Administrator for Aviation Standards
SES Associate Administrator for Air Traffic
SES Deputy Associate Administrator for Air Traffic
SES Associate Administrator for Policy, Planning and International Aviation
SES Deputy Associate Administrator for Policy, Planning and International Aviation
SES Associate Administrator for Human Resource Management
SES Deputy Associate Administrator for Human Resource Management
SES* Associate Administrator for Aviation Safety
SES* Deputy Associate Administrator for Aviation Safety
SES* Associate Administrator for Airway Facilities
SES* Deputy Associate Administrator for Airway Facilities
SES* Executive Director for Regulatory Standards and Compliance
SES* Associate Administrator for Regulation and Certification
SES* Executive Director for System Development
SES* Associate Administrator for Advanced Design and Management Control
SES* Deputy Associate Administrator for Advanced Design and Management Control
SES* Associate Administrator for NAS Development
SES* Deputy Associate Administrator for NAS Development
SES* Executive Director for Policy, Plans, and Resource Management
SES* Executive Director for Systems Operations
SES Chief Counsel
SES Deputy Chief Counsel
SES Deputy Federal Air Surgeon
SES Regional Administrator, Eastern Region (New York)
SES Deputy Regional Administrator, Eastern Region
SES Regional Administrator, New England Region (Boston)
SES Deputy Regional Administrator, New England Region
SES Regional Administrator, Southern Region (Atlanta)
SES Deputy Regional Administrator, Southern Region
SES Regional Administrator, Southwest Region (Fort Worth)
SES Deputy Regional Administrator, Southwest Region
SES Regional Administrator, Central Region (Kansas City)

SES Deputy Regional Administrator, Central Region
SES Regional Administrator, Great Lakes Region (Chicago)
SES Deputy Regional Administrator, Great Lakes Region
SES Regional Administrator, Western-Pacific Region (Los Angeles)
SES Deputy Regional Administrator, Western-Pacific Region
SES Regional Administrator, Northwest Mountain Region (Seattle)
SES Deputy Regional Administrator, Northwest Mountain Region
SES Regional Administrator, Alaska Region (Anchorage)
SES Deputy Regional Administrator, Alaska Region
SES Director, Europe, Africa, and Middle East Office

Federal Highway Administration

SES Deputy Administrator
SES Executive Director
SES Associate Administrator for Policy
SES Associate Administrator for Research Development and Technology
SES Associate Administrator for Right-Of-Way and Environment
SES Associate Administrator for Engineering and Program Development
SES Associate Administrator for Safety and Operations
SES Associate Administrator for Motor Carriers
SES Associate Administrator for Administration
SES* Director Federal Program Administrator
SES Chief Counsel
SES Deputy Chief Counsel
SES Regional Federal Highway Administrators (9)

Federal Railroad Administration

SES Deputy Administrator
SES Associate Administrator for Administration
SES Executive Director
SES Chief Counsel
SES Associate Administrator for Passenger and Freight Services
SES Deputy Associate Administrator for Passenger and Freight Services
SES Associate Administrator for Policy
SES Deputy Associate Administrator for Policy
SES Associate Administrator for Safety
SES Deputy Associate Administrator for Safety
SES Director, Office of Safety Enforcement

National Highway Traffic Safety Administration

SES Deputy Administrator
SES Chief Counsel
SES Associate Administrator for Rulemaking
SES Managing Director
SES Associate Administrator for Plans and Policy
SES Associate Administrator for Traffic Safety Programs
SES Associate Administrator for Research and Development
SES Deputy Associate Administrator for Research and Development
SES Associate Administrator for Enforcement
SES Associate Administrator for Administration
SES* Deputy Associate Administrator for Traffic Safety Programs

Urban Mass Transportation Administration

SES Deputy Administrator
SES Executive Director
SES Associate Administrator for Administration
SES Chief Counsel
SES* Deputy Chief Counsel
SES Associate Administrator for Technical Assistance
SES Associate Administrator for Budget and Policy
SES Associate Administrator for Grants Management

Saint Lawrence Seaway Development Corporation

SES* Associate Administrator

Research and Special Programs Administration

SES Administrator
SES Deputy Administrator for Research and Technology and Chief Scientist
SES* Deputy Administrator for Operations
SES Chief Counsel
SES Director, Office of Hazardous Materials Transportation
SES Director, Office of Pipeline Safety
SES Director, Transportation Systems Center
SES Deputy Director, Transportation Systems Center

Maritime Administration

SES Deputy Administrator
SES Deputy Administrator for Inland Waterways and Great Lakes
SES Special Assistant to Maritime Administrator
SES Director, Office of External Affairs
SES Chief Counsel
SES Deputy Chief Counsel
SES Associate Administrator for Administration
SES Associate Administrator for Policy and International Affairs
SES Associate Administrator for Maritime Aids
SES Deputy Associate Administrator for Maritime Aids
SES Associate Administrator for Shipbuilding and Ship Operations
SES Director, Office of Ship Construction, Office of the Associate Administrator for Shipbuilding and Ship Operations
SES Deputy Director, Office of Ship Construction, Office of the Associate Administrator for Shipbuilding and Ship Operations
SES Director, Office of Ship Operations, Office of the Associate Administrator for Shipbuilding and Ship Operations
SES Senior Technical Advisor, Office of the Associate Administrator for Marketing
SES Associate Administrator for Marketing
SES Superintendent, Merchant Marine Academy

AGENCY: DEPARTMENT OF THE TREASURY

Positions:

Departmental Offices

Office of the Assistant Secretary for Policy Management

SES Executive Secretary

Office of the Inspector General

SES* Principal Deputy Inspector General
SES Deputy Inspector General
SES Assistant Inspector General for Audit (DOTOCC)
SES Assistant Inspector General for Audit (Fiscal Services/ADP)
SES Assistant Inspector General for Investigations

Office of the Assistant Secretary for Domestic Finance

SES Deputy Assistant Secretary, Federal Finance
SES Deputy Assistant Secretary, Financial Institutions Policy
SES* Deputy Assistant Secretary for Domestic Policy Coordination

Office of the Assistant Secretary for International Affairs

SES Senior Deputy Assistant Secretary for International Economic Policy
SES Deputy Assistant Secretary for International Monetary Affairs
SES Deputy Assistant Secretary for Developing Nations
SES Deputy Assistant Secretary for Trade and Investment Policy
SES Deputy Assistant Secretary for Arabian Peninsula Affairs

Office of the Assistant Secretary for Tax Policy

SES Deputy Assistant Secretary, Tax Policy
SES Deputy Assistant Secretary, Tax Analysis

Office of the Assistant Secretary for Public Affairs and Public Liaison

SES* Deputy Assistant Secretary (Public Affairs)
SES* Deputy Assistant Secretary (Public Liaison)

Office of the Fiscal Assistant Secretary

SES Assistant Secretary
SES Deputy Fiscal Assistant Secretary

Office of the Assistant Secretary for Management

SES Deputy Assistant Secretary for Administration
SES Deputy Assistant Secretary for Departmental Finance and Management
SES Deputy Assistant Secretary for Information Systems

Office of the Assistant Secretary for Economic Policy

SES Deputy Assistant Secretary (Policy Analysis)
SES Deputy Assistant Secretary (Policy Coordination)

Office of the Assistant Secretary for Enforcement

SES Deputy Assistant Secretary (Law Enforcement)
SES Deputy Assistant Secretary (Regulatory, Trade and Tariff Enforcement)

Office of the Assistant Secretary for Legislative Affairs

SES Deputy Assistant Secretary for Legislative Affairs (Legislation)
SES Deputy Assistant Secretary for Legislative Affairs (Policy)

Treasurer of the United States

GS–18 Treasurer and National Savings Bond Director
SES Deputy Treasurer

Comptroller of the Currency

SES Senior Deputy Comptroller for Legislative and Public Affairs
SES Senior Deputy Comptroller for Bank Supervision Operations
SES Senior Deputy Comptroller for Corporate and Economic Programs
SES Senior Deputy Comptroller for Administration
SES Senior Deputy Comptroller for Bank Supervision Policy
SES Senior Advisor to the Comptroller

Customs Service

SES Commissioner
SES Deputy Commissioner
SES Assistant Commissioner, International Affairs
SES Assistant Commissioner, Enforcement
SES Deputy Assistant Commissioner, Enforcement
SES Assistant Commissioner, Commercial Operations
SES Deputy Assistant Commissioner, Inspection and Control
SES Assistant Commissioner, Inspection and Control
SES Comptroller
SES Assistant Commissioner, Internal Affairs

Financial Management Service

SES Commissioner
SES Deputy Commissioner

Internal Revenue Service

SES Senior Deputy Commissioner
SES Deputy Commissioner (Operations)
SES Deputy Commissioner (Planning and Resources)
SES Assistant Commissioner (Inspection)
SES Regional Commissioner (C)
SES Regional Commissioner (MA)
SES Regional Commissioner (MW)
SES Regional Commissioner (NA)
SES Regional Commissioner (SE)
SES Regional Commissioner (SW)
SES Regional Commissioner (W)

Legal Division

SES Deputy General Counsel, Office of the General Counsel
SES Tax Legislative Counsel, Office of the Assistant Secretary (Tax Policy)
SES International Tax Counsel, Office of the Assistant Secretary (Tax Policy)
SES Chief Counsel, U.S. Customs Service
SES Deputy Chief Counsel, U.S. Customs Service
SES Chief Counsel, U.S. Secret Service
SES Chief Counsel, Bureau of the Public Debt
SES Chief Counsel, Office of Foreign Assets Control
SES Chief Counsel, Financial Management Service
SES Chief Counsel, Comptroller of the Currency
SES Chief Counsel, Bureau of Alcohol, Tobacco and Firearms
SES Deputy Chief Counsel, Bureau of Alcohol, Tobacco and Firearms
SES Deputy Chief Counsel, Internal Revenue Service

U.S. Mint

GS–18 Director
SES Deputy Director of the Mint
SES Associate Director for Policy and Management
SES Associate Director for Marketing
SES Associate Director for Operations
SES* Assistant Director for Automated Information Systems

U.S. Savings Bonds Division

No Section 207(d)(1)(C) Designations

U.S. Secret Service

SES Director
SES Deputy Director

Bureau of Alcohol, Tobacco and Firearms

SES Director
SES Deputy Director/Associate Director (Compliance Operations)
SES Deputy Director/Associate Director (Law Enforcement)
SES Assistant Director, Internal Affairs

Bureau of Public Debt

SES Commissioner of Public Debt

Federal Law Enforcement Training Center

SES Director
SES Deputy Director

Bureau of Engraving and Printing

SES Director
SES Deputy Director
SES Assistant Director (Administration)
SES Assistant Director (Operations)
SES Assistant Director (Research and Engineering)
SES* Program Director, Facilities Planning and Development

AGENCY: DEPARTMENT OF VETERANS AFFAIRS

Positions:

Office of the Secretary

SES Associate Deputy Administrator for Congressional Affairs
SES Associate Deputy Administrator for Logistics
SES* Deputy Associate Deputy Administrator for Logistics
SES Associate Deputy Administrator for Management
SES Deputy Associate Deputy Administrator for Management
SES Associate Deputy Administrator for Public Affairs
SES* Deputy Associate Deputy Administrator for Public Affairs

Office of Inspector General

SES Deputy Inspector General
SES Assistant Inspector General for Audit
SES Assistant Inspector General for Investigations
SES Assistant Inspector General for Policy, Planning and Resources
SES Deputy Assistant Inspector General for Headquarter Audits
SES Deputy Assistant Inspector General for Regional Audits
SES Deputy Assistant Inspector General for Policy, Planning and Resources
SES Deputy Assistant Inspector General for Investigations

Office of the General Counsel

SES Deputy General Counsel

Office of Program Analysis and Evaluation

SES Director

Office of Budget and Finance

SES Director

Office of Facilities

SES Director
SES Deputy Director

National Cemetery System

SES Deputy Director

Veterans' Benefits Administration

SES Deputy Chief Benefits Director for Program Management
SES Deputy Chief Benefits Director for Field Operations
SES Deputy Chief Benefits Director for ADP Systems Management

Veterans Health Services and Research Administration

SES Deputy Associate Deputy Chief Medical Director

Office of Personnel and Labor Relations

SES Director
SES Deputy Director

Office of Information Systems and Telecommunications

SES Director
SES* Deputy Director

Office of Acquisition and Material Management

SES Director
SES Deputy Director
SES* Director of Acquisition Management Service

Office of Information Management and Statistics

SES Director

Office of Equal Opportunity

SES Director

Office of Systems Planning, Policy and Acquisition Control

SES Director

AGENCY: ACTION

Positions:

SES Executive Officer, Office of the Director
SES General Counsel
SES Inspector General
SES Deputy General Counsel
SES Associate Director for Management and Budget
SES Special Assistant to the Associate Director, Office of Management and Budget
SES* Special Assistant to the Associate Director —Office of Policy, Research & Evaluation
SES* Associate Director for Policy, Research and Evaluation
SES* Director, Special Emphasis Operation—Office of Domestic and Anti-Poverty Operations
SES* Comptroller

AGENCY: ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Positions:

SES* General Counsel
SES Executive Director
SES Research Director

AGENCY: ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

Positions: No Section 207(d)(1)(C) Designations

AGENCY: ADVISORY COUNCIL ON HISTORIC PRESERVATION

Positions:

SES Executive Director
SES General Counsel

AGENCY: AFRICAN DEVELOPMENT FOUNDATION

Positions: No Section 207(d)(1)(C) Designations

AGENCY: AMERICAN BATTLE MONUMENTS COMMISSION

Positions:

0–8 Secretary

AGENCY: APPALACHIAN REGIONAL COMMISSION

Positions: No Section 207(d)(1)(C) Designations

AGENCY: BOARD FOR INTERNATIONAL BROADCASTING

Positions:

SES Executive Director

AGENCY: CENTRAL INTELLIGENCE AGENCY

Positions:

AD Executive Director
AD All Deputy Directors and Associate Deputy Directors of Directorates
AD All Heads of Independent Offices and Certain Deputies
AD Director and Deputy Director, Intelligency Community Staff
AD Certain Staff Officials, Intelligence Community Staff
AD Certain Office Directors and Deputy Directors in the Administration, Science and Technology, Intelligence and Operations Directorates
AD Chairman and Vice Chairman, National Intelligence Council

AGENCY: COMMISSION ON CIVIL RIGHTS

Positions:

SES Solicitor
SES Deputy Staff Director for Management
SES General Counsel
SES Executive Assistant to the Staff Director
SES* Staff Director

AGENCY: COMMISSION OF FINE ARTS

Positions: No Section 207(d)(1)(C) Designations

AGENCY: COMMODITY FUTURES TRADING COMMISSION

Positions:

SES Executive Director
SES Deputy Executive Director (1)
SES Director, Division of Enforcement
SES Deputy Director, Division of Enforcement (3)
SES Chief Economist, Division of Economic Analysis
SES Deputy Chief Economist, Division of Economic Analysis (1)
SES Director, Division of Trading and Markets
SES* Deputy Director, Division of Trading and Markets (2)
SES Deputy General Counsel, Office of General Counsel (3)
SES Associate Director for Market Analysis, Division of Economic Analysis
SES General Counsel
SES Associate General Counsel for Opinions and Review, Office of General Counsel
SES Associate Director for Surveillance, Division of Economic Analysis
SES Chief Counsel, Division of Trading and Markets
SES Director, Office of Information Resources Management
SES* Chief of Staff, Office of the Chairman

AGENCY: CONSUMER PRODUCT SAFETY COMMISSION

Positions:

SES General Counsel
SES Executive Director
SES Deputy Executive Director
SES Associate Executive Director for Administration
SES Associate Executive Director for Compliance and Administrative Litigation
SES Associate Executive Director for Economic Analysis
SES Associate Executive Director for Engineering Sciences
SES Associate Executive Director for Epidemiology
SES Associate Executive Director for Field Operations
SES Associate Executive Director for Health Sciences
SES Director, Office of Program Management and Budget
SES Executive Assistant to the Chairman

AGENCY: COORDINATING COUNCIL ON JUVENILE JUSTICE AND DELINQUENCY PREVENTION

Positions: No Section 207(d)(1)(C) Designations

AGENCY: DISTRICT OF COLUMBIA GOVERNMENT

Positions:

AD Superintendent of Schools
AD President, University of the District of Columbia
AD General Manager, Convention Center
AD* Executive Director, D.C. General Hospital
AD* Medical Director, D.C. General Hospital
AD* General Manager, D.C. Armory Board
AD* Commanding General, D.C. National Guard
AD* Deputy Superintendent of Schools

AGENCY: ENVIRONMENTAL PROTECTION AGENCY

Positions:

SES Regional Administrator, Region I
SES Regional Administrator, Region II
SES Regional Administrator, Region III
SES Regional Administrator, Region IV
SES Regional Administrator, Region V
SES Regional Administrator, Region VI
SES Regional Administrator, Region VII
SES Regional Administrator, Region VIII
SES Regional Administrator, Region IX
SES Regional Administrator, Region X
SES Director, Office of Radiation Programs, OAR
SES Director, Office of Municipal Pollution Control, OW
SES Director, Office of Water Regulations and Standards, OW
SES Director, Office of Solid Waste, SWER
SES Director, Office of Drinking Water, OW
SES Director, Office of Pesticide Programs
SES Director, Office of Compliance Monitoring, OPTS
SES Director, Office of Acid Deposition, Environmental Monitoring and Quality Assurance, ORD
SES Director, Office of Environmental Processes and Effects Research, ORD
SES Director, Office of Environmental Engineering and Technology, ORD
SES Director, Office of Toxic Substances, OPTS
SES Deputy General Counsel, OGC
SES Director, Office of Federal Activities, OEA
SES Director, Office of Mobile Sources, OAR
SES Director, Office of Emergency and Remedial Response, SWER
SES Deputy Inspector General, OIG
SES Assistant Inspector General for Investigations, OIG
SES Deputy Assistant Administrator for Administration and Resources Management, OARM
SES Deputy Assistant Administrator for Policy, Planning and Evaluation, OPPE
SES Director, Office of Policy Analysis, OPPE
SES Director, Office of Standards and Regulations, OPPE

SES Deputy Assistant Administrator for External Affairs, OEA
SES Director, Office of Congressional Liaison, OEA
SES Director, Office of Legislative Analysis, OEA
SES Assistant Inspector General for Audits, OIG
SES Deputy Assistant Administrator for Water, OW
SES Director, Office of Marine and Estuarine Protection, OW
SES Director, Office of Ground Water Protection, OW
SES Director, Office of Water Enforcement and Permits, OW
SES Deputy Assistant Administrator for Solid Waste and Emergency Response, SWER
SES Director, Office of Waste Programs Enforcement, SWER
SES Deputy Assistant Administrator for Air and Radiation, OAR
SES Director, Office of Air Quality Planning and Standards, OAR
SES Deputy Assistant Administrator for Pesticides and Toxic Substances, OPTS
SES Deputy Assistant Administrator for Research and Development, ORD
SES Director, Office of Health Research, ORD
SES Deputy Regional Administrator, Region I
SES Deputy Regional Administrator, Region II
SES Deputy Regional Administrator, Region III
SES Deputy Regional Administrator, Region IV
SES Deputy Regional Administrator, Region V
SES Deputy Regional Administrator, Region VI
SES Deputy Regional Administrator, Region VII
SES Deputy Regional Administrator, Region VIII
SES Deputy Regional Administrator, Region IX
SES Deputy Regional Administrator, Region X
SES Director, Office of Health and Environmental Assessment, ORD
SES Director, Office of Exploratory Research, ORD
SES Director, Office of Wetlands Protection, OW
SES Director, Office of Underground Storage Tanks, SWER
SES Deputy General Counsel (Litigation, Legislation, and Regional Operations), OGC
SES Assistant Inspector General for Management and Technical Assessment (OIG)
SES Deputy Assistant Administrator for Enforcement and Compliance Monitoring (Civil) (OECM)
SES Deputy Assistant Administrator for Enforcement and Compliance Monitoring (Criminal) (OECM)
SES Director, National Enforcement Investigations Center (OECM)
SES Director, Office of Administration (OARM)
SES Comptroller (OARM)
SES Director, Office of Human Resources Management (OARM)
SES Director, Office of Information Resources Management (OARM)
SES Director, Office of Regulatory Support and Scientific Analysis (ORD)
SES* Director, Office of Pollution Prevention (OPPE)
SES* Director, Chemical Emergency Preparedness and Prevention Programs (OSWER)

AGENCY: EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Positions:

SES Deputy General Counsel
SES Associate General Counsel for Trial Services
SES Legal Counsel
SES Deputy Legal Counsel
SES Director, Office of Program Operations
SES* Director, Office of Review and Appeals
SES* Management Director
SES* Executive Assistant to the Chairman

AGENCY: EXPORT-IMPORT BANK OF THE UNITED STATES

Positions:

GS–18 General Counsel
GS–17 Executive Vice President

AGENCY: FARM CREDIT ADMINISTRATION

Positions:

SES General Counsel
SES Associate General Counsel for Litigation and Enforcement
SES Director of Internal Audit
SES Chief Examiner, Office of Examination
SES Regional Director, Northeast Region, Office of Examination
SES Regional Director, Southeast Region, Office of Examination
SES Regional Director, Western Region, Office of Examination
SES Regional Director, Central Region, Office of Examination
SES Director, Special Examination Division, Office of Examination
SES Director, Congressional and Public Affairs
SES Director, Office of Administration
SES Chief, Records and Projects Division, OA
SES* Director, Office of Financial Analysis
SES* Deputy Director, Office of Financial Analysis
SES* Assistant Director, Office of Financial Analysis
SES* Inspector General
SES* Director, Office of Regulatory Enforcement
SES* Associate General Counsel for Corporate and Administrative Law

AGENCY: FEDERAL COMMUNICATIONS COMMISSION

Positions:

SES Managing Director
SES General Counsel
SES Chief Engineer
SES Chief, Mass Media Bureau
SES Chief, Common Carrier Bureau
SES Chief, Private Radio Bureau
SES Chief, Field Operations Bureau
SES Chief, Office of Plans and Policy
SES Chief of Staff, Office of the Chairman
SES Deputy Managing Director
SES Deputy Chief, Mass Media Bureau (Operations)
SES Deputy Chief, Mass Media Bureau (Policy)
SES Deputy Chief, Common Carrier Bureau (Policy)
SES Deputy Chief, Common Carrier Bureau (Operations)
SES Deputy Chief, Private Radio Bureau
SES Deputy Chief, Field Operations Bureau
SES Deputy Chief, Office of Plans and Policy
SES Deputy Chief Engineer
SES Deputy General Counsel
SES* Inspector General

AGENCY: FEDERAL DEPOSIT INSURANCE CORPORATION

Positions:

FDIC E–4 Deputy to the Chairman
FDIC E–4 Deputy to the Director (Appointive)
FDIC E–4 General Counsel
FDIC E–4 Director, Division of Bank Supervision
FDIC E–4 Director, Division of Liquidation
FDIC E–3 Director, Office of Research and Strategic Planning
FDIC E–4 Director, Division of Accounting and Corporate Services
FDIC E–3 Associate Director, Division of Bank Supervision, Policy and Administration Branch
FDIC E–3 Deputy General Counsel, Open Bank Regulation, Litigation and Legislation Branch, Legal Division
FDIC E–3 Deputy General Counsel, Closed Bank Investigation and Litigation Branch, Legal Division
FDIC E–3 Associate Director, Division of Bank Supervision, Operations Branch
FDIC E–3 Regional Director, Atlanta Region, Division of Bank Supervision
FDIC E–3 Regional Director, Boston Region, Division of Bank Supervision
FDIC E–3 Regional Director, Chicago Region, Division of Bank Supervision
FDIC E–3 Regional Director, Dallas Region, Division of Bank Supervision
FDIC E–3 Regional Director, Kansas City Region, Division of Bank Supervision
FDIC E–3 Regional Director, Memphis Region, Division of Bank Supervision
FDIC E–3 Regional Director, New York Region, Division of Bank Supervision
FDIC E–3 Regional Director, San Francisco Region, Division of Bank Supervision
FDIC E–3 Associate Director, Division of Accounting and Corporate Services (Financial Services)
FDIC E–3 Associate Director, Division of Accounting and Corporate Services (Management Information Services)
FDIC E–3 Associate Director, Division of Liquidation (Operations)
FDIC E–3 Associate Director, Division of Liquidation (Credit)
FDIC E–3 Associate Director, Division of Liquidation (Administration)

FDIC E-3 Associate Director, Division of Accounting and Corporate Services (Corporate Services)
FDIC E-3 Regional Director (Liquidation), Atlanta Region
FDIC E-3 Regional Director (Liquidation), Dallas Region
FDIC E-3 Regional Director (Liquidation), New York Region
FDIC E-3 Regional Director (Liquidation), San Francisco Region
FDIC E-3 Regional Director (Liquidation), Chicago Region
FDIC E-3 Deputy General Counsel, Regional and Corporate Affairs Branch, Legal Division
FDIC E-3 Regional Director (Liquidation), Kansas City Region
FDIC E-3 Associate Director, Division of Bank Supervision, Failing Banks and Assistance Transactions Branch
FDIC E-3* Associate Director, Division of Liquidation, Assistance Transactions Branch

AGENCY: FEDERAL ELECTION COMMISSION

Positions:

GS-17 Deputy General Counsel

AGENCY: FEDERAL EMERGENCY MANAGEMENT AGENCY

Positions:

SES Regional Director, FEMA, Region I, Boston, Massachusetts
SES Regional Director, FEMA, Region II, New York, New York
SES Regional Director, FEMA, Region III, Philadelphia, Pennsylvania
SES Regional Director, FEMA, Region IV, Atlanta, Georgia
SES Regional Director, FEMA, Region V, Chicago, Illinois
SES Regional Director, FEMA, Region VI, Denton, Texas
SES Regional Director, FEMA, Region VII, Kansas City, Missouri
SES Regional Director, FEMA, Region VIII, Denver, Colorado
SES Regional Director, FEMA, Region IX, San Francisco, California
SES Regional Director, FEMA, Region X, Bothell, Washington

Office of Chief of Staff

SES General Counsel
SES Inspector General
SES Director of Personnel
SES Comptroller
SES Chief of Staff
SES Assistant Chief of Staff for Administration
SES Director of Security

Federal Insurance Administration

SES Deputy Administrator
SES Assistant Administrator, Office of Insurance Policy Analysis and Technical Services
SES Assistant Administrator, Office of Loss Reduction

Office of Training

SES Superintendent of National Fire Academy
SES Superintendent, Emergency Management Institute
SES Director of Training
SES Deputy Director of Training

National Preparedness Directorate

SES Deputy Associate Director
SES Assistant Associate Director, Office of Systems Engineering
SES Senior Policy Advisor
SES Assistant Associate Director, Office of Operations
SES Assistant Associate Director, Office of Mobilization Preparedness
SES Assistant Associate Director, Office of Operations Analysis and Control
SES Assistant Associate Director, Office of Information Resources Management
SES Assistant Associate Director, Office of Facilities Management
SES Deputy Assistant Associate Director, Office of Facilities Management (Chief, FOD)
SES* Senior Policy Advisor

State and Local Programs and Support Directorate

SES Deputy Associate Director
SES Assistant Associate Director, Natural and Technological Hazards
SES Assistant Associate Director, Civil Defense
SES Assistant Associate Director, Disaster Assistance Programs

External Affairs Directorate

SES Deputy Associate Director

United States Fire Administration

SES* Deputy Administrator

AGENCY: FEDERAL ENERGY REGULATORY COMMISSION

Positions:

SES Executive Director
SES Director, Office of Economic Policy
SES General Counsel
SES Deputy General Counsel
SES Chief Accountant
SES Deputy Chief Accountant
SES Director, Office of Electric Power Regulation
SES Deputy Director, Office of Electric Power Regulation
SES Director, Office of Hydropower Licensing
SES Deputy Director, Office of Hydropower Licensing
SES Director, Office of Pipeline and Producer Regulation (OPPR)
SES Secretary to the Commission
SES Chief, Administrative Law Judge

AGENCY: FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

Positions:

GS-18 Executive Secretary

AGENCY: FEDERAL HOME LOAN BANK BOARD [3]

Positions:

SES General Counsel
SES Executive Director, Federal Savings and Loan Insurance Corporation
SES Executive Director
SES Executive Director for Policy
SES Executive Director for Public Affairs
SES Executive Director for Administration and Human Resources
SES* Inspector General

AGENCY: FEDERAL HOME LOAN MORTGAGE CORPORATION

Positions:

AD President—Chief Executive Officer
AD Executive Vice President—Chief Financial Officer
AD Executive Vice President—Internal and External Affairs
AD Executive Vice President—Marketing and Sales
AD Executive Vice President—Operations
AD Senior Vice President, Legal Corporate Secretary
AD Senior Vice President—Information Services
AD* Senior Vice President—Risk Management
AD Vice President—Controller
AD Vice President—Corporate Finance
AD Vice President—Financial Research
AD Vice President—Regional Operations
AD Vice President and Treasurer
AD Regional Vice President—North Central
AD Regional Vice President—Northeast
AD Regional Vice President—Southeast
AD Regional Vice President—Southwest
AD Regional Vice President—Western
AD General Manager—Security Sales and Trading Group

AGENCY: FEDERAL LABOR RELATIONS AUTHORITY

Positions:

GS-18 Chairman, Federal Service Impasses Panel
GS-18 Members of the Federal Service Impasses Panel (6)
GS-18 Chairman, Foreign Service Impasse Disputes Panel
GS-18 Members, Foreign Service Impasse Disputes Panel (4)
GS-17 Chief Administrative Law Judge
SES Executive Director
SES Solicitor
SES Associate General Counsel
SES Chief Counsel to Chairman
SES Chief Counsel to Member (2)
SES Director, Information Resources and Research Services
SES Assistant General Counsel for Field Management
SES Assistant General Counsel for Field Management Legal Policy
SES Assistant General Counsel, Appeals
SES Regional Director, Boston
SES Regional Director, New York
SES Regional Director, Washington
SES Regional Director, Atlanta
SES Regional Director, Chicago
SES Regional Director, Dallas

[3] Office of Thrift Supervision (Department of the Treasury), portions of the Federal Deposit Insurance Corp., Resolution Trust Corporation and Federal Housing Finance Board are successor agencies pursuant to the Financial Institutions Reform, Recovery, and Enforcement Act, 103 Stat.183 (1989).

SES Regional Director, Denver
SES Regional Director, Los Angeles
SES Regional Director, San Francisco
SES Executive Director, Federal Service Impasses Panel

AGENCY: FEDERAL MARITIME COMMISSION

Positions:

SES General Counsel
SES Director, Bureau of Domestic Regulation
SES Director, Bureau of Trade Monitoring
SES Deputy General Counsel
SES Director, Bureau of Hearing Counsel
SES Secretary
SES Director, Bureau of Economic Analysis
SES Director, Bureau of Investigations
SES Counsel to the Chairman
SES Managing Director
SES Director, Bureau of Administration
SES Deputy Managing Director

AGENCY: FEDERAL MEDIATION AND CONCILIATION SERVICE

Positions:

SES Deputy Director
SES Executive Director
SES Regional Directors (2)

AGENCY: FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Positions:

SES Executive Director
SES General Counsel

AGENCY: FEDERAL RESERVE BOARD

Positions:

Staff Director, Division of Banking Supervision and Regulation
Director, Division of International Finance
Director, Division of Monetary Affairs
Director, Division of Research and Statistics
Staff Director, Office of Staff Director for Management
Executive Director, Office of Executive Director for Information Resources Management
General Counsel, Legal Division
Staff Director, Office of Staff Director for Federal Reserve Bank Activities
Director, Division of Federal Reserve Bank Operations
Director, Division of Consumer and Community Affairs
Assistant to the Board (for Public Affairs) Office of Board Members
Assistant to the Board (for Congressional Liaison) Office of Board Members
Secretary, Office of the Secretary
Director, Division of Human Resources Management
Deputy Director, Division of Monetary Affairs
Deputy Director, Division of Research and Statistics
Controller, Office of the Controller
Deputy General Counsel, Legal Division
Director, Division of Hardware and Software Systems
Director, Division of Applications and Statistical Service
Inspector General, Office of the Inspector General
Director, Division of Support Services
*Deputy Executive Director, Office of the Executive
Director for Information Resources

AGENCY: FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Positions:

SES General Counsel
SES Assistant General Counsel (2)
SES Director for Investments
GS–18 Chairman
GS–18 Member (4)
SES* Director of Automated Systems
SES* Director of Benefits and Program Analysis
SES* Director of External Affairs
SES* Director of Accounting
SES* Director of Administration

AGENCY: FEDERAL TRADE COMMISSION

Positions:

SES General Counsel
SES Deputy General Counsel
SES Director, Bureau of Competition
SES Deputy Directors, Bureau of Competition
SES Director, Bureau of Consumer Protection
SES Deputy Directors, Bureau of Consumer Protection
SES Director, Bureau of Economics
SES Deputy Directors, Bureau of Economics
SES Executive Director
SES Chief of Staff
SES* Inspector General

AGENCY: GENERAL ACCOUNTING OFFICE

Positions:

SES Director, for Planning and Reporting (RCED)
SES Assistant Comptroller General for Resources, Community and Economic Development (RCED) Programs
SES Director for Operations (RCED)
SES Assistant Comptroller General for Accounting and Financial Management (AFMD)
SES Director for Operations (AFMD)
SES Director for Planning and Reporting (AFMD)
SES Assistant Comptroller General for General Government Programs (GGD)
SES Director for Planning and Reporting (GGD)
SES Director for Operations (GGD)
SES Assistant Comptroller General for Human Resources Programs
SES Director for Planning and Reporting, HRD
SES Director for Operations, HRD
SES Deputy General Counsel
SES Director, Office of Internal Evaluation
SES Director, European Office
SES Director, Far East Office
SES Director, Office of Policy
SES Director of Personnel
SES Director, General Services and Controller
SES Deputy Director, General Services and Controller
SES Assistant Comptroller General for Program Evaluation and Methodology
SES Deputy Director, Program Evaluation and Methodology Division
SES Director, Civil Rights Office
SES General Counsel
SES Assistant Comptroller General
SES Assistant Comptroller General for Planning and Reporting
SES Assistant Comptroller General for Operations
SES Chief Economist
SES Deputy Chief Economist
SES Assistant Comptroller General for National Security and International Affairs (NSIAD) Programs
SES Director for Planning and Reporting (NSIAD)
SES Director for Operations (NSIAD)
SES Assistant Comptroller General for Information Management and Technology (IMTEC)
SES Director for Operations (IMTEC)
SES Director for Planning and Reporting (IMTEC)
SES Regional Manager, Los Angeles
SES Regional Manager, Dallas
SES Regional Manager, Philadelphia
SES Regional Manager, Atlanta
SES Regional Manager, Boston
SES Regional Manager, San Francisco
SES Regional Manager, Denver
SES Regional Manager, New York
SES Regional Manager, Detroit
SES Regional Manager, Cincinnati
SES Regional Manager, Kansas City
SES Regional Manager, Seattle
SES Regional Manager, Chicago
SES Regional Manager, Norfolk
SES Special Assistant to the Comptroller General
SES Director, Office of Publishing and Communications (OPC)
SES Director, Office of Information Resources Management (OIRM)
SES Deputy Assistant Comptroller General for Operations
SES Deputy Assistant Comptroller General for Human Resources
SES Director, Office of Public Affairs
SES* Director, GAO Training Institute
SES* Director, Office of Recruitment

AGENCY: GENERAL SERVICES ADMINISTRATION

Positions:

Office of the Administrator

SES* Executive Assistant to The Administrator
SES Deputy Administrator
SES* Chief of Staff
SES Executive Assistant to the Deputy Administrator
SES* Senior Advisor to The Administrator
SES Special Counsel for Ethics Civil Rights
SES Director, Office of Small and Disadvantaged Business Utilization
SES Executive Director, Regulatory Information Service Center
SES Assistant to the Administrator for Child Care and Development Programs

Office of Policy Analysis

SES Associate Administrator for Policy Analysis

Office of Operations and Industry Relations

SES Associate Administrator for Operations and Industry Relations

SES Deputy Associate Administrator for Operations and Industry Relations

Office of Public Affairs

SES Associate Administrator for Public Affairs

Office of Congressional Affairs

SES* Associate Administrator for Congressional Affairs

Office of Administration

SES Associate Administrator for Administration
SES Director of Personnel
SES Deputy Director of Personnel
SES* Director, Cooperative Administrative Support Program
SES Director, Office of Administrative Programs and Support
SES Director, Office of Administrative Services
SES Director, Office of Management Programs

Office of Operations

SES Associate Administrator for Operations

Office of Information Security Oversight

SES Director of Information Security Oversight

Office of the Inspector General

SES Deputy Inspector General
SES Assistant Inspector General for Administration
SES Assistant Inspector General for Auditing
SES Deputy Assistant Inspector General for Auditing
SES Assistant Inspector General for Investigations
SES Counsel to the Inspector General

Office of Acquisition Policy

SES Associate Administrator for Acquisition Policy
SES Deputy Associate Administrator for Acquisition Policy
SES Director of Acquisition Management and Contract Clearance

Office of General Counsel

SES General Counsel
SES Deputy General Counsel
SES Special Assistant to the Deputy General Counsel
SES Associate General Counsel for General Law
SES Deputy Associate General Counsel for General Law
SES Associate General Counsel for Personal Property
SES Associate General Counsel for Real Property

Office of the Comptroller

SES Comptroller
SES Deputy Comptroller for Finance
SES Deputy Comptroller for Financial Management Systems
SES Deputy Comptroller for Budget

Federal Property Resources Service

SES Commissioner, Federal Property Resources Service
SES Deputy Commissioner
SES Assistant Commissioner for Real Estate Policy and Sales
SES Assistant Commissioner for National Defense Stockpile
SES Deputy Assistant Commissioner for National Defense Stockpile

Public Buildings Service

SES Commissioner, Public Buildings Service
SES Deputy Commissioner
SES Special Assistant to the Commissioner
SES Controller, Public Buildings Service
SES Director for Real Property Information Systems
SES Assistant Commissioner for Government-Wide Real Property Policy and Oversight
SES Assistant Commissioner for Real Property Management and Safety
SES Deputy Assistant Commissioner for Real Property Management and Safety
SES Director, Facility Management Division
SES Assistant Commissioner for Physical Security and Law Enforcement
SES Assistant Commissioner for Real Property Development
SES Deputy Assistant Commissioner for Real Property Development
SES Assistant Commissioner for Procurement
SES Assistant Commissioner for Facility Planning

Information Resources Management Service

SES Commissioner, Information Resources Management Service
SES Deputy Commissioner for Telecommunications
SES Deputy Commissioner for Federal Information Resources Management
SES Assistant Commissioner for Information Resources Management Policy
SES Assistant Commissioner for Information Resources Procurement
SES Assistant Commissioner for GSA Information Systems
SES Assistant Commissioner for Network Services
SES Assistant Commissioner for Technical Assistance
SES Controller, Information Resources Management Service
SES Assistant Commissioner for Regional Telecommunications Services
SES Director, Office of Innovative Office Systems
SES* Director of Administration

Federal Supply Service

SES Commissioner, Federal Supply Service
SES Deputy Commissioner, Federal Supply Service
SES Controller, Federal Supply Service
SES Assistant Commissioner for Policy and Agency Liaison
SES Assistant Commissioner for Commodity Management
SES Assistant Commissioner for Customer Support Management
SES Assistant Commissioner for Quality and Contract Administration
SES Assistant Commissioner for Transportation Audits
SES Assistant Commissioner for National Distribution
SES* Assistant Commissioner for Strategic Business Planning

Regional Offices

SES Regional Administrator, Region 2 (New York)
SES Senior Advisor, Region 2 (New York)
SES Deputy Regional Administrator, Region 2 (New York)
SES Assistant Regional Administrator, Public Buildings Service, Region 2 (New York)
SES Assistant Regional Administrator, Federal Supply Service, Region 2 (New York)
SES Regional Administrator, Region 3 (Philadelphia)
SES Deputy Regional Administrator, Region 3 (Philadelphia)
SES Assistant Regional Administrator, Information Resources Management Service, N.E. Zone, Region 3 (Philadelphia)
SES Assistant Regional Administrator, Public Buildings Service, Region 3 (Philadelphia)
SES Regional Administrator, Region 4 (Atlanta)
SES Deputy Regional Administrator, Region 4 (Atlanta)
SES Assistant Regional Administrator, Public Buildings Service, Region 4 (Atlanta)
SES Assistant Regional Administrator, Information Resources Management Service, Region 4 (Atlanta)
SES Assistant Regional Administrator, Federal Supply Service, Region 4 (Atlanta)
SES Regional Administrator, Region 5 (Chicago)
SES Deputy Regional Administrator, Region 5 (Chicago)
SES Assistant Regional Administrator, Public Buildings Service, Region 5 (Chicago)
SES Regional Administrator, Region 6 (Kansas City)
SES Deputy Regional Administrator, Region 6 (Kansas City)
SES Assistant Regional Administrator for Administration, Region 6 (Kansas City)
SES Assistant Regional Administrator, Public Buildings Service, Region 6 (Kansas City)
SES Regional Administrator, Region 7 (Fort Worth)
SES Deputy Regional Administrator, Region 7 (Fort Worth)
SES Assistant Regional Administrator, Public Buildings Service, Region 7 (Fort Worth)
SES Assistant Regional Administrator, Federal Supply Service, Region 7 (Fort Worth)
SES Assistant Regional Administrator, Information Resources Management Service, Region 7 (Fort Worth)
SES Regional Administrator, Region 8 (Denver)
SES Senior Advisor, Region 8 (Denver)
SES Regional Administrator, Region 9 (San Francisco)
SES Deputy Regional Administrator, Region 9 (San Francisco)
SES Assistant Regional Administrator, Public Buildings Service, Region 9 (San Francisco)

SES Assistant Regional Administrator, Federal Supply Service, Region 9 (San Francisco)
SES Assistant Regional Administrator, Information Resources Management Service, Region 9 (San Francisco)
SES Regional Administrator, Region 10 (Auburn)
SES Senior Advisor, Region 10 (Auburn)
SES Regional Administrator, National Capital Region (Washington, DC)
SES Deputy Regional Administrator, National Capital Region (Washington, DC)
SES Assistant Regional Administrator for Real Estate and Development, National Capital Region (Washington, DC)
SES Assistant Regional Administrator for Operations, National Capital Region (Washington, DC)
SES Assistant Regional Administrator, Information Resources Management Service, National Capital Region (Washington, DC)
SES Director of Federal Domestic Assistance Catalog Staff, Information Resources Management Service, National Capital Region (Washington, DC)

GSA Board of Contract Appeals

GS–18 Chairman and Chief Administrative Judge of Board of Contract Appeals
GS–17 Vice Chairman, Board of Contract Appeals

AGENCY: HARRY S TRUMAN SCHOLARSHIP FOUNDATION

Positions: No section 207(d)(1)(C) designations.

AGENCY: INSTITUTE OF MUSEUM SERVICES

Positions: No section 207(d)(1)(C) designations.

AGENCY: INTER-AMERICAN FOUNDATION

Positions: No section 207(d)(1)(C) designations.

AGENCY: INTERNATIONAL JOINT COMMISSION

Positions:
SES* Commissioner (Chairman), IJC
SES* Commissioner, IJC
SES* Commissioner, IJC

AGENCY: INTERNATIONAL TRADE COMMISSION

Positions:
SES Director, Office of Operations
SES General Counsel
SES Director, Office of Industries
SES Director, Office of Investigations
SES Director, Office of Economics
SES Director, Office of Administration
SES Director, Office of Tariff Affairs and Trade Agreements
SES* Director, Office of Unfair Import Investigations

AGENCY: INTERSTATE COMMERCE COMMISSION

Positions:
SES Managing Director
SES General Counsel
SES Director, Bureau of Traffic
SES Director, Bureau of Accounts
SES Director, Office of Proceedings
SES Director, Office of Transportation Analysis (OTA)
SES Deputy General Counsel
SES Deputy General Counsel, Research and Legislation
SES Director, Office Compliance and Consumer Assistance (OCCA)
SES Associate Director, Office of Compliance and Consumer Assistance (OCCA)
SES Chief of Staff
SES Director, Office of Government and Public Affairs
SES Deputy Director, Bureau of Accounts

AGENCY: JAPAN-UNITED STATES FRIENDSHIP COMMISSION

Positions:
SES Executive Director

AGENCY: MARINE MAMMAL COMMISSION

Positions:
GS–18 Executive Director

AGENCY: MERIT SYSTEMS PROTECTION BOARD

Positions:
SES Counsel to the Chairman for Legal Policy
SES Executive Director
SES* Deputy Executive Director for Management
SES* Director, Office of Management Analysis
SES Director, Office of Policy and Evaluation
SES* Senior Advisor for Workforce Quality Assessment
SES Deputy Executive Director for Regional Operations
SES General Counsel
SES Deputy General Counsel
SES Director, Office of Administration
SES Director, Office of Appeals Counsel
SES Deputy Director, Office of Appeals Counsel
SES Associate Director for Appeals Policy
SES Regional Director, Atlanta
SES Regional Director, Chicago
SES Regional Director, Dallas
SES Regional Director, Philadelphia
SES Regional Director, San Francisco
SES Regional Director, Washington, D.C.

AGENCY: NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Positions:

Office of the Administrator

SES Associate Deputy Administrator
SES* Associate Deputy Administrator

Office of the Comptroller

SES Deputy Comptroller, NASA
SES Comptroller, NASA

Office of Commercial Programs

SES Assistant Administrator for Commercial Programs
SES Deputy Assistant Administrator for Commercial Programs

Office of Headquarters Operations

SES Assistant Administrator for Headquarters Operations
SES Deputy Assistant Administrator for Headquarters Operations

Office of Space Science and Applications

SES Associate Administrator for Space Science and Applications
SES Deputy Associate Administrator for Space Science and Applications

Office of General Counsel

SES General Counsel, NASA
SES Deputy General Counsel, NASA

Office of Procurement

SES* Assistant Administrator for Procurement
SES* Deputy Assistant Administrator for Procurement

Office of Communications

SES* Associate Administrator for Communications
SES* Deputy Associate Administrator for Communications

Office of Space Flight

SES* Associate Administrator for Space Flight
SES* Deputy Associate Administrator for Space Flight

Office of Management

SES* Associate Administrator for Management
SES* Deputy Associate Administrator for Management

Office of Safety, Reliability, Maintainability and Quality Assurance

SES* Associate Administrator for Safety, Reliability, Maintainability and Quality Assurance
SES* Deputy Associate Administrator for Safety, Reliability, Maintainability and Quality Assurance

Office of Aeronautics and Space Technology

SES* Associate Administrator for Aeronautics and Space Technology
SES* Deputy Associate Administrator for Aeronautics and Space Technology

Office of Space Station

SES Associate Administrator for Space Station
SES Deputy Associate Administrator for Space Station

Office of Space Operations

SES Associate Administrator for Space Operations
SES Deputy Associate Administrator for Space Operations

Office of Equal Opportunity Programs

SES Assistant Administrator for Equal Opportunity Programs
SES Deputy Assistant Administrator for Equal Opportunity Programs

Inspector General

SES Deputy Inspector General

SES Assistant Inspector General for Investigations
SES Assistant Inspector General for Auditing

Office of External Relations

SES Associate Administrator for External Relations
SES Deputy Associate Administrator for External Relations

Office of Exploration

SES Assistant Administrator for Exploration
SES Deputy Assistant Administrator for Exploration

Ames Research Center

SES Director, NASA Ames Research Center
SES Deputy Director, NASA Ames Research Center

Goddard Space Flight Center

SES Director, NASA Goddard Space Flight Center
SES Deputy Director, NASA Goddard Space Flight Center

Johnson Space Center

SES Director, NASA Johnson Space Center
SES Deputy Director, NASA Johnson Space Center

Kennedy Space Center

SES Director, NASA Kennedy Space Center
SES Deputy Director, NASA Kennedy Space Center

Langley Research Center

SES Director, NASA Langley Research Center
SES Deputy Director, NASA Langley Research Center

Lewis Research Center

SES Director, NASA Lewis Research Center
SES Deputy Director, NASA Lewis Research Center

Marshall Space Flight Center

SES Director, NASA Marshall Space Flight Center
SES Deputy Director, NASA Marshall Space Flight Center

Stennis Space Center

SES Director, NASA Stennis Space Center
SES Deputy Director, NASA Stennis Space Center

AGENCY: NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Positions:

SES Deputy Archivist of the United States
SES General Counsel
SES Assistant Archivist, Office of Management and Administration
SES Assistant Archivist, Office of Federal Records Centers
SES Assistant Archivist, Office of the National Archives
SES Assistant Archivist, Office of Public Programs
SES Director, Office of the Federal Register
SES Assistant Archivist, Office of Presidential Libraries
SES Assistant Archivist, Office of Records Administration

AGENCY: NATIONAL CAPITAL PLANNING COMMISSION

Positions:

SES Executive Director
SES Associate Executive Director for Regional Affairs
SES Associate Executive Director for District of Columbia Affairs
SES Assistant Executive Director for Operations

AGENCY: NATIONAL COMMISSION ON EMPLOYMENT POLICY

Positions: No Section 207(d)(l)(C) Designations.

AGENCY: NATIONAL CREDIT UNION ADMINISTRATION

Positions:

SES General Counsel
SES Director, Office of Examination and Insurance
SES Regional Directors (6)
SES Deputy General Counsel
SES Chief Economist
SES President, CLF
SES Executive Director
SES Deputy Director, Office of Examination and Insurance
SES* Deputy Executive Director
SES* Director, Office of Information Systems

AGENCY: NATIONAL ENDOWMENT FOR THE ARTS

Positions:

SES Director of Policy, Planning, Research and Budget
SES Deputy Chairman for Management
SES Deputy Chairman for Programs
SES Associate Deputy Chairman for Programs and Director of Program Coordination
GS-17* Executive Director, President's Committee on the Arts and the Humanities (PCA&H)

AGENCY: NATIONAL ENDOWMENT FOR THE HUMANITIES

Positions:

SES Deputy Chairman (Programs and Administration)
SES Deputy Chairman (Policy)
SES General Counsel
SES Assistant Chairman for Administration
SES Assistant Chairman for Programs
SES Director, Division of Research Programs
SES Director, Division of General Programs
SES Director, Office of Planning and Budget
SES* Director, Division of State Programs
SES* Director, Office of Challenge Grants
SES* Director, Division of Fellowships & Seminars
SES* Director, Division of Education Programs
SES* Communications Policy Director, Office of Publications and Public Affairs

AGENCY: NATIONAL LABOR RELATIONS BOARD

Positions:

SES Solicitor
SES Executive Secretary
SES Deputy General Counsel
SES Associate General Counsel, Division of Enforcement Litigation
SES* Inspector General, Office of the Chairman, Office of the General Counsel

AGENCY: NATIONAL MEDIATION BOARD

Positions:

SES Executive Director

AGENCY: NATIONAL SCIENCE FOUNDATION

Positions:

SES* Inspector General
SES Senior Science Advisor
SES Executive Officer, National Science Board
SES Director, Office of Audit and Oversight
SES Director, Office of Legislative and Public Affairs
SES Controller, National Science Foundation
SES General Counsel
SES Director, Office of Information Systems
SES Director, Office of Science and Technology Centers Development
SES* Director, Research Facilities Office
SES Assistant Director for Computer and Information Science and Engineering
SES Assistant Director for Science and Engineering Education
SES Assistant Director for Scientific, Technological and International Affairs
SES Assistant Director for Administration
SES Deputy Assistant Director for Engineering
SES Assistant Director for Biological, Behavioral and Social Sciences
SES Assistant Director for Engineering
SES Assistant Director for Geosciences
SES Assistant Director for Mathematical and Physical Sciences

AGENCY: NATIONAL TRANSPORTATION SAFETY BOARD

Positions:

SES Managing Director
SES Deputy Managing Director
SES General Counsel
SES Director, Bureau of Accident Investigation
SES Director, Bureau of Technology
SES Director, Bureau of Administration
SES Director, Bureau of Safety Programs
SES Director, Bureau of Field Operations

AGENCY: NUCLEAR REGULATORY COMMISSION

Positions:

Office of the Commission

SES Executive Assistant to the Chairman

Advisory Committee on Reactor Safeguards

SES Executive Director, ACRS
SES Assistant Executive Director for Project Review, ACRS

STS* Assistant Director for Technical Support, ACRS

Office of the Secretary

SES Secretary of the Commission
SES Assistant Secretary of the Commission

Office of the Inspector General

SES* Assistant Inspector General for Investigations
SES* Assistant Inspector General for Audits

Office of Investigations

SES Director, Office of Investigations
SES Deputy Director, Office of Investigations

Atomic Safety and Licensing Board Panel

SES Chief Administrative Judge
SES Deputy Chief Administrative Judge (Executive)
GG–17 Deputy Chief Administrative Judge (Technical)

Atomic Safety and Licensing Appeal Panel

SES Chairman, ASLAP
GG–17 Administrative Judge (Legal) ASLAP (2)
GG–17 Administrative Judge (Technical) (1)

Office of the General Counsel

SES General Counsel
SES Solicitor
SES Deputy General Counsel for Licensing and Regulation
SES Assistant General Counsel for Adjudications and Opinions
SES Deputy Assistant General Counsel for Adjudications and Opinions/Legislative Counsel
SES Assistant General Counsel for Rulemaking and Fuel Cycle
SES Deputy General Counsel for Hearings, Enforcement, and Administration
SES* Special Deputy Assistant General Counsel
SES Assistant General Counsel for Administration
SES* Deputy Assistant General Counsel for Administration/Special Counsel for Administrative Litigation
SES Assistant General Counsel for Hearings and Enforcement
SES Deputy Assistant General Counsel, Enforcement Branch
SES Deputy Assistant General Counsel, Reactor Licensing Branch
SES Deputy Assistant General Counsel, Materials, Antitrust, and Special Proceedings Branch
GG–17 Special Assistant for International Affairs

Office of Governmental and Public Affairs

SES Director, Office of Governmental and Public Affairs
SES Director, Congressional Affairs
SES Director, Office of State Programs
SES Deputy Director, State, Local and Indian Tribe Programs
SES* A/D for State Agreements Program
SES Director, International Programs
SES A/D for International Policy and Reactor Safety Cooperation
SES A/D for International Security Exports and Materials Safety
SES Director, Public Affairs
SES Deputy Director, Public Affairs

Executive Director for Operations

SES Executive Director for Operations
SES Deputy Executive Director for Nuclear Material Safety, Safeguards, and Operations Support
SES Assistant for Operations
SES Deputy Executive Director for Nuclear Reactor Regulations, Regional Operations, and Research

Office of Enforcement

SES Director

Office of Administration

SES Director, Office of Administration
SES Director, Division of Contracts and Property Management

Office of Information Resources Management

SES Director, Office of Information Resources Management
SES Executive Assistant to the Director

Office of the Controller

SES Controller
SES Deputy Controller

Office of Personnel

SES Director, Office of Personnel
SES Deputy Director, Office of Personnel

Office of Nuclear Reactor Regulation

SES Director, Office of Nuclear Reactor Regulation
SES Deputy Director, Office of Nuclear Reactor Regulation
STS Special Assistant for Policy Development
SES Director, Program Management, Policy Development, and Analysis Staff
SES Chief, Planning, Program and Management Support Branch
SES Chief, Policy Development and Technical Support Branch
SES Chief, Inspection, Licensing, and Research Integration Branch
SES Associate Director for Projects
SES Director, Division of Reactor Projects—I/II
SES Assistant Director for Region I Reactors
SES Project Director, Directorate I–1
SES Project Director, Directorate I–2
SES Project Director, Directorate I–3
SES Project Director, Directorate I–4
SES Assistant Director for Region II Reactors
SES Project Director, Directorate II–1
SES Project Director, Directorate II–2
SES Project Director, Directorate II–3
SES Director, Division of Reactor Projects—III/IV/V and Special Projects
SES Assistant Director for Region III and V Reactors
SES Project Director, Directorate III–1
SES Project Director, Directorate III–2
SES Project Director, Directorate III–3
SES Project Director, Directorate V
SES Assistant Director for Region IV Reactors and Special Projects
SES Project Director, Directorate IV
SES Project Director, Standardization and Non-Power Reactor Project Directorate
SES Associate Director for Inspection and Technical Assessment
SES Director, Division of Engineering and System Technology
SES Special Assistant, Division of Engineering and System Technology
SES Assistant Director for Engineering
SES Chief, Materials Engineering Branch
SES Chief, Mechanical Engineering Branch
SES Chief, Structural and Geosciences Branch
SES Chief, Chemical Engineering Branch
SES Assistant Director for Systems
SES Chief, Instrumentation and Control Systems Branch
SES Chief, Electrical Systems Branch
SES Chief, Plant Systems Branch
SES Chief, Reactor Systems Branch
SES Director, Division of Operational Events Assessment
SES Chief, Events Assessment Branch
SES Chief, Generic Communications Branch
SES Chief, Technical Specifications Branch
SES Director, Division of Reactor Inspection and Safeguards
SES Deputy Director, Division of Reactor Inspection and Safeguards
STS Senior Program Coordinator
STS* Special Technical Assistant
SES Chief, Vendor Inspection Branch
SES Chief, Safeguards Branch
SES Chief, Special Inspections Branch
SES Director, Division of Radiation Protection and Emergency Preparedness
SES Chief, Emergency Preparedness Branch
SES Chief, Risk Applications Branch
SES Chief, Radiation Protection Branch
SES Director, Division of Licensee Performance and Quality Evaluation
SES Deputy Director, Division of Licensee Performance and Quality Evaluation
SES Chief, Performance and Quality Evaluation Branch
SES Chief, Human Factors Assessment Branch
SES Chief, Operator Licensing Branch
SES Associate Director for Special Projects
SES* Special Assistant to Associate Director
SES Director, TVA Projects Division
SES Director, Comanche Peak Project Division
SES Deputy Director, Comanche Peak Project Division
SES A/D for Comanche Peak Inspection Programs

Office of Nuclear Regulatory Research

SES Director, Nuclear Regulatory Research
SES Deputy Director for Research
SES Deputy Director for Generic Issue Resolution
SES Director, Division of Engineering
SES Deputy Director, Division of Engineering
SES Chief, Materials Engineering Branch
SES Chief, Electrical and Mechanical Engineering Branch
SES Chief, Structural and Seismic Engineering Branch
SES Chief, Waste Management Branch
SES Director, Division of Regulatory Applications
SES Deputy Director, Division of Regulatory Applications
SES Chief, Regulatory Development Branch

SES Chief, Radiation Protection and Health Effects Branch
SES Chief, Advanced Reactors and Generic Issues Branch
SES Dir., Div. of Safety Issue Resolution
SES Deputy Director, Division of Safety Issue Resolution
SES Special Assistant for Safety Issue Resolution
SES Chief, Engineering Issues Branch
SES Chief, Severe Accident Issues Branch
SES Chief, Reactor and Plant Safety Issues Branch
SES Dir., Div. of Systems Research
SES Deputy Director, Division of Systems Research
SES Special Assistant
SES Chief, Reactor and Plant Systems Branch
SES Chief, Human Factors Branch
SES Chief, Probabilistic Risk Analysis Branch
SES Chief, Accident Evaluation Branch

Office of Nuclear Material Safety and Safeguards

SES Director, NMSS
SES Deputy Director, NMSS
SES Director, Program Management, Policy Development and Analysis Staff
SES Director, Special Issues Group
SES Assistant Director, Special Issues Group
SES Director, Division of Safeguards and Transportation
SES Deputy Director, Division of Safeguards and Transportation
SES* Chief, Domestic Safeguards and Regional Oversight Branch
SES* Chief, International Safeguards Branch
SES Chief, Transportation Branch
SES Director, Division of Industrial and Medical Nuclear Safety
SES Deputy Director, Division of Industrial and Medical Nuclear Safety
SES Chief, Operations Branch
SES Chief, Medical, Academic, and Commercial Use Safety Branch
SES Chief, Fuel Cycle Safety Branch
SES Director, Division of High-Level Waste Management
SES Deputy Director, Division of High-Level Waste Management
SES* Chief, Engineering and CNWRA Branch
SES* Project Director, Repository Licensing and Quality Assurance Project Directorate
SES* Chief, Geosciences and Systems Performance Branch
SES Director, Division of LLW Management and Decommissioning
SES Deputy Director, Division of LLW Management and Decommissioning
SES Chief, Operations Branch
SES Chief, Technical Branch
SES Chief, Regulatory Branch

Regional Offices

SES Regional Administrator, Region I
SES Deputy Regional Administrator, Region I
SES Director, Division of Reactor Projects, Region I
SES Deputy Director, Division of Reactor Projects, Region I
SES Director, Division of Reactor Safety, Region I
SES Deputy Director, Division of Reactor Safety, Region I
SES Director, Division of Radiation Safety and Safeguards, Region I
SES Regional Administrator, Region II
SES Deputy Regional Administrator, Region II
SES Director, Division of Radiation Safety and Safeguards, Region II
SES Director, Division of Reactor Safety, Region II
SES Deputy Director, Division of Reactor Safety, Region II
SES Director, Division of Reactor Projects, Region II
SES Deputy Director, Division of Reactor Projects, Region II
SES Regional Administrator, Region III
SES Deputy Regional Administrator, Region III
SES Director, Division of Reactor Projects, Region III
SES Deputy Director, Division of Reactor Projects, Region III
SES Director, Division of Radiation Safety and Safeguards, Region III
SES Director, Division of Reactor Safety, Region III
SES Deputy Director, Division of Reactor Safety, Region III
SES Regional Administrator, Region IV
SES Director, Division of Radiation Safety and Safeguards, Region IV
SES Deputy Director, Division of Radiation Safety and Safeguards, Region IV
SES Director, Uranium Recovery Field Office, Region IV
SES Deputy Regional Administrator, Region IV
SES Director, Division of Reactor Projects, Region IV
SES Deputy Director, Division of Reactor Projects, Region IV
SES Director, Division of Reactor Safety, Region IV
SES Regional Administrator, Region V
SES Deputy Regional Administrator, Region V
SES Director, Division of Reactor Safety and Projects, Region V
SES Deputy Director, Division of Reactor Safety and Projects, Region V
SES Director, Division of Radiation Safety and Safeguards, Region V

Office for Analysis and Evaluation of Operational Data

SES Director, Office for Analysis and Evaluation of Operational Data
SES Deputy Director, Office for Analysis and Evaluation of Operational Data
SES Director, Division of Operational Assessment
SES Chief, Diagnostic Evaluation and Incident Investigation Branch
SES Chief, Incident Response Branch
SES Director, NRC Technical Training Center
SES Director, Division of Safety Programs
SES Chief, Trends and Patterns Analysis Branch
SES Chief, Reactor Operations Analysis Branch

Office of Small and Disadvantaged Business Utilization and Civil Rights

SES Director, Office of Small and Disadvantaged Business Utilization and Civil Rights

AGENCY: OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

Positions:

SES Executive Director
SES General Counsel

AGENCY: OFFICE OF GOVERNMENT ETHICS

Positions:

SES Deputy Director
SES General Counsel
SES* Deputy General Counsel

AGENCY: OFFICE OF PERSONNEL MANAGEMENT

Positions:

SES Counselor to the Director, Office of the Director
SES Chief of Staff, Office of the Director
SES* Policy Advisor to the Director, Office of the Director
SES* Communications Advisor to the Director, Office of the Director
SES Associate Deputy Director for Planning and Budget, Office of the Deputy Director
SES* Director, Federal Quality Institute
SES* Director, Office of Combined Federal Campaign Operations
SES Director, Federal Executive Institute
SES* Assistant Director for Special Projects, Federal Executive Institute
SES Regional Director, Atlanta Region
SES Regional Director, Chicago Region
SES Regional Director, Dallas Region
SES Regional Director, Philadelphia Region
SES Regional Director, San Francisco Region
SES Director, Office of Congressional Relations
SES* Deputy Director, Office of Congressional Relations
SES Director, Office of Executive Administration
SES Director, Office of Executive Personnel
SES General Counsel, Office of the General Counsel
SES Deputy General Counsel, Office of the General Counsel
SES Associate General Counsel, Office of the General Counsel
SES Principal Assistant General Counsel, Office of the General Counsel
SES Director, Office of International Affairs
SES Director, Office of Public Affairs
SES* Principal Deputy Director, Office of Public Affairs
SES Chairman, Federal Prevailing Rate Advisory Committee
SES Associate Director for Administration, Administration Group
SES Deputy Associate Director for Administration, Administration Group
SES Assistant Director for Personnel and EEO, Administration Group
SES Assistant Director for Finance and Administrative Services, Administration Group

SES Assistant Director for Information Management, Administration Group
SES Executive for ADP Operations, Administration Group
SES Associate Director for Career Entry and Employee Development, Career Entry and Employee Development Group
SES Deputy Associate Director for Career Entry, Career Entry and Employee Development Group
SES Assistant Director for Staffing Policy and Operations, Career Entry and Employee Development Group
SES Assistant Director for Personnel Research and Development, Career Entry and Employee Development Group
SES Director, Staffing Service Center, Career Entry and Employee Development Group
SES Assistant Director for Affirmative Recruiting and Employment, Career Entry and Employee Development Group
SES Assistant Director for Employee and Executive Development, Career Entry and Employee Development Group
SES Assistant Director for Administrative Law Judges, Career Entry and Employee Development Group
SES Associate Director for Personnel Systems and Oversight, Personnel Systems and Oversight Group
SES Deputy Associate Director for Personnel Systems and Oversight, Personnel Systems and Oversight Group
SES Assistant Director for Pay and Performance, Personnel Systems and Oversight Group
SES Assistant Director for Employee and Labor Relations, Personnel Systems and Oversight Group
SES Assistant Director for Agency Compliance and Evaluation, Personnel Systems and Oversight Group
SES Assistant Director for Classification, Personnel Systems and Oversight Group
SES Assistant Director for Systems Innovation and Simplification, Personnel Systems and Oversight Group
SES Associate Director for Retirement and Insurance, Retirement and Insurance Group
SES Deputy Associate Director for Retirement and Insurance, Retirement and Insurance Group
SES Director, Office of Actuaries, Retirement and Insurance Group
SES Assistant Director for Insurance Programs, Retirement and Insurance Group
SES Assistant Director for Retirement Programs, Retirement and Insurance Group
SES Assistant Director for Financial Control and Management, Retirement and Insurance Group
SES Assistant Director for Retirement and Insurance Policy, Retirement and Insurance Group
SES Associate Director for Investigations, Investigations Group
SES Deputy Associate Director for Investigations, Investigations Group
SES Assistant Director for Federal Investigations, Investigations Group
SES Director, Washington Area Service Center
SES Deputy Director, Washington Area Service Center
SES Assistant Director for Washington Examining Services, Washington Area Service Center
SES Assistant Director for Washington Training and Development Services, Washington Area Service Center

President's Commission on Executive Exchange

GS–17 Executive Director

AGENCY: OFFICE OF SPECIAL COUNSEL

Positions:

SES Deputy Special Counsel
SES Associate Special Counsel for Investigation
SES Associate Special Counsel for Prosecution
SES Director of Operations Management
SES* Deputy Associate Special Counsel for Prosecution

AGENCY: OVERSEAS PRIVATE INVESTMENT CORPORATION

Positions: No Section 207(d)(1)(c) Designations

AGENCY: PANAMA CANAL COMMISSION

Positions:

DA Deputy Administrator

AGENCY: PEACE CORPS

Positions:

FE–2 General Counsel, Peace Corps
FE–2 Associate Director, International Operations, Peace Corps
FE–2 Chief of Staff, Peace Corps
FE–2 Associate Director, Volunteer Recruitment and Selection, Peace Corps
FE–2 Associate Director, Management, Peace Corps

AGENCY: PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

Positions:

AD Executive Director of the Corporation
AD Assistant Director—Legal
AD Assistant Director—Development
AD All Members of the Board of Directors (23)

AGENCY: PENSION BENEFIT GUARANTY CORPORATION

Positions:

GS–17 Principal Deputy Executive Director
GS–17 General Counsel
GS–17 Director, Insurance Operations Department
GS–17 Deputy Executive Director for Management and Operations

AGENCY: POSTAL RATE COMMISSION

Positions:

AD–18 General Counsel of the Commission
AD–18 Director of the Office of Technical Analysis and Planning
AD–18 Director of Office of Consumer Advocate

AGENCY: RAILROAD RETIREMENT BOARD

Positions:

SES Director of Legal and Administrative Services/General Counsel
SES Director of Program Analysis
SES Director of Field Service
SES Director of Retirement Claims
SES Director of Unemployment and Sickness Insurance
SES Chief Actuary
SES Director of Data Processing
SES Chief Financial Officer
SES Assistant Inspector General for Auditing
SES Chief Executive Officer
SES Assistant Inspector General for Investigations
SES Deputy General Counsel

AGENCY: SECURITIES AND EXCHANGE COMMISSION

Positions:

SES General Counsel
SES Director, Division of Corporation Finance
SES Deputy Director, Division of Corporation Finance
SES Director, Division of Enforcement
SES Director, Division of Investment Management
SES Director, Division of Market Regulation
SES Chief Accountant of the Commission
SES Deputy Chief Accountant
SES Executive Director
SES Regional Administrator, New York
SES* Deputy Regional Administrator, New York
SES Regional Administrator, Chicago
SES* Deputy Regional Administrator, Chicago
SES Regional Administrator, Los Angeles

AGENCY: SELECTIVE SERVICE SYSTEM

Positions:

SES Deputy Director of the Agency
SES Associate Director, Information Management

AGENCY: SMALL BUSINESS ADMINISTRATION

Positions:

SES Deputy Administrator
SES Regional Administrator, Region I
SES Regional Administrator, Region II
SES Regional Administrator, Region III
SES Regional Administrator, Region IV
SES Regional Administrator, Region V
SES Regional Administrator, Region VI
SES Regional Administrator, Region VII
SES Regional Administrator, Region VIII
SES Regional Administrator, Region IX
SES Regional Administrator, Region X
SES General Counsel
SES Associate Administrator for Business Development
SES Associate Administrator for Finance and Investment
SES Associate Administrator for Minority Small Business and Capital Ownership Development
SES Associate Administrator for Procurement Assistance
SES Associate Deputy Administrator for Management and Administration
SES Associate Deputy Administrator for Special Programs
SES Assistant Administrator for Administration

SES Deputy Inspector General and Counsel to the Inspector General
SES* Assistant Administrator for Innovation, Research and Technology
SES Assistant Inspector General for Audits
SES Assistant Inspector General for Investigations
SES Director, Equal Employment Opportunity and Compliance
SES Director of Personnel
SES Director of Program Analysis and Review
SES Comptroller
SES* Chief of Staff
SES* Director of Prime Contracts
SES* Director of Procurement and Liaison
SES* Special Assistant to the Associate Administrator for Finance and Investment

AGENCY: TENNESSEE VALLEY AUTHORITY

Positions:

VP Executive Vice President and Chief Operating Officer
VP Inspector General
VP Vice President and General Counsel
VP Vice President, Human Resources
VP Vice President, Governmental & Public Affairs
VP Vice President and Chief Financial Officer
VP* Vice President, Corporate Strategy & Operations Planning
VP* Vice President, Information Services
VP Vice President, Services
VP Senior Vice President, Nuclear Power
VP* Vice President, Nuclear Power Production
VP* Vice President, Nuclear Engineering
VP* Vice President, Nuclear Assurance and Services
VP* Vice President and Nuclear Technical Director
VP* Vice President, Nuclear Business Operations
VP* Vice President, New Projects
VP Senior Vice President, Power
VP* Vice President, Power Production
VP* Vice President, Transmission & Customer Services
VP Vice President, Power Engineering & Construction
VP* Vice President, Business Operations (Power)
VP Senior Vice President, Resource Development
VP* Vice President, Business Operations (Resource Development)
VP* Vice President, National Fertilizer Development Center
VP* Vice President, River Basin Operations

AGENCY: UNITED STATES ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Positions: No Section 207(d)(1)(C) Designations

AGENCY: UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY

Positions:

SES Counselor
0-7/0-8 Senior Military Adviser, D
SFS U.S. Representative to CD
SES Administrative Director
SES General Counsel
SFS Director, Office of Public Affairs
SES Deputy Assistant Director, SP
SES Deputy Assistant Director, NWC
SES Director, Office of Congressional Affairs
SES* Senior Policy Advisor
SES* Principal Deputy, OSIA

AGENCY: UNITED STATES INFORMATION AGENCY

Positions:

SES Director, Private Sector Committees
SFS Executive Assistant to the Director
SFS Executive Assistant to the Deputy Director
SES Senior Advisor to the Director
SES Assistant Director (Congressional Liaison)
SFS* Executive Assistant
SES Director, Office of Public Liaison
SFS Counselor
SES General Counsel
SES Deputy General Counsel

Office of Inspector General

SES Assistant Inspector General for Inspections
SES Assistant Inspector General for Audits

The Bureau of Educational and Cultural Affairs

SFS Deputy Associate Director
SFS Director, Office of Cultural Centers and Resources
SFS Deputy Office Director (Cultural Centers)
SES Director, Office of Academic Programs
SFS Deputy Director, Office of Academic Programs
SES Director, Office of International Visitors
SFS* Director, International Youth Exchange Staff
SFS* Director, Office of Arts America
SFS Deputy Director, Office of International Visitors
SES Director, Office of Private Sector Programs
SFS Deputy Director, Office of Private Sector Programs
SES Executive Officer

The Voice of America

SFS Deputy Director
SES Director, Office of Programs
SES Deputy Director, Office of Programs
SES Director, Office of Administration
SES Director for News and English Broadcasts
SES Director of Engineering and Technical Operations
SES Director, Office of Personnel
SES Director, Radio Marti
SES Director of Broadcast Operations
SES Director of Policy
SES Director, VOA Europe

The Bureau of Management

SFS Deputy Associate Director
SES* Director, Office of Technology
GS-17* Director, Office for Administration
SES* Deputy Director, Office for Administration
SES Director, Office of Comptroller Services
SES Director, Office of Personnel
SFS Director, Office of Equal Employment Opportunity and Civil Rights
SES Director, Office of Contracts
SES Director, Office of Security

Office of Research

SES* Director, Office of Research
SFS* Deputy Director, Office of Research

The Bureau of Programs

SES Director of Exhibits Service
SFS Director of Press and Publication Services
SFS* Deputy Director, Press and Publication Services
SES Deputy Associate Director
SFS* Chief, Fast Guidance
SES Executive Officer
SFS* Chief, Media Reaction
SES Director, Office of Program Coordination and Development
SFS* Deputy Director, Office of Program Coordination and Development
SFS Director, Foreign Press Centers
SFS* Chief Policy Guidance
SFS Deputy Chief Policy Guidance

Television and Film Service

SES Director of Television and Film Service
SES* Director, Office of Management and Program Services
SES Deputy Director, Television and Film Service
SES* Worldnet Production Manager
SES* Mopix TV Facilities Manager
SFS* Mopix TV Planning Manager

Area Offices

SFS Director of African Affairs
SFS Deputy Director, African Affairs
SFS Director of European Affairs
SFS Deputy Director of European Affairs (2)
SFS Director of East Asian and Pacific Affairs
SFS Deputy Director of East Asian and Pacific Affairs
SFS Director of American Republics Affairs
SFS Deputy Director of American Republics Affairs
SFS Director of North African, Near Eastern and South Asian Affairs
SFS Deputy Director of North African and Near Eastern and South Asian Affairs
SFS Public Affairs Officer of Class A Posts (26)

AGENCY: U.S. INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Positions:

Agency for International Development

Office of the Administrator

SES Counselor to the Agency

Office of the General Counsel (GC)

SES General Counsel
SES Deputy General Counsel

Office of Legislative Affairs (LEG)

SES Director
SES* Deputy Director

Bureau of External Affairs (XA)

SES Deputy Assistant Administrator (PML)

Office of U.S. Foreign Disaster Assistance (OFDA)

SES Coordinator, Foreign Disaster Relief

Office of International Training (OIT)

SES* Director

Bureau of Management

Office of the Assistant to the Administrator for Management (AA/M)

SES Assistant to the Administrator for Management
SES Deputy Assistant to the Administrator for Management

Bureau for Personnel and Financial Management (PFM)

Office of the Assistant to the Administrator for Personnel and Financial Management (AA/PFM)

SFS* Assistant to the Administrator for Personnel and Financial Management

Office of Personnel Management (PFM/PM)

SES Director

Office of Financial Management (PFM/FM)

SES Controller

Directorate for Program and Management Services (M/SER)

Office of the Associate Assistant to the Administrator

SES Associate Assistant to the Administrator for Management (M/AAA/SER)

Office of Information Resources Management (M/SER/IRM)

SES Director

Office of Management Operations (M/SER/MO)

SES Director

Office of Procurement (M/SER/OP)

SFS Director

Executive Office of Management Support (M/SER/MS)

Office of the Director

SFS Director

Office of Equal Opportunity Programs (EOP)

SES Director

Bureau for Food for Peace and Voluntary Assistance (FVA)

Office of the Assistant Administrator (AA/FVA)

SFS Deputy Assistant Administrator

Office of Program, Policy and Management (PPM)

SFS Director, Program Policy and Evaluation

Office of Private and Voluntary Cooperation (PVC)

SES Director, Private and Voluntary Cooperation

Office of Food for Peace (FFP)

SFS Coordinator, Food for Peace

Office of the Inspector General (IG)

SES Inspector General
SES Deputy Inspector General

Office of Investigations (IG/I)

SES Assistant Inspector General for Investigations

Office of Security (IG/SEC)

SES Assistant Inspector General for Security

Bureau for Private Enterprise (PRE)

Office of the Assistant Administrator (AA/PRE)

SFS Deputy Assistant Administrator (2)

Office of Housing and Urban Programs (H)

SES Director

Bureau for Program and Policy Coordination (PPC)

Office of the Assistant Administrator (AA/PPC)

SFS Deputy Assistant Administrator
SFS Deputy Assistant Administrator

Office of Planning and Budgeting (PPC/PB)

SFS Associate Assistant Administrator

Office of Economic Affairs (PPC/EA)

SFS Associate Assistant Administrator

Center for Development Information and Evaluation (PPC/CDIE)

SFS Associate Assistant Administrator

Office of Donor Coordination (PPC/DC)

SES Director
SFS* Development Coordination Officer

Office of Women in Development (PPC/WID)

SES* Director

Office of International Development (State) (PPC/DS)

SES* Director

Bureau for Science and Technology (S&T)

Office of the Senior Assistant Administrator

SES Deputy Assistant Administrator for Research
SFS Deputy Assistant Administrator for Technical Cooperation

Office of Program (ST/PO)

SFS Director

Agency Directorate for Food and Agriculture (ST/FA)

SES Agency Director for Food and Agriculture

Office of Agriculture (ST/AGR)

SES Director

Office of Nutrition (ST/N)

SES Director

Agency Directorate for Energy and Natural Resources (ST/EN)

SES Agency Director for Energy and Natural Resources

Office of Forestry, Environment and Natural Resources (ST/FNR)

SES Director

Office of Energy (ST/EY)

SES Director

Agency Directorate for Human Resources (ST/HR)

SES Agency Director for Human Resources

Office of Rural and Institutional Development (ST/RD)

SFS Director

Office of Education (ST/ED)

SES Director

Agency Directorate for Health (ST/H)

SES Agency Director for Health

Agency Directorate for Population (ST/POP)

SES Agency Director for Population

Bureau for Africa (AFR)

Office of the Administrator (AA/AFR)

SFS Deputy Assistant Administrator
SFS Deputy Assistant Administrator

Office of Development Planning (AFR/DP)

SFS Director

Office of Technical Resources (AFR/TR)

SFS Director

Office of Project Development (AFR/PD)

SFS Director

Office of Eastern Africa Affairs (AFR/EA)

SFS Director

Office of Central and Coastal and West African Affairs (AFR/CCWA)

SFS Director

Office of Sahel and West Africa Affairs (AFR/SWA)

SFS Director

Office of Southern Africa Affairs (AFR/SA)

SFS Director

Bureau for Asia and Near East (ANE)

Office of the Assistant Administrator (AA/ANE)

SFS Deputy Assistant Administrator (2)

Coordinator for Afghan Resettlement and Reconstruction (ANE/AF)

SFS* Director

Office of Development Planning (ANE/DP)

SFS Director

Office of Project Development (ANE/PD)

SFS Director

Office of South Asian Affairs (ANE/SA)

SFS Director

Office of Egypt and European Affairs (ANE/NE/EE)

SFS Director

Office of East Asian Affairs (ANE/EA)

SFS Director

Bureau for Latin American and Caribbean (AA/LAC)

Office of the Assistant Administrator (AA/LAC)

SFS Deputy Assistant Administrator

Office of Development Programs (LAC/DP)

SFS Director

Office of Development Resources (LAC/DR)

SFS Director

Office of South American and Mexican Affairs (LAC/SAM)

SFS Director

Office of Caribbean Affairs (LAC/CAR)

SFS Director

Office of Central American and Panamanian Affairs (LAC/CAP)

SFS Director

Missions

Africa

SFS Director, Botswana
SFS Director, Burkina Faso
SFS AID Representative, Burundi
SFS Director, Cameroon
SFS AID Representative, Cape Verde
SFS AID Representative, Chad
SFS AID Representative, Ethiopia
SFS AID Representative, Gambia
SFS AID Representative, Ghana
SFS Director, Guinea
SFS AID Representative, Guinea Bissau
SFS Director, Kenya
SFS Deputy Mission Director, Liberia
SFS Director, Lesotho
SFS Director, Madagascar
SFS Director, Malawi
SFS Director, Mali
SFS AID Respresentative, Mauritania
SFS Director, Mozambique
SFS Director, Niger
SFS Director, Rwanda
SFS Director, Senegal
SFS Director, Somolia
SFS Director, Republic of South Africa
SFS Director, Sudan
SFS Director, Swaziland
SFS Director, Tanzania
SFS AID Representative, Togo
SFS Director, Uganda
SFS Director, Zambia
SFS Director, Zimbabwe
SFS Deputy Mission Director, Zaire
SFS Director, Regional Economic Development Services Office, West Africa
SFS Director, Regional Economic Development Services Office, East Africa

Missions

Asia/Near East

SFS AID Representative, Afghanistan
SFS* Deputy AID Representative, Afghanistan
SFS Deputy Mission Director, Bangladesh
SFS AID Representative, Burma
SFS* AID Representative, ASEAN

Egypt

SFS Deputy Mission Director
SFS* Associate Mission Director, Office of the Director
SFS Associate Mission Director, Office of Legal Advisor
SFS Associate Mission Director, Office of Financial Management
SFS Associate Mission Director, Program Development and Support
SFS Associate Mission Director for Industry and Support
SFS Associate Mission Director for Development Resources
SFS Associate Mission Director for Agriculture
SFS Associate Mission Director for Human Resources and Development Cooperation (HRDC)

Other Missions

SFS Deputy Mission Director, India
SFS Deputy Mission Director, Indonesia
SFS AID Representative, Lebanon
SFS Director, Morocco
SFS Director, Nepal
SFS AID Representative, Oman
SFS Deputy Mission Director, Pakistan
SFS Deputy Mission Director, Philippines
SFS Director, Sri-Lanka
SFS Director, Thailand
SFS Director, Tunisia
SFS Director, Yemen
SFS Director, South Pacific

Missions

Latin America and the Caribbean

SFS* AID Representative, Belize
SFS Director, Bolivia
SFS AID Representative, Brazil
SFS* AID Representative, Chile
SFS AID Representative, Colombia
SFS Director, Regional Development Office, Caribbean
SFS Director, Costa Rica
SFS Deputy Mission Director, Dominican Republic
SFS Director, Ecuador
SFS Director, El Salvador
SFS Director, Guatemala
SFS Director, Regional Office for Central American Programs (ROCAP)
SFS Director, Haiti
SFS Director, Honduras
SFS Director, Jamaica
SFS AID Representative, Mexico
SFS Deputy Mission Director, Peru
SFS AID Representative, Uruguay

Trade and Development Program (TDP)

SFS Director

AGENCY: U.S. POSTAL SERVICE

Positions:

AD–17 Associate Judicial Officer
AD Field Division General Manager/Postmaster (Division 1)
AD Office Director, Headquarters, Rates
AD Office Director, Headquarters, Budget and Cost
AD Office Director, Headquarters, Classification and Rates Administration
AD Office Director, Headquarters, Accounting
AD Office Director, Headquarters, Transportation and International Services
AD Office Director, Headquarters, Maintenance Management
AD Office Director, Headquarters, Operational Requirements
AD Office Director, Headquarters, Real Estate
AD Office Director, Headquarters, Facilities Planning and Management
AD Office Director, Headquarters, Procurement
AD Office Director, Headquarters, Design and Construction
AD Office Director, Headquarters, Stamps and Philatelic Marketing
AD Office Director, Headquarters, Product Marketing
AD Office Director, Headquarters, Market Research Management
AD Office Director, Headquarters, Field Marketing
AD Office Director, Headquarters, Operation Research and Systems Requirements
AD Office Director, Headquarters, Data Processing
AD Office Director, Headquarters, Communications and Technology
AD Office Director, Headquarters, Systems Development
AD Office Director, Headquarters, Contract Administration
AD Office Director, Headquarters, Collective Bargaining
AD Office Director, Headquarters, Training and Development
AD Office Director, Headquarters, Safety and Health
AD Office Director, Headquarters, Selection and Evaluation
AD Office Director, Headquarters, Organizational Requirements
AD Associate General Counsel
AD Regional Director, Marketing and Communications
AD Regional Director, Human Resources
AD Regional Director, Finance
AD Regional Director, Operations Support
AD Director, Facilities Service Center
AD Executive Director, Engineering Support Center
AD Executive Director, Office of Equal Employment Opportunity
AD Executive Director, Office of Employee Involvement/Quality of Work Life
AD Assistant Chief Inspector
AD Regional Chief Postal Inspector
AD Project Director, Automation Integration
AD* Office Director, Headquarters, Distribution Operations and Networks
AD* Office Director, Headquarters, Delivery and Retail Management
AD* Office Director, Headquarters, Operations Planning
AD* Office Director, Headquarters, Operations Performance
AD* Office Director, Headquarters, Operations Methods, Systems and Quality
AD* Office Director, Headquarters, Capital Investment and Financial Analysis
AD* Office Director, Headquarters, Materiel Management
AD* Executive Advisor, Special Project Department

AGENCY: UNITED STATES SOLDIERS' AND AIRMEN'S HOME

Positions: No Section 207(d)(1)(C) Designations.

[FR Doc. 90–2301 Filed 2–6–90; 8:45 am]

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Part III

Department of Agriculture

Food and Nutrition Service

7 CFR Part 277

Food Stamp Program: Automated Data Processing Equipment and Services: Conditions for Federal Financial Participation; Final Rule

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 277

[Amdt. No. 319]

Food Stamp Program: Automated Data Processing Equipment and Services: Conditions for Federal Financial Participation

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This action amends the Food Stamp Program (FSP) regulations by changing the requirements and conditions under which State and local governments may request and claim Federal funds for the costs associated with the planning, design, development, acquisition or installation of automated data processing (ADP) equipment and services in FSP administration. These changes are being implemented by the Food and Nutrition Service (FNS) and, in a separate publication, by the Department of Health and Human Services (HHS), to streamline the procedures for submission, review and approval of Advance Planning Documents, and to promote consistency among Federal agencies in policies and procedures relating to the acquisition and use of ADP equipment in public assistance programs.

Proposed regulations were published in the **Federal Register** of August 8, 1988 at 53 FR 29858. Comments on the proposal were solicited through October 7, 1988. This final action takes the comments received into account. Readers are referred to the proposed regulation for a more complete understanding of this final action.

DATES: This rule is effective May 8, 1990. The provisions apply to all on-going and new acquisitions of automated data processing equipment or services. Advance Planning Documents for ongoing acquisitions that have been approved under the existing rule are deemed approved under this rule. The reporting provisions of this rule, to the extent that they have not been satisfied under the existing rule or are precluded by the passage of project events, apply to on-going projects. For new acquisitions, all provisions of this rule apply. If States are uncertain as to how these provisions apply to their ADP acquisitions, they should contact the Department for clarification.

FOR FURTHER INFORMATION CONTACT: Abigail C. Nichols, Director, Program Accountability Division, FNS, USDA, 3101 Park Center Drive, Alexandria, Virginia 22302, (703) 756–3414.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

The Department has reviewed this action under Executive Order 12291 and Secretary's Memorandum No. 1512–1. The rule will affect the economy by less than $100 million a year. The action will not significantly raise costs or prices for consumers, industries, government agencies or geographic regions. There will not be a significant adverse effect on competition, employment, investment, productivity, innovation or on the ability of United States enterprises to compete with foreign-based enterprise in domestic or export markets. Therefore, the Department has classified this action as "not major".

Executive Order 12372

The Food Stamp Program is listed in the Catalog of Federal Domestic Assistance under No. 10.561. For the reasons set forth in the final rule and related notice to 7 CFR part 3015, subpart V (48 FR 29115), this Program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Regulatory Flexibility Act

This action has also been reviewed in relation to the requirements of the Regulatory Flexibility Act of 1980 (Pub. L. 96–354, 94 Stat. 1164, September 19, 1980). George A. Braley, Acting Administrator of the Food and Nutrition Service (FNS), has certified that this action will not have a significant economic impact on a substantial number of small entities. The changes will affect State and local agencies which administer the Food Stamp Program. This action is principally directed toward the development of Statewide ADP systems. It is anticipated that Federal funding would be requested for only a small number of county or local government systems under the provisions of this rule.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507), the information collection requirements that are included in this final rule in 7 CFR 277.18 (c), (d) and (e) have been approved by the Office of Management and Budget (OMB) under OMB Approval No. 0584–0083, as codified in the Code of Federal Regulations at 7 CFR 271.8. Public reporting burden for this collection of information is estimated to average 15 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 Ms. Nichols at the above address, and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

Background

In August 1985, an Interdepartmental Task Force was established consisting of representatives from FNS and HHS. The principal objectives of the Interdepartmental Task Force were to:

1. Streamline the Advance Planning Document (APD) review and approval process to eliminate redundant Federal and State reviews;
2. Enhance State planning for developmental projects;
3. Improve project development continuity;
4. Allow for a more comprehensive Federal review and more timely response to APD's;
5. Standardize procedures and requirements among participating Federal agencies; and
6. Enhance the cooperative partnership between State and Federal agencies to achieve ADP and management information system applications that advance the efficiency and effectiveness of State administration of Federal programs.

The principal changes recommended by the Task Force involved the procedures and conditions under which States may request and receive funding for ADP developmental projects through the submission, review and approval of APD's and other related documents. As a result, the Department published a proposed rule on August 8, 1988 (53 FR 29858), which set forth revised requirements for review and approval of State agency acquisitions of ADP equipment and services. A similar proposed rule was published by HHS on September 21, 1987 (52 FR 35454). This final rule incorporates revisions to the August 8, 1988 proposed rule that are based on the public comments received, and on the efforts of both Departments to promote consistency and standardization, whenever possible, among Federal requirements.

Eighteen letters were received which addressed the provisions of the proposed rule. The major concerns raised by the commenters are discussed below. Comments which are not

relevant to the final rulemaking, or which address issues not related to the rulemaking process, are not discussed below. An explanation of the rationale of the rule is contained in the preamble of the proposed rule. For a full understanding of the provisions of this final rule, the reader should refer to the preamble of the proposed rule.

Significant Changes in APD Process

Increased APD Prior Approval Cost Thresholds—§ 277.18(c)

The proposed rule included a provision at § 277.18(c) to increase the Federal prior approval cost thresholds for ADP development projects to be funded at the 50 percent matching rate from $100,000 to $200,000 in total Federal and State costs over any 12-month period, and from $200,000 to $300,000 for total acquisition costs. The revised cost thresholds were intended to permit State agencies to implement smaller systems or system changes more quickly, reduce the number of small acquisitions requiring Federal prior approval, reduce paperwork burden, and make FSP prior approval cost thresholds consistent with those of HHS agencies.

Eleven comments were received which recommended further increases in the prior approval thresholds, to allow more flexibility for State agencies in small acquisitions. The Department accepts the commenters' rationale and is adopting these comments by raising the threshold for acquisitions to be funded at the regular Federal financial participation (FFP) rate to $500,000 in total project costs.

Three of the comments which recommended implementing similar thresholds for projects to be funded at the enhanced FFP rate are not being adopted in this rule. Entitlement to the enhanced funding rate must be authorized by FNS, based on the fulfillment of the conditions established by the Secretary in accordance with the Food Stamp Act, as amended. In addition, since enhanced funding is only available for complete certification and/or issuance systems which comply with the functional standards required by § 272.10(b), it is unlikely that any ADP acquisition under the $500,000 threshold would meet the conditions for enhanced funding. Therefore, the Department continues to require the prior approval of all ADP acquisitions for which enhanced funding is requested.

One commenter suggested a further increase in the prior approval threshold for non-competitive procurements. The Department does not agree that the threshold for projects funded at the regular FFP rate should be increased from the $100,000 level proposed previously. The Department believes that the $100,000 threshold will provide the State agency with adequate flexibility to proceed with small acquisitions within an approved APD. However, the Department will continue to require prior approval of noncompetitive procurements which exceed this threshold, or which involve enhanced funding.

One commenter also pointed out that the significance of raising the non-competitive threshold was obviated by the existing provisions of § 277.14(b) (1) and (2), which require prior approval of all contracts for non-competitive procurements over $10,000. Therefore, § 277.18(j)(1) is being revised in this rule to clarify that the provisions of § 277.14(b) (1) and (2) do not apply to ADP acquisitions approved under these provisions.

Establishment of Two-Phase APD Process—§ 277.18(d)

Most commenters were supportive of the change in the approval procedures, which broke the APD process down into two distinct phases—the Project Planning Phase and the Implementation Phase. To request and obtain FFP for allowable costs of these phases, State agencies are required to submit a Planning APD and an Implementation APD for the prior approval of FNS. The intent of this change is to provide the State agencies with a means to request and receive commitment for up-front Federal funding for the purpose of planning major ADP system acquisitions, before initiating system development.

The Department believes that the concerns expressed by five commenters regarding the two-step process are addressed by the clarifications within this rule. Commenters who believed that two APD's would merely double the paperwork and delays to be expected in this process should note the clarification in the definition of "Planning APD", which emphasizes that this document should be *brief* (i.e., no more than 6–10 pages in length). Several others believed that retroactive approval of planning costs would be appropriate, if an Implementation APD was later submitted and approved, or if a Planning APD was deemed unnecessary based on the size of the project. The Department wishes to emphasize that one of the purposes of separating the Planning APD from the Implementation APD is to ensure the availability of Federal funds for the ADP acquisition, including planning costs, procurement costs and the cost of preparing the more comprehensive Implementation APD. However, as stated in the preamble to the proposed rule, State agencies could submit an Implementation APD directly, without prior submission or approval of the Planning APD, if the State agency does not wish to receive FFP for project planning activities.

Two other commenters suggested the development of a "fast-track" approval process for situations requiring prompt action, such as ADP acquisitions necessitated by Federal mandates. The Department believes that such situations are adequately accommodated by the emergency approval procedures at § 277.18(h), which are implemented by this final rulemaking.

One commenter requested clarification regarding the purchase of equipment for planning purposes, such as word-processing hardware and software. The preamble of the proposed rule indicated that no *significant* hardware or software development costs would be eligible for funding in the Project Planning Phase. This does not preclude the State agency from acquiring this type of equipment for planning purposes; such acquisitions should be included in the Planning APD and associated budget.

Reduction in Prior Approval Requirements—§ 277.18(c)

To simplify the APD process, reduce paperwork burden and enhance project development continuity, the Department proposed to substantially reduce the number of documents currently required for the prior approval of FNS. In addition to representing a significant paperwork burden, State agencies have commented that the numerous prior approval decision points have caused disruption and temporary discontinuation of project development schedules and activities, resulting in increased project costs.

Not surprisingly, the State agencies responding to the Department's request for comments were generally very supportive of the reduction in requirements. However, several of those commenting proposed even further reductions in the number of documents for which prior approval is required. Two commenters also recommended that standards be established to clarify the term "when required", in FNS' determination of which documents would require prior approval. Based on this response, the Department has reconsidered the proposed provisions dealing with prior approval of Requests for Proposal (RFP's), contracts and contract amendments.

The revisions increase the thresholds below which prior approval is not

required. It also maintains the flexibility of the Department to exempt additional acquisitions/documents from the prior approval requirements, whenever the situation warrants, thereby reducing workload and paperwork burdens for both the Federal and State agencies. The proposed rule required prior FNS approval of RFP's, contracts and contract amendments whenever required by FNS, except that RFP's or contracts less than $100,000 for regular FFP or $50,000 for enhanced FFP did not need to be submitted, if they were an integral part of the approved APD. Contract amendments under $50,000 for either funding level did not need to be submitted. The final rule exempts all RFP's and contracts of less than $500,000 for regular funding, or $100,000 for enhanced funding, from the prior approval requirements. A contract amendment need only be submitted for prior approval if it is for an increase of $100,000 or more, or for a schedule extension of 60 days or more. All RFP's, contracts and contract amendments which exceed these thresholds must be submitted for prior approval, unless specifically exempted by FNS.

Three commenters suggested that the review and approval of procurement documents be replaced by a blanket review of each State agency's acquisition process. The Department believes that such comprehensive reviews are not feasible at this time; however, due to the increase in the thresholds for document approval, many smaller acquisitions will no longer require review and approval.

Three commenters questioned the provisions requiring FNS approval of the feasibility study for certain ADP projects, and requested clarification as to when this would be required. As discussed in the preamble to the proposed rule, this approval requirement would be applicable only if specified by FNS as a condition for approving the Planning APD, when a systems development project is particularly large or complex, or when a State agency has experienced previous problems in this area. The feasibility study would generally be submitted as part of the Implementation APD, in any case. The Department believes that the advance review and approval of the feasibility study for particularly complex or problematic development projects, would assure the State agency of continuing Federal support for the project approach, while limiting Federal liability if the findings of the study are not approvable.

Two commenters suggested that the APD content and review process be simplified, but no specific recommendations were included. The Department believes that it has limited the information and approval requirements to those necessary to maintain appropriate control and management of developmental project activities and funding.

APD Update—§ 277.18(e)

The proposed rule required the submission and approval of an APD Update, to be submitted annually as a condition for continued FFP for the ADP development project. However, for projects funded at the regular FFP rate, the APD Update did not need to be submitted unless any of four major project changes occurred.

State agencies could proceed with the change without first obtaining Federal approval, to avoid disruption in project activities. However, Federal approval, no later than at the time of the next Annual APD Update, would be required before FFP for the change could be claimed. In such instances, the State agency would be liable for costs associated with the project change until FNS approval is granted. If the Annual APD Update was subsequently disapproved, FFP would not be allowed for the costs associated with the project change.

This change was proposed for two major reasons. The first was to relieve the State agencies of the requirement to report all changes in an approved APD, and obtain FNS' prior approval before the change could be effected. As State agencies had often pointed out, this requirement sometimes resulted in disruption in project activities and additional project costs, while relatively minor changes were in the prior approval process. The second reason was to allow the State agencies to assume more complete control over and responsibility for their ADP projects, with minimal reporting requirements on a periodic basis or, for projects funded at the regular FFP rate, only when major changes occurred.

Six comments were received which recommended even further reductions in the APD Update requirements. The Department has considered the suggestions offered and agrees that, particularly in the case of projects funded at the regular FFP rate in which fiscal liability is shared with the participating State agency, a need for greater latitude in reporting requirements is indicated. Therefore, the Department has changed the APD Update provisions in this final rule to exempt all ADP acquisitions funded at the regular FFP rate from the annual reporting requirement, if the total project costs do not exceed $1 million. This revision results in the elimination of the four major project change definitions and thresholds in the proposed rule. The Department continues to require the APD Update on an annual basis for all projects receiving enhanced FFP, regardless of project cost.

In regard to project changes which occur between Annual APD Updates, the Department continues to support the concept of allowing State agencies to proceed with any actions deemed necessary by project managers, without disruption in project activities, with the understanding that changes must ultimately receive FNS approval. One commenter believed that changes should always be reported at the time they occur, without awaiting the submission of the Annual APD Update. Another commenter believed that most State agencies would not risk disallowance of funding by proceeding with changes without first obtaining FNS approval. In recognition of these comments, the Department wishes to clarify that it was always the intent of these provisions to allow the submission of APD Updates on a more frequent or as needed basis, at the option of the State agency. To highlight this provision, the Department has added language to §§ 277.18(c)(3)(i)(B) and 277.18(e)(3) which clarifies that State agencies may submit an APD Update whenever significant project changes occur. It is recommended that the State agency consider submission of an APD Update whenever any of the following changes occur or are anticipated: A significant increase ($300,000 or 10 percent, whichever is less) in total project costs; a significant schedule extension (60 days or more) for major milestones; a significant change in procurement approach, and/or scope of procurement activities beyond that approved in the APD; a change in system concept, or a change to the scope of the project; or a change to the approved cost allocation methodology.

Again, Federal approval would still be required before FFP for the change could be claimed, and the State agency would be liable for costs associated with the project change until such approval is granted. If the APD Update was subsequently disapproved, FFP would not be allowed for the costs associated with the project change. One commenter believed that disallowance should only occur from the point in time that the APD Update is disapproved. The Department believes that, since the State agency is assuming the responsibility, at its own option, to proceed with project changes which

deviate from the APD as approved by FNS, it is appropriate that the State agency also assume the liability associated with its determination. FFP for changes which are subsequently approved through the APD Update process, whether submitted annually or at the time the project changes occurs, may be claimed at the time of FNS approval.

Another commenter requested clarification of the term "major task or milestone", in regard to schedule extensions or delays. The Department does not wish to define this term, since project milestones are dependent on the type of project being undertaken (e.g., equipment acquisition, system development project, etc.). However, for purposes of determining when a project extension has occurred, project milestones will be those identified by the State agency in the workplan and schedule submitted with the approved APD.

Two commenters suggested that the definition of "change in concept", as explained within the preamble of the proposed rule, be included in the regulatory language. The explanation in the preamble indicated that significant changes in approved system concept may include: A proposal of a different system alternative; a proposal for a different "mix" of system hardware and software; a change in project plan; a change in the cost/benefits projection; or a change to the approved cost allocation methodology. However, these were included in the preamble as examples, and were not intended to constitute an all-inclusive definition. The Department believes that, because of the variables encompassed by the term "system concept", it is not possible to construct a comprehensive listing of what might be considered a significant change in system concept.

Emergency ADP Acquisitions—§ 277.18(h)

The proposed rule outlined procedures for the acquisition of ADP equipment or services for emergency situations, which parallel the emergency acquisition procedures currently in place for HHS agencies at 45 CFR 95.624. The State agency first submits a written request for the emergency acquisition, to which FNS must respond within 14 days. If FNS approves the request, the State agency must submit a formal request for approval, including the information required by § 277.18 (d) *APD Content Requirements*, within 90 days of the original written request. One commenter questioned the two-step process for obtaining approval, and the potential for delays in an emergency situation while awaiting approval of the formal request. The Department wishes to clarify that, after the State agency has received the written acknowledgment that an emergency situation exists, the State agency may proceed with the acquisition without meeting any additional prior approval requirements, with an assurance of the availability of Federal funds for allowable costs. This section provides for a later submission of the formal request for approval, so that the State can take action as needed to meet the emergency situation, while establishing that the acquisition was otherwise approvable under the normal APD provisions.

System Transfer—§ 277.18(d)

The proposed rule stated that State agencies must include an examination of the transfer or modification of an existing system from a similar State or jurisdiction as a component of all feasibility studies.

Two commenters questioned how to determine the availability of systems for potential transfer, and the degree of analysis required if it is determined that no viable systems are available. As stated in the proposed rule, the Department recognizes that FNS has an important role to play in regard to the analysis of potential system transfers. Current provisions at 7 CFR 272.10(a)(3) (ADP/CIS Model Plan—*Transfers*) state that FNS will assist State agencies that request assistance in determining what other States have systems that should be considered as possible transfers. The Department will also provide such assistance when needed as part of a State agency's Project Planning Phase activities.

Entitlement to 75 Percent FFP Rate—§ 277.18(g)

Ten comments were received on the enhanced funding provisions, which were essentially unchanged by the proposed rule. Individuals seeking a clearer understanding of the history and rationale of these provisions should consult the final rulemaking published on June 11, 1982 (47 FR 25496).

One commenter requested a clarification of the phrase "appropriate instructions issued by FNS", in § 277.18(g)(1) of the proposed rule, as it pertained to approval of enhanced funding requests. This change was made to delete the reference to Handbook 151 (*ADP Advance Planning Document Handbook for State Agencies*), previously contained in § 277.18(a). The provisions of the Handbook will be affected by this final rulemaking, and the Department anticipates that the guidance contained therein will be revised and reissued shortly. The reference to "appropriate instructions" in the proposed rulemaking was intended to cover the reissuance of revised guidance on the preparation and submittal of APD's under these provisions. However, since these guidelines, when issued, will be procedural in nature, the Department agrees that it is unnecessary to incorporate this reference into the regulatory requirements. Therefore, this phrase is being deleted from the final rule.

In order to further clarify the delineation between the developmental and operational phases, for purposes of approving and claiming costs at the 75 percent funding level, a provision was proposed at § 277.18(g)(6) which would limit pilot tests and parallel processing for test purposes to a period not to exceed three months, unless specifically extended by FNS. The Department believed that three months represents an average and adequate period of time for pilot testing in most systems, but comments were specifically requested on this provision, to determine if it was consistent with previous State agency experiences. Two comments were received on this proposal, which essentially stated that a three-month timeframe was arbitrary, and that more flexibility should be built into the provisions to accommodate development projects that varied widely in complexity and scope. The Department agrees with these comments, and has changed the language of § 277.18(g)(6) to state that pilot testing will be limited to the period of time specified in the approved APD, unless an extension is subsequently approved by FNS.

Disallowance of Federal Financial Participation—§ 277.18(o)

Seven comments were received on the provisions of § 277.18(o), Disallowance of Federal Financial Participation (FFP), which provided for the disallowance of FFP if the Department finds that any equipment or services acquisition approved or modified under the provisions of § 277.18(c) fails to substantially comply with the criteria, requirements, and other undertakings described in the approved APD. For the purpose of clarity, the final rule revises this paragraph to delete the word "substantially", and to state that the provisions apply to any *ADP acquisition*, rather than any *system*, as indicated in the proposed rule.

Three of the comments centered on the procedures for the disallowance of funds. The allowability of costs for

Federal funding purposes is defined and discussed in OMB Circulars A–87, "Cost Principles for State and Local Governments", and A–102, "Uniform Requirements for Grants to State and Local Governments". Interested individuals should consult those publications for a fuller understanding of the meaning of the term "disallowance" as used within this rulemaking.

One commenter believed that the disallowance of funds should be tied only to the overall efficiency and effectiveness of the resultant ADP system, rather than to the objectives outlined in the approved APD. The Department disagrees with this comment. Prior approval of APD's under the conditions of these provisions is required by the Department in order to ensure that the projected system warrants the substantial investment of Federal funds, and approval is granted with the understanding that the resultant system will comply with objectives set forth at project initiation. This is particularly critical with systems funded at the enhanced FFP rate, since approval is granted on the basis that the resultant system will fulfill certain mandatory standards and other criteria established for complete certification and or issuance systems.

Three commenters suggested that the rule specifically exclude disallowance of funding based on schedule slippages, when such slippages are the result of new Federal mandates and requirements. The Department is not including specific subjective qualifications in the language of these provisions, since the circumstances surrounding each project will clearly vary in nearly every case. However, the Department wishes to clarify that it is not its intent to penalize State agencies or disallow costs in situations which are clearly beyond their control, could not have been foreseen or prevented, and are not the result of a failure to comply with the terms and conditions agreed to in the approved APD. The example cited by the commenters (new Federal mandates or requirements) would not have been among the "* * * criteria, requirements, and other undertakings described in the approved or modified APD * * *", and therefore, the potential impact of such changes would be considered and assessed separately.

ADP System Security Provisions—§ 277.18(p)

The proposed rule included a requirement for State agencies to establish a security program for ADP systems, which would consist of: Appropriate State agency ADP security standards and requirements to ensure proper control of ADP equipment, facilities and information; State agency procedures and processes for meeting the established security standards and requirements; and security reviews for ensuring that established standards and requirements are met.

Two commenters felt that the security provisions might result in additional paperwork and reporting. The Department wishes to clarify that the establishment and maintenance of ADP security standards, requirements and plans are State agency responsibilities, and it is not intended that this information be submitted to FNS for review or approval. However, in response to this concern, the Department is eliminating the proposed requirement for submission of all State agency biennial security review reports to FNS. Instead, this rule specifies that a summary of review findings and an action plan to correct any identified weaknesses should be submitted.

One commenter questioned the availability of enhanced funding for these activities. An ADP system security program is an integral component of on-going system management and operations, and is therefore eligible for regular administrative matching funds (50% FFP). However, to the extent that an ADP security program is initially developed as part of an overall ADP system development project being funded at the enhanced FFP rate, the development activity may be claimed at the enhanced rate.

Another commenter questioned the extent to which funding is available for "hot" and/or "cold" back-up sites. While contingency and disaster recovery planning is a necessary element in adequate security planning and is required by this rule, it should be clarified that these provisions are not intended to suggest that State agencies should construct and maintain full-scale, "hot" back-up sites. The Department has intentionally provided the flexibility in these provisions for State agencies to tailor their security plans to their individual needs, which will vary based on the size and complexity of the system, whether it is a shared facility, etc. Reasonable and necessary costs associated with the maintenance of adequate contingency plans would be matched at the regular 50% FFP rate.

Two commenters requested clarification of the terms "significant system changes" and "risk analysis". In stating that a risk analysis shall be performed whenever significant system changes occur, the Department intends that such reviews be conducted at any time that the State agency makes a major change in the system components, procedures or operating environment that may affect system security. Further definition of and information regarding the term "risk analysis" can be obtained from the Federal Information Processing Standards Publication (FIPS Pub.) #31—*Guidelines for Automatic Data Processing Physical Security and Risk Management.*

Another commenter suggested that the security provisions were not germane to the prior approval process, and would be more appropriately included in the audit requirements of the regulations. Since the restructured § 277.18 now deals with all of the requirements and procedures associated with the establishment of an ADP or information retrieval system (exclusive of the model plan requirements, as discussed in § 272.10), the Department believes that this is an appropriate place for these provisions.

Miscellaneous Comments

Comments which were received on any provisions which have not been revised or otherwise affected, except by the restructuring of § 277.18 to include the provisions formerly contained in Appendix A to part 277, are not being considered in this rulemaking.

Three commenters proposed the addition of several definitions to § 277.18(b): "Development", "enhancement", "contracts" and "planning activities". The Department has chosen not to include definitions of "development" and "planning activities", because it was felt that an attempt to define these terms might unduly limit the types of activities and costs intended to be covered by these provisions. "Enhancement" is not defined in this rule because the term is not used within the regulatory text. The Department also felt that an attempt to define the term "contract" would constitute a legal issue, which is beyond the scope of this rulemaking. However, the commenter who requested that this definition be included also asked for clarification of whether or not consultant and maintenance contracts are included in the prior approval provisions and considered to be an integral part of the APD. The response to this question is that these contracts *are* included when they are associated with an ADP acquisition which requires prior approval in accordance with these provisions.

Another commenter recommended that the provisions of this rule only be made effective with new APD submissions. Since many of the ADP

acquisitions requiring approval under these and the former regulations involve developmental periods of several years, the Department felt that it would be too confusing to maintain different standards and tracking systems for that length of time. Additionally, this would mean that such ongoing projects still covered under the previous provisions would be required to fulfill the more burdensome approval and submission requirements of the previous rule, including obtaining prior approval for all project changes. Therefore, the Department is making these provisions effective for all ADP acquisitions, to the extent that such requirements have not already been met under the previous rules or have not been obviated by the passage of project events.

Other Revisions

Several additional changes in the proposed rule are contained in these final provisions, either to clarify language in the proposed rule, in response to comments received, or for consistency with the HHS final rule.

1. The "Definitions" contained in § 277.18(b) are revised as follows:

"Advance Planning Document (APD) for Project Planning" has been changed to clarify that the Planning APD is intended to be a *brief* document (no more than 6–10 pages in length).

"Annually Updated APD" has been changed to "APD Update" in this section and throughout the regulatory text, to conform to the terminology in the HHS rule. Language has been added to this definition to clarify that an APD Update must be submitted annually, as required, but may also be submitted on an as needed basis.

"General System Design" has been changed to clarify the term "capacity requirements" as used in the proposed rule.

"Requirements analysis" has been deleted, and is replaced by a new expanded definition, "Functional Requirements Specification". This change is being made to correspond to HHS provisions at 45 CFR 95.605.

2. The provisions of § 277.18(i) *Cost Determination and Claiming Costs* were essentially unchanged by the proposed rule. However, the Department has clarified in the final rule that the provisions pertaining to cost allocation plans for developmental projects apply to ADP acquisitions funded at either FFP rate.

List of Subjects in 7 CFR Part 277

Food stamps, Government procedure, Grant programs-social programs, Investigations, Records, Reporting and recordkeeping requirements.

Accordingly, 7 CFR part 277 is amended as follows:

PART 277—PAYMENTS OF CERTAIN ADMINISTRATIVE COSTS OF STATE AGENCIES

1. The authority citation for part 277 continues to read as follows:

Authority: 7 U.S.C. 2011–2029.

2. Section 277.18 is revised in its entirety to read as follows:

§ 277.18 Establishment of an Automated Data Processing (ADP) and Information Retrieval System.

(a) *Scope and application.* This section establishes conditions for initial and continuing authority to claim Federal financial participation (FFP) for the costs of the planning, development, acquisition, installation and implementation of ADP equipment and services used in the administration of the Food Stamp Program. Due to the nature of the procurement of ADP equipment and services, current State agency approved cost allocation plans for ongoing operational costs shall not apply to ADP system development costs under this section unless documentation required under paragraph (c) of this section is submitted to and approvals are obtained from FNS.

(b) *Definitions.*

Acceptance Documents means written evidence of satisfactory completion of an approved phase of work or contract, and acceptance thereof by the State agency.

Advance Planning Document for Project Implementation or *Implementation APD* means a written plan of action requesting Federal financial participation (FFP) to acquire and implement ADP services and/or equipment.

Advance Planning Document for Project Planning or *Planning APD* means a brief written plan of action that requests FFP to accomplish the planning necessary for a State agency to determine the need for and plan the acquisition of ADP equipment and/or services, and to acquire information necessary to prepare an Implementation APD.

Advance Planning Document Update (APDU) means an annual self-certification by the State agency on the status of project development activities and expenditures in relation to the approved Planning APD or Implementation APD. An APDU may also be submitted as needed to request funding approval for project continuation whenever significant project changes occur or are anticipated.

Automated Data Processing or *ADP* means data processing performed by a system of electronic or electrical machines so interconnected and interacting as to minimize the need for human assistance or intervention.

Automated Data Processing Equipment or *hardware* means:

(1) Electronic digital computers, regardless of size, capacity, or price, that accept data input, store data, perform calculations, and other processing steps, and prepare information;

(2) All peripheral or auxiliary equipment used in support of electronic digital computers whether selected and acquired with the computer or separately;

(3) Data transmission or communications equipment that is selected and acquired solely or primarily for use with a configuration of ADP equipment which includes an electronic digital computer; and

(4) Data input equipment used to enter directly or indirectly into an electronic digital computer, peripheral or auxiliary equipment, or data transmission, or communication equipment.

Automated Data Processing Services means:

(1) Services to operate ADP equipment, either by private sources, or by employees of the State agency, or by State or local organizations other than the State agency; and/or

(2) Services provided by private sources or by employees of the State agency or by State and local organizations other than the State agency to perform such tasks as feasibility studies, system studies, system design efforts, development of system specifications, system analysis, programming and system implementation. This includes system training, systems development, site preparation, data entry, and personal services related to automated systems development and operations that are specifically identified as part of a Planning APD or Implementation APD.

Data Processing means the preparation of source media containing data or basic elements of information and the use of such source media according to precise rules of procedures to accomplish such operations as classifying, sorting, calculating, summarizing, recording, and transmitting.

Emergency situation means a situation where:

(1) The State agency can demonstrate to FNS an immediate need to acquire ADP equipment or services in order to

continue operation of the Food Stamp Program; and

(2) The State agency can clearly document that the need could not have been anticipated or planned for and the need prevents the State from following the prior approval requirements of § 277.18(c).

Enhanced funding or *enhanced FFP rate* means Federal reimbursement at the 75 percent level for allowable costs for State agency planning, design, development or installation of computerized systems, as authorized by § 277.4(b)(1)(ii), and in accordance with the requirements at § 277.18(g).

Feasibility Study means a preliminary study to determine whether it is sufficiently probable that effective and efficient use of ADP equipment or systems would warrant a substantial investment of staff, time, and money being requested, and whether the plan can be accomplished successfully.

Functional Requirements Specification means an initial definition of the proposed system, which documents the goals, objectives, user or programmatic requirements, the operating environment, and the proposed design methodology, e.g., centralized or distributed. This document details what the new system and/or hardware should do, not how it is to do it. The Specification document shall be based upon a clear and accurate description of the functional requirements for the project, and shall not, in competitive procurements, lead to requirements which unduly restrict competition.

General Systems Design means a combination of narrative and diagrams describing the generic architecture of a system as opposed to the detailed architecture of the system. A general systems design may include a systems diagram; narrative identifying overall logic flow and systems functions; a description of equipment needed (including processing, data transmission and storage requirements); a description of other resource requirements which will be necessary to operate the system; a description of system performance requirements; and a description of the environment in which the system will operate, including how the system will function within that environment.

Regular funding or *regular FFP rate* means any Federal reimbursement rate authorized by § 277.4(b), except the 75 percent funding rate for State agency planning, design, development or installation of computerized systems, as specified at § 277.4(b)(1)(ii).

Request for Proposal or *RFP* means the document used for public solicitations of competitive proposals from qualified sources as outlined in § 277.14(g)(3).

Service Agreement means the document, described in § 277.18(f), signed by the State or local agency and the State or local central data processing facility whenever a central data processing facility provides ADP services to the State or local agency.

Software means a set of computer programs, procedures, and associated documentation used to operate the hardware.

System specifications means information about the new ADP systems, such as: Workload descriptions, input data, information to be maintained and processed, data processing techniques, and output data, which is required to determine the ADP equipment and software necessary to implement the system design.

System study means the examination of existing information flow and operational procedures within an organization. The study consists of three basic phases: Data gathering or investigation of the present system and new information requirements; analysis of the data gathered in the investigation; and synthesis, or refitting, of the parts and relationships uncovered through the analysis into an efficient system.

(c) *General acquisition requirements.*—(1) *Requirement for prior FNS approval.* A State agency shall obtain prior written approval from FNS as specified in paragraph (c)(2) of this section when it plans to acquire ADP equipment or services with proposed FFP at the regular funding rate which it anticipates will have total acquisition costs of $500,000 or more in Federal and State funds. A State agency shall obtain prior written approval from FNS as specified in paragraph (c)(2) of this section when it plans to acquire ADP equipment or services with proposed FFP at the 75 percent funding rate authorized by this part, regardless of the cost of the acquisition. The State agency shall request prior FNS approval by submitting the Planning APD or Implementation APD signed by the appropriate State official to the FNS Regional Office. A State agency shall also obtain prior written approval from FNS when it plans to noncompetitively acquire ADP equipment or services from a nongovernmental source:

(i) Which cost more than $100,000 in Federal and State funds, for any acquisition with proposed FFP at the regular funding rate; or

(ii) For any acquisition, regardless of cost, with proposed FFP at the 75 percent funding rate.

(2) *Specific prior approval requirements.* (i) For ADP equipment and services acquisitions which require prior approval as specified in paragraph (c)(1) of this section, the State agency shall obtain the prior written approval of FNS for:

(A) The Planning APD prior to entering into contractual agreements or making any other commitment for acquiring the necessary planning services;

(B) The Implementation APD prior to entering into contractual agreements or making any other commitment for the acquisition of ADP equipment or services.

(ii) For ADP equipment and services acquisitions requiring prior approval as specified in paragraph (c)(1) of this section, prior approval of the following documents associated with such acquisitions is also required:

(A) RFP's; unless specifically exempted by FNS, the State agency shall obtain prior written approval of the RFP before the RFP may be released. However, RFP's which are less than $500,000 at the regular funding rate or $100,000 at the enhanced funding rate, and are an integral part of the approved APD need not be submitted to FNS.

(B) Contracts; unless specifically exempted by FNS, the State agency shall obtain prior written approval before the contract may be signed by the State agency. However, contracts which are less than $500,000 at the regular funding rate or $100,000 at the enhanced funding rate, and are an integral part of the approved APD need not be submitted to FNS.

(C) Contract amendments; unless specifically exempted by FNS, the State agency shall obtain prior written approval before the contract amendment may be signed by the State agency. However, contract amendments involving cost increases of less than $100,000 or time extensions of less than 60 days, and which are an integral part of the approved APD need not be submitted to FNS.

(iii) The State agency must obtain prior written approval from FNS as specified in paragraphs (c)(2) (i) and (ii) of this section in order to claim and receive reimbursement for the associated costs of the ADP acquisition.

(3) *Approval requirements.* (i) For ADP equipment and service acquisitions requiring prior approval as specified in paragraph (c)(1) of this section, the State agency shall submit the following documents to FNS for approval:

(A) Feasibility studies, when specifically required by FNS as a condition of approving the Planning APD. When required by FNS for approval, the State agency shall submit

the feasibility study no later than 90 days after its completion.

(B) APD Updates, as required by paragraph (e) of this section, on an annual or as needed basis.

(ii) The State agency must obtain FNS approval of the documents specified in paragraph (c)(3)(i) of this section in order to claim and receive reimbursement for the associated costs of the ADP acquisition.

(4) *Approval by the State agency.* Approval by the State agency is required for all documents specified in this regulation prior to submission for FNS approval. In addition, State agency approval is also required for those acquisitions of ADP equipment and services not requiring prior approval by FNS.

(d) *APD content requirements.*—(1) *Planning APD.* The State agency may request FFP at the regular or enhanced funding rate for the costs of determining the need for and planning the acquisition of ADP equipment or services through the submission of the Planning APD. The State agency may request FFP for the costs of planning activities beginning with initial project inception through the performance of necessary systems and alternatives analyses, selection and design, including the completion of a general systems design. The Planning APD shall contain the following information:

(i) The State agency's description of the programmatic and organizational needs and/or problems to be addressed by the proposed ADP acquisition and the specific objectives to be accomplished under the Planning APD;

(ii) The State agency's commitment to complete the following, where appropriate, as part of project planning activities: a functional requirements specification document, feasibility study, alternatives analysis, cost-benefit analysis, and a general system design. If an existing ADP system is to be transferred, the State agency may plan to use the general system design of the transferred system. State agencies requesting FFP at 75 percent funding rate shall include a statement of commitment that the proposed ADP acquisition would meet the functional requirements of § 272.10;

(iii) The State agency's description of the organization, required State and contractual resources and availability of those resources, and the assignments of roles and responsibilities for project planning activities. The State agency shall include a description of resources to be procured and procurement methods;

(iv) The State agency's schedule of activities and deliverables during project planning, including a description and schedule of procurement activities to be undertaken in support of the planning project; and

(v) A proposed budget which shall identify costs for project planning activities by Federal fiscal year. The budget shall include an estimate of prospective cost distribution to participating Federal agencies and the method for cost allocation. The State agency shall also include an estimate of the total project costs, including both the cost of the planning project and the cost of any eventual ADP equipment and/or services acquisition, which will be used only for determining whether the thresholds of § 277.18(c)(1) are met.

(2) *Implementation APD.* The State agency may request FFP at the regular or enhanced funding rate to acquire ADP equipment and services through the submission of the Implementation APD. The State agency may request FFP for the necessary activities to develop, acquire, install and implement the proposed ADP system or acquisition. The Implementation APD shall contain the following information, where appropriate:

(i) The State agency shall complete and submit a functional requirements specification document;

(ii) The State agency shall submit a feasibility study and associated alternatives analyses, which include the transfer or modification of an existing system from a similar State or jurisdiction in the examination of alternatives. State agencies which reject the transfer or modification of an existing system must provide an analysis describing the barriers to system transfer as part of the feasibility study. The analysis of barriers to system transfer shall include a comparison of the costs of overcoming the problem in transferring an operational system to the costs of developing a new system;

(iii) The State agency shall submit the new or transferred general systems design and shall also document the intended approaches, plans and techniques to develop or modify specific aspects of the proposed ADP system or acquisition including hardware, software, telecommunications, system testing, and data security;

(iv) The State agency shall describe the anticipated resource requirements for implementation of the ADP project, the resources planned to be available for the project, and plans for augmenting resources to meet resource requirements;

(v) The State agency shall indicate the principal events and schedule of activities, milestones, and deliverables during implementation of the project;

(vi) The State agency shall submit a proposed budget which identifies costs for intended project development and implementation activities by Federal fiscal year and shall include a consideration of all possible Implementation APD activity costs (e.g., system conversion, computer capacity planning, supplies, training, and miscellaneous ADP expenses). The budget shall contain an estimate of prospective cost distribution and methods for allocating costs to participating Federal agencies;

(vii) The State agency shall document the scope, methodology, evaluation criteria and results of cost-benefit analyses for evaluating the selected design and alternatives. The cost-benefit analysis shall include a statement indicating the period of time the State agency intends to use the proposed equipment or system; and

(viii) The State agency shall describe the security and interface requirements to be employed and the backup and contingency procedures available.

(3) *APD Budget.* The proposed budget for both the Planning APD and the Implementation APD shall include cost distribution plans containing the bases for proposed rates, both direct and indirect, for costs associated with system planning, development, acquisition or implementation, as appropriate. The budget proposals accompanying the Implementation APD shall also include proposed cost distribution plans and the bases of proposed rates for the operation of the ADP system. The budget activities shall be presented on a Federal fiscal year basis in a clear fashion to associate costs with each planned activity. The budgets must identify all development costs separately from any ongoing operational costs. Costs must be distinguished by developmental projects and developmental time periods. Actual costs claimed must be reconciliable to projected costs as proposed and approved by FNS in the APD.

(e) *APD Update—(1) General submission requirements.* The State agency shall submit an APD Update for FNS approval for all approved Planning and Implementation APD's that are funded at the enhanced FFP rate, or that are funded at the regular FFP rate and total acquisition costs exceed $1 million. The APD Update shall be submitted to the FNS Regional Office within 90 days after the annual anniversary date of the original APD approval, unless the submission date is specifically altered by FNS.

(2) *Content requirements.* The APD Update represents a self-certification by

the State agency of project status in relation to the provisions of the approved Planning APD and Implementation APD. The Annually Updated APD shall include:

(i) Project activity status.

(A) The status of all major tasks and milestones in the approved Planning APD, Implementation APD or previous APD Update's for the past year. The APD Update shall include all major tasks and milestones completed in the past year and degree of completion for unfinished tasks.

(B) The status of all project deliverables completed in the past year and degree of completion for unfinished products.

(C) Reports of past and/or anticipated problems or delays in meeting target dates in the approved Planning APD, Implementation APD or previous APD Update's for the remainder of the project. The Annually Updated APD shall include an explanation of the need to extend any major project target dates.

(ii) Project expenditures.

(A) A detailed accounting for all expenditures for project development over the past year.

(B) An explanation of differences between projected expenses in the approved Planning or Implementation APD, or previous APD Update's, and actual expenditures for the past year. If changes in costs are reported, FNS may require the submission of a revised cost-benefit analysis as a condition for approval of the APD Update.

(C) Changes to the allocation basis in the approved APD's cost allocation methodology.

(iii) Changes to the approved APD.

(A) Revised language for all changes to the approved APD or previous APD Updates shall be submitted as part of the APD Update, unless submitted separately by the State agency as the changes occurred throughout the year.

(B) Changes in project management and/or contractor services.

(3) *Submission as needed.* In addition to the requirement for approval of an APD Update on an annual basis, as specified in paragraph (e)(1) of this section, the State agency may submit an APD Update on a more frequent or as needed basis, in order to obtain a commitment of FFP whenever significant project changes occur. Without such approval, the State agency is at risk for funding of project activities which are not in compliance with the terms and conditions of the approved APD and subsequently approved APD Updates, until such time as approval is specifically granted by FNS. At a minimum, the State agency should consider submission of an APD Update whenever any of the following changes occur or are anticipated:

(i) A significant increase ($300,000 or 10 percent, whichever is less) in total project costs;

(ii) A significant schedule extension (60 days or more) for major milestones;

(iii) A significant change in procurement approach, and/or scope of procurement activities beyond that approved in the APD;

(iv) A change in system concept, or a change to the scope of the project; or

(v) A change to the approved cost allocation methodology.

(f) *Service agreements.* The State agency shall execute service agreements when data processing services are to be provided by a State central data processing facility or another State or local agency. Service agreements shall be kept on file by the State agency and be available for Federal review, and shall:

(1) Identify the ADP services that will be provided;

(2) Include, preferably as an amendable attachment, a schedule of charges for each identified ADP service, and a certification that these charges apply equally to all users;

(3) Include a description of the method(s) of accounting for the services rendered under the agreement and computing services charges;

(4) Include assurances that services provided will be timely and satisfactory;

(5) Include assurances that information in the computer system as well as access, use and disposal of ADP data will be safeguarded in accordance with provisions of § 272.1(c) and § 277.13;

(6) Require the provider to obtain prior approval pursuant to § 277.18(c)(1) from FNS for ADP equipment and ADP services that are acquired from commercial sources primarily to support the Food Stamp Program and requires the provider to comply with § 277.14 for procurements related to the service agreement. ADP equipment and services are considered to be primarily acquired to support the Food Stamp Program when the Program may reasonably be expected to either be billed for more than 50 percent of the total charges made to all users of the ADP equipment and services during the time period covered by the service agreement, or directly charged for the total cost of the purchase or lease of ADP equipment or services;

(7) Include the beginning and ending dates of the period of time covered by the service agreement; and

(8) Include a schedule of expected total charges to the Program for the period of the service agreement.

(g) *Entitlement to 75 Percent FFP Rate.* (1) A State agency may, at its option, request reimbursement at a 75 percent FFP rate for the costs of planning, design, development or installation of ADP and information retrieval systems.

(2) The 75 percent funding level may be approved by FNS if the proposed system will:

(i) Assist the State agency in meeting the requirements of the Food Stamp Act;

(ii) Meet the program standards specified in § 272.10(b)(1), (b)(2) and (b)(3) of this part, except for the requirements in paragraphs (g)(2)(vi), (g)(2)(vii) and (g)(3)(ix) of this section to eventually transmit data directly to FNS;

(iii) Be likely to provide more efficient and effective administration of the program; and

(iv) Be compatible with other such systems utilized in the administration of State plans under the program of Aid to Families with Dependent Children (AFDC).

(3) State agencies seeking an enhanced level of funding for the planning, design, development or installation of automated data processing and information retrieval systems shall develop Statewide systems which are integrated with AFDC. In cases where a State agency can demonstrate that a local, dedicated, or single function (issuance or certification only) system will provide for more efficient and effective administration of the program, FNS may grant an exception to the Statewide integrated requirement. These exceptions will be based on an assessment of the proposed system's ability to meet the State agency's need for automation. Systems funded as exceptions to this rule, however, should be capable, to the extent necessary, of an automated data exchange with the State system used to administer AFDC. In no circumstances will funding be available for systems which duplicate other State agency systems, whether presently operational or planned for future development.

(4) The system developed in response to these regulations shall contain the following elements, where appropriate:

(i) A data base which receives information, sorts, performs calculations, and stores information;

(ii) An information retrieval system which will have the ability to access the data base, display or print data, and update the data in numerical or alphabetical form;

(iii) Hardware, in addition to that required for the data base, which will include visual display terminal(s) with

an attached keyboard, connected to the data base hardware components by telecommunication networks;

(iv) Software which will include system programs for data recall and input, budget calculation capability when not included in the data base system, printout and display for data entry and inquiry terminals, and for network control; and

(v) Technological safeguards and managerial procedures which will be established and applied to computer hardware, software, and data, in accordance with paragraph (p) of this section, in order to ensure the protection of the integrity of the system and individual privacy. System security shall be inherent in the system and provided for in the Implementation APD submitted for approval. The system will process machine readable data files used for the authorized exchange of information between levels of government (*i.e.*, State to State, State to Federal).

(5) Approval of the Planning APD and Implementation APD for payment by FNS of costs at the 75 percent level will be limited to:

(i) Planning and design, *i.e.*, requirements and systems analyses, feasibility studies, preliminary cost benefits analyses, alternatives analyses, and general systems design;

(ii) Development, *i.e.*, detailing of system and program specifications, programming and testing;

(iii) Procurement of ADP equipment and/or services; and

(iv) Installation, *i.e.*, conversion, training of staff, and turnover to operational status.

(6) Costs may not be funded at 75 percent when the approved system produces automated processing of food stamp recipient applications, issuance authorizations or other reports (operations) on a continuing basis for use by State agency personnel for administration of the Food Stamp Program. Operations include the use of purchased or rented computer equipment and software directly required for and used in the operation of the automated data processing and information retrieval system. For ADP development projects with phased installation and implementation, counties, districts or other subdivisions of the State shall be considered operational at the time that the approved system produces automated application processing and/or issuance authorizations for the food stamp caseload for that subdivision of the State. Pilot testing and an initial period of parallel processing for test purposes may be considered developmental costs and eligible for 75 percent funding for the period of time specified in the approved APD, unless an extension is subsequently approved by FNS.

(7) If FNS suspends approval of an APD in the course of a State agency's planning, design, development, or installation, the 75 percent level of funding shall not be allowable for any costs incurred until such time as the conditions for approval are met.

(8) Incident to the activities listed in paragraph (g)(5) of this section, a State agency may seek payment for the following expenses at a 75 percent level.

(i) Personnel. Salaries, wages, travel, and benefits of personnel actually engaged in design, development, or installation of approved ADP systems.

(ii) Materials, equipment, facilities, and supplies. Costs of materials, equipment, facilities and supplies used in design, development, or installation of approved ADP systems. Only the proportionate share of the costs of capital assets assignable to the period of time or prorated for usage may be claimed during the design, development, or installation of these systems. This share must be determined based on acquisition costs and/or depreciation or approved usage rates. Data with respect to such costs shall be submitted with the request for funding.

(iii) Contracted services. Services obtained under the provisions of contracts which meet the procurement standards of this part for the design, development, or installation of FNS approved systems.

(iv) Management studies and preparation of other planning documents. The cost of resources used to produce the Planning APD may be funded at the 75 percent level regardless of final approval or denial of the Planning APD.

(h) *Emergency acquisition requirements.* The State agency may request FFP for the costs of ADP equipment and services acquired to meet emergency situations which preclude the State agency from following the prior approval requirements of § 277.18(c). FNS may provide FFP in emergency situations if the following conditions are met:

(1) The State agency must submit a written request to FNS prior to the acquisition of any ADP equipment or services. The written request must be sent by registered mail and shall include:

(i) A brief description of the ADP equipment and/or services to be acquired and an estimate of their costs;

(ii) A brief description of the circumstances which result in the State agency's need to proceed with the acquisition prior to obtaining formal FNS approval; and

(iii) A description of the adverse impact which would result if the State agency does not immediately acquire the ADP equipment and/or services.

(2) Upon receipt of a written request for emergency acquisition FNS shall provide a written response to the State agency within 14 days. The FNS response shall:

(i) Inform the State agency that the request has been disapproved and the reason for disapproval; or,

(ii) Inform the State agency that FNS recognizes that an emergency situation exists and the State agency must submit a formal request for approval by FNS which includes the information specified at § 277.18(d)(2) within 90 days from the date of the State agency's initial written request.

(iii) If FNS approves the request submitted under paragraph (h)(1) of this section, FFP will be available from the date the State agency acquires the ADP equipment and services.

(i) *Cost determination and claiming costs*—(1) *Cost determination.* Actual costs must be determined in compliance with an FNS approved budget and Appendix A to this part, and must be reconcilable with the FNS funding level. There shall be no payments pursuant to this section to the extent that a State agency is reimbursed for such costs pursuant to any other Federal program or uses ADP systems for purposes not connected with the Food Stamp Program. The State agency approved cost allocation plan must be amended to disclose the methods which will be used to identify and classify costs to be claimed. This methodology must be submitted to FNS as part of the request for FNS approval of funding as required in paragraph (d)(3) of this section. Any costs funded pursuant to these regulations shall be excluded in determining the State agency's administrative costs under any other section of this part.

(2) *Cost identification for purposes of FFP claims.* State agencies shall assign and claim the costs incurred under an approved APD in accordance with the following criteria:

(i) *Development costs.* Using its normal departmental accounting system, the State agency shall specifically identify what items of costs constitute development costs, assign these costs to specific project cost centers, and distribute these costs to funding sources based on the specific identification, assignment and distribution outlined in the approved APD. The methods for distributing costs set forth in the APD

should provide for assigning identifiable costs, to the extent practicable, directly to program/functions. The State agency shall amend the cost allocation plan required by § 277.9 to include the approved APD methodology for the identification, assignment and distribution of the development costs.

(ii) *Operational costs.* Costs incurred for the operation of an ADP system shall be identified and assigned by the State agency to funding sources in accordance with the approved cost allocation plan required by § 277.9.

(iii) *Service agreement costs.* States that operate a central data processing facility shall use their approved central service cost allocation plan required by OMB Circular A–87 to identify and assign costs incurred under service agreements with the State agency. The State agency shall then distribute these costs to funding sources in accordance with paragraphs (i)(2)(i) and (i)(2)(ii) of this section.

(3) *Capital expenditures.* The State agency shall charge the costs of ADP equipment having unit acquisition costs or total aggregate costs, at the time of acquisition, of more than $25,000 by means of depreciation or use allowance, unless a waiver is specifically granted by FNS. If the equipment acquisition is part of an APD that is subject to the prior approval requirements of paragraph (c)(2) of this section, the State agency may submit the waiver request as part of the APD.

(4) *Claiming costs.* Prior to claiming funding under this section the State agency shall have complied with the requirements for obtaining approval and prior approval of § 277.18(c).

(5) *Budget authority.* FNS approval of requests for funding shall provide notification to the State agency of the budget authority and dollar limitations under which such funding may be claimed. FNS shall provide this amount as a total authorization for such funding which may not be exceeded unless amended by FNS. FNS's determination of the amount of this authorization shall be based on the budget submitted by the State agency. Activities not included in the approved budget, as well as continuation of approved activities beyond scheduled deadlines in the approved plan, shall require FNS approval of an amended State budget for payment. Requests to amend the budget authorization approved by FNS shall be submitted to FNS prior to claiming such expenses.

(j) *Procurement requirements.* (1) Procurements of ADP equipment and services are subject to the procurement standards prescribed by § 277.14 regardless of any conditions for prior approval, except the requirements of § 277.14(b)(1) and (2) regarding review of proposed contracts. Those standards include a requirement for maximum practical open and free competition regardless of whether the procurement is formally advertised or negotiated.

(2) The standards prescribed by § 277.14, as well as the requirement for prior approval, apply to ADP services and equipment acquired by a State or local agency, and the ADP services and equipment acquired by a State or local central data processing facility primarily to support the Food Stamp Program.

(3) The competitive procurement policy prescribed by § 277.14 shall be applicable except for ADP services provided by the agency itself, or by other State or local agencies.

(k) *Access to the system and records.* Access to the system in all aspects, including but not limited to design, development, and operation, including work performed by any source, and including cost records of contractors and subcontractors, shall be made available by the State agency to FNS or its authorized representatives at intervals as are deemed necessary by FNS, in order to determine whether the conditions for approval are being met and to determine the efficiency, economy and effectiveness of the system. Failure to provide full access by appropriate State and Federal representatives to all parts of the system shall result in suspension and/or termination of Food Stamp Program funds for the costs of the system and its operation.

(l) *Ownership rights*—(1) *software*—(i) The State or local government shall include a clause in all procurement instruments which provides that the State or local government shall have all ownership rights in any software or modifications thereof and associated documentation designed, developed or installed with FFP under this section.

(ii) FNS reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, or otherwise use and to authorize others to use for Federal Government purposes, such software, modifications, and documentation.

(iii) Proprietary operating/vendor software packages (e.g., ADABAS or TOTAL) which are provided at established catalog or market prices and sold or leased to the general public shall not be subject to the ownership provisions in paragraphs (l)(1)(i) and (l)(1)(ii) of this section. FFP is not available for proprietary applications software developed specifically for the Food Stamp Program.

(2) *Automated data processing equipment.* The policies and procedures governing title, use and disposition of property purchased with Food Stamp Program funds, which appear at 7 CFR 277.13 are applicable to automated data processing equipment.

(m) *Use of ADP systems.* ADP systems designed, developed or installed with FFP shall be used for the period of time specified in the APD, unless FNS determines that a shorter period is justified.

(n) *Basis for continued Federal financial participation.* FNS will continue FFP at the levels approved in the Planning APD and the Implementation APD provided that project development proceeds in accordance with the conditions and terms of the approved APD and that ADP resources are used for the purposes authorized. FNS will use the APD Update to monitor ADP project development. The submission of the report prescribed in § 277.18(e) for the duration of project development is a condition for continued FFP. In addition, periodic onsite reviews of ADP project development and State and local agency ADP operations may be conducted by or for FNS to assure compliance with approved APD's, proper use of ADP resources, and the adequacy of State or local agency ADP operations.

(o) *Disallowance of Federal financial participation.* If FNS finds that any ADP acquisition approved under the provisions of § 277.18(c) fails to comply with the criteria, requirements, and other undertakings described in the approved or modified APD, payment of FFP may be disallowed.

(p) *ADP system security requirements and review process.*—(1) *ADP system security requirements.* State and local agencies are responsible for the security of all ADP projects under development, and operational systems involved in the administration of the Food Stamp Program. State and local agencies shall determine appropriate ADP security requirements based on recognized industry standards or standards governing security of Federal ADP systems and information processing.

(2) *ADP security program.* State agencies shall implement and maintain a comprehensive ADP Security Program for ADP systems and installations involved in the administration of the Food Stamp Program. ADP Security Programs shall include the following components.

(i) Determination and implementation of appropriate security requirements as prescribed in paragraph (p)(1) of this section.

(ii) Establishment of a security plan and, as appropriate, policies and

procedures to address the following areas of ADP security:

(A) Physical security of ADP resources;

(B) Equipment security to protect equipment from theft and unauthorized use;

(C) Software and data security;

(D) Telecommunications security;

(E) Personnel security;

(F) Contingency plans to meet critical processing needs in the event of short- or long-term interruption of service;

(G) Emergency preparedness; and

(H) Designation of an Agency ADP Security Manager.

(iii) Periodic risk analyses. State agencies shall establish and maintain a program for conducting periodic risk analyses to ensure that appropriate, cost-effective safeguards are incorporated into new and existing systems. In addition, risk analyses shall be performed whenever significant system changes occur.

(3) *ADP system security reviews.* State agencies shall review the ADP system security of installations involved in the administration of the Food Stamp Program on a biennial basis. At a minimum, the reviews shall include an evaluation of physical and data security, operating procedures, and personnel practices. State agencies shall provide a written summary of the State agency's findings and determination of compliance with these requirements to FNS, upon completion of the ADP system security review. The State agency shall include an action plan with scheduled dates of milestones which, when completed, will correct any security weaknesses.

(4) *Applicability.* The security requirements of this section apply to all ADP systems used by State and local governments to administer the Food Stamp Program.

(5) *Costs.* Costs incurred for complying with the provisions of paragraphs (p)(1) through (p)(3) of this section are considered regular administrative costs which are funded at the regular FFP level unless they are incurred during the development of an ADP system funded at the 75 percent FFP rate, in accordance with paragraph (g) of this section.

3. In part 277, Appendix A, *Standards for Selected Items of Cost,* Section B, paragraphs B(1) through B(12) are removed, paragraphs B(13) through B(20) are redesignated as paragraphs B(2) through B(9), respectively, and a new paragraph B(1) is added. The addition reads as follows:

Appendix A—Principles for Determining Costs Applicable to Administration of the Food Stamp Program by State Agencies

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B. *Costs allowable with approval of FNS.*—(1) *Automated Data Processing.* The costs of acquiring data processing equipment and services used in the administration of the Food Stamp Program are allowable. The costs of ADP equipment and services acquisitions to be funded at the 75 percent rate or which exceed the prior approval cost thresholds specified in § 277.18(c) are allowable upon the prior written approval of FNS. Requests for prior approval of such costs shall be in accordance with the provisions of § 277.18.

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Dated: January 12, 1990.

George A. Braley,

Acting Administrator.

[FR Doc. 90–2731 Filed 2–6–90; 8:45 am]

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Wednesday
February 7, 1990

Part IV

Department of Health and Human Services

42 CFR Part 433

45 CFR Parts 95, 205, and 307

Automatic Data Processing Equipment and Services; Conditions for Federal Financial Participation; Final Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Family Support Administration

Office of Child Support Enforcement

Office of Human Development Services

Health Care Financing Administration

Office of the Secretary

42 CFR Part 433

45 CFR Parts 95, 205, and 307

RIN 0970-AA59

Automatic Data Processing Equipment and Services; Conditions for Federal Financial Participation

AGENCY: Family Support Administration, Office of Child Support Enforcement, Office of Human Development Services, Health Care Financing Administration, Office of the Secretary, HHS.

ACTION: Final rule.

SUMMARY: These regulations change requirements for the claiming of Federal matching funds for the acquisition of ADP equipment or services in the administration of public assistance programs under titles I, IV, X, XIV, XVI (AABD) and XIX of the Social Security Act and Title IV Chapter 2 of the Immigration and Nationality Act. These changes modify the process under which State and local governments submit requests for Federal Financial Participation (FFP) in support of the acquisition of automatic data processing equipment or services.

DATE: These rules are effective May 8, 1990, and shall apply to all on-going and new acquisitions of automatic data processing equipment or services. APDs for on-going acquisitions, that have been prior approved under the existing rule, are deemed approved under this rule.

FOR FURTHER INFORMATION CONTACT: Ron Lentz (202) 252-4795.

SUPPLEMENTARY INFORMATION:

Regulatory History

HHS, then the Department of Health, Education and Welfare, published final regulations entitled "Automatic Data Processing Equipment and Services—Conditions for Federal Financial Participation", subpart F of 45 CFR part 95 in the **Federal Register**, (43 FR 44851), on September 29, 1978. The September 29, 1978 regulations required State and local governments to obtain prior written approval from the Department for the acquisition of ADP equipment or ADP services when the acquisition costs exceeded $25,000. These regulations were modified by a rule change published on February 19, 1980 in the **Federal Register** (45 FR 10794), to raise the prior approval threshold to $100,000 for acquisitions costing that amount or more in Federal and State funds over a twelve-month period and to $200,000 in Federal and State funds for the total acquisition. The change also required States to submit a brief prior notice of acquisition for ADP equipment and services that cost $25,000 to $100,000 over a twelve-month period.

On November 19, 1984, HHS published a Notice of Proposed Rulemaking (NPRM), proposing changes to the regulation published on September 29, 1978, with comment period in the **Federal Register** (49 FR 45617). The NPRM proposed raising the prior approval threshold to $200,000 for acquisitions costing that amount or more in Federal (regular matching) and State funds over a twelve-month period and to $300,000 in Federal (regular matching) and State funding for the total acquisition, revising the prior approval requirements and eliminating the prior notice requirement. This NPRM also proposed modifying the current regulation to conform to legislative changes in the administration of some Social Security Act programs and to clarify the regulatory language.

On January 27, 1986, the Department published an Interim Final Rule with Comment Period in the **Federal Register** (51 FR 3337) which established the conditions and the procedures under which a State can obtain consideration for Federal Financial Participation (FFP) in emergency and certain other circumstances for the acquisition of automatic data processing (ADP) equipment or services in affected programs. The Interim Final Rule added § 95.623 to address the waiver of the prior approval requirement. The public was invited to submit comments pertaining to the Interim Final Rule.

On December 18, 1986 HHS published a Final Regulation in the **Federal Register** (51 FR 45321) which raised the prior approval threshold to $200,000 for acquisitions costing that amount or more in Federal (regular matching) and State funds over a twelve-month period and to $300,000 in Federal (regular matching) and State funding for the total acquisition, revised specific prior approval requirements and eliminated the prior notice requirement. That final regulation also modified the then current regulation to conform to legislative changes in the administration of some Social Security Act programs and to clarify the regulatory language.

On September 21, 1987, HHS published a Notice of Proposed Rulemaking (NPRM), "Automatic Data Processing Equipment and Services; Conditions for Federal Financial Participation" with comment period in the **Federal Register** (52 FR 35454). That NPRM was applicable to the administration of Public Assistance programs under titles I, IV-A, IV-B, IV-D, and IV-E, X, XIV, XVI (AABD), and XIX of the Social Security Act.

The comment period expired on November 20, 1987. The Final Rule published herein addresses the comments received from the public in response to the January 27, 1986 Interim Final Rule and the September 21, 1987 NPRM.

This rule finalizes §§ 95.605, 95.623 and 95.624 of the interim final regulation published on January 27, 1986, and addresses the major areas of planning prior to the acquisition of ADP equipment and services, and of allowing States to proceed with project development activities, when project changes occur, before obtaining HHS approval of the changes, as explained in the preamble of the NPRM published on September 21, 1987. In addition, changes have been made to the rules as they appeared in the NPRM, as explained below.

The comments received in response to the Notice of Proposed Rule Making published on September 21, 1987 expressed general agreement with the proposed rule's objectives of reducing reporting burden and improving the APD process. However, the comments also expressed general concern that the rule lacked clarity, was complex, and still contained burdensome requirements. In response to these comments, HHS has made certain modifications. These modifications include:

- Reorganizing the definition of APDs to include all types of APDs, including Advance Planning Document Updates (APDUs). The NPRM separately defined an APDU.
- Succinctly stating the purpose of the APD documents, clearly delineating their content requirements in the definitions and placing the submission requirements in § 95.611, Specific Conditions for FFP. In the NPRM, submission requirements were contained in both the definitions and in § 95.611.
- Clarifying prior approval and approval requirements for regular and for enhanced Federal financial participation.
- Clarifying when a State should consider submitting a "Planning APD".

- Clarifying the distinction between "Planning APD" and "Implementation APD" activities.
- Emphasizing the need to develop a Functional Specifications Document prior to developing a General Systems Design (GSD) document.
- Emphasizing the transfer of another State GSD and system wherever practical and feasible.
- Clarifying procedures for State requests for FFP in support of Medicaid Management Information Systems (MMISs).
- Adding definitions for "Implementation", "Medicaid Management Information Systems (MMIS)", "Total Acquisition Cost", "Functional Requirements Specifications" and "Project".
- Revising the definition of APDs to include Advance Planning Document Updates (APDUs) as extensions of APDs.
- Adding a definition for APDUs which distinguishes between an "Annually Updated" APDU and an "As Needed" APDU.
- Deleting the term "Advance Planning Document Modification."
- Establishing specific thresholds under which certain APDs, RFPs, contracts and contract amendments, for both regular and enhanced funding, do not require prior approval.
- Deleting the requirement to submit RFPs, contracts and contract amendments that do not require prior approval.
- Modifying various specific submission requirements which appeared in the NPRM.
- Increasing the cost thresholds for regular FFP acquisitions.

These changes referred to above are explained in more detail below under specifics of the changes and in the responses to specific comments.

We have published this rule in final form, despite the changes, not only because the changes are a logical outgrowth of the proposed rule, but also because it is overall consistent with the objectives of the NPRM published on September 21, 1987. These objectives were to reduce the reporting burden on States and improve the State systems approval process. This final rule contains provisions which, if delayed, would delay achieving these objectives.

Specifics of the changes are:

1. We are amending § 95.605 to define new documents, where necessary, and to revise definitions of existing terminology for greater clarity.

The following definitions are added (as proposed in the NPRM and modified in this final regulation):

—"Planning APD". This document was added to provide the State and local agencies with a mechanism for requesting FFP in support of necessary planning activities prior to the acquisition of ADP equipment or services. The Planning APD, a relatively brief document usually not more than 6–10 pages, is used to request FFP to determine the need for, and feasibility and cost factors of, an ADP equipment or services acquisition, and to perform one or more of the following: Prepare a "Functional Requirements Specification"; assess other States' existing systems for transfer, to the maximum extent possible; prepare an "Implementation APD"; prepare a request for proposal (RFP) or develop a General Systems Design (GSD).

Before beginning the General Systems Design, the State shall notify HHS as to the State's plan for transferring an already developed and tested system.

The 6–10 page Planning APD shall contain:

(A) A statement of the problem/need in terms of deficiencies in existing capabilities, new or changed program requirements or opportunities for economies and efficiencies;

(B) A project management plan which addresses the planning project organization, planning activities/deliverables, State and contractor resource needs, planning project procurement activities and schedule;

(C) A specific budget for the planning project; and,

(D) An estimated total project cost along with prospective State and Federal cost distribution, including planning, development and implementation.

Additional "Planning APD" content requirements, for enhanced funding projects are contained in 45 CFR 205.37(a)(1)–(8) and 45 CFR 307.15. A Planning APD is not required for an MMIS.

The State, when submitting a Planned APD, commits to conducting/preparing the needs assessment, feasibility study, alternatives analysis and cost benefit analysis.

Additionally the State commits to development of a Functional Requirements Specification and if necessary a General Systems Design (GSD).

In the final rule the definition of the Planning APD has been revised to better explain the level of detail that needs to be provided by the Planning APD. This is intended to make clear the differences between the Planning and Implementation APDs. The Planning APD and Implementation APDs differ in terms of the activities they address and the level of detail the Department expects each to contain.

—"Implementation APD". This document is a plan of action for acquiring ADP services or equipment. An Implementation contains the following elements: a statement of needs and objectives; a requirements analysis, feasibility study and a statement of alternative considerations including, where appropriate, a transfer of an existing system and an explanation of why such a transfer is not feasible if another alternative is identified; a cost benefit analysis; a personnel resource statement indicating availability of qualified and adequate staff, including a project director to accomplish the project objectives; a detailed description of the nature and scope of the activities to be undertaken and the methods to be used to accomplish the project; the proposed activity schedule for the project; a proposed budget (including a consideration of all possible "Implementation APD" activity costs, e.g., system conversion, computer capacity planning, supplies, training, and miscellaneous ADP expenses) for the project; a statement indicating the period of time the State expects to use the equipment or system; an estimate of prospective cost distribution to the various State and Federal funding sources and the proposed procedures for distributing costs; and, a statement setting forth the security and interface requirements to be employed and the system failure and disaster recovery procedures available.

—"Advance Planning Document Update" ("APDU"). This document replaces two documents in the current rule. The current rule requires that *any* change to the approved APD be submitted to the Department for prior approval. The Aid to Families with Dependent Children (AFDC) and Child Support Enforcement (CSE) programs, under current rules, also require an Annual APD for all projects approved for enhanced FFP. The "APDU" can be used by State and local agencies to satisfy both of these HHS reporting requirements. Additionally, the format and the content of the "APDU" is more clearly defined than the previously defined Annual APD or APD update or modification and requires HHS approval as opposed to the *prior* approval that is required for the current Annual APD or APD change.

The "APDU" must be submitted annually ("Annual APDU") or on an as needed basis ("As Needed APDU"). An "APDU" is not required for an MMIS.

The content of the "Annual APDU" includes:

(A) History of APD approval and approved subsequent APD changes;

(B) Project status and anticipated problems;

(C) Project deliverables report;

(D) Project activity schedule;

(E) Project expenditures report;

(F) Approved or anticipated cost allocation changes; and,

(G) Cost savings report.

The content of the "As Needed APDU" follows the format of the original APD and only those elements of the APD, where a change to the original APD (Planning or Implementation, as appropriate) occurred, need be updated.

—"Advance Planning Document" ("APD"), "Initial advance automatic data processing planning document" or "Initial APD" means a "Planning APD" or an "Implementation APD". This definition has been redefined to also include "APDUs". This definition establishes a closer relationship between "APDUs" and "Planning and Implementation APDs" and simplifies the terminology of the final regulation and is intended to make it more understandable to State and local agencies.

The following definitions are added in this final regulation:

—"Medicaid Management Information System (MMIS)", "Implementation", "Total Acquisition Cost", "Functional Requirements Specification", and "Project".

The meaning of these terms was preceived by the Department to be generally understood by the public. However, to avoid any future misunderstanding by the public, the Department has chosen to define these terms as part of the text of the final rule.

2. Section 95.611(a) is modified to require a State to submit non-MMIS requests (in the form of a "Planning APD" or an "Implementation APD") for prior approval signed by the appropriate State official, to the Associate Administrator, Family Support Administration, Office of Management and Information Systems. The State shall send the Associate Administrator the original request and a copy of it for each HHS component from which the State is requesting funding. The NPRM instructed State agencies to submit the Planning and Implementation APDs to the Assistant Secretary for Management and Budget (ASMB), Department of Health and Human Services. The change to the final rule was made to reflect an organizational and approval authority change made within HHS published in the **Federal Register** on September 1, 1988 (53 FR 33850).

States shall submit requests for approval which involve solely title XIX funding (i.e., State Medicaid Systems), to HCFA for action.

The State shall also send one copy of the request to each Regional program component and one copy to the HHS Regional Director's office. We have provided States with appropriate guidance and the mailing addresses for regional office distribution. These new distribution requirements will allow HHS Central and Regional Offices to begin the document review at the same time and avoid delays in transmitting requests from the Central Office to the Regional Offices.

Section 95.611(a) is also modified to apply thresholds to ADP acquisitions in support of a Medicaid Management Information System (MMIS) for which reimbursement at the 75 percent FFP rate is being requested. This is a change from the proposed rule which required prior approval of any and all costs for an MMIS for which the State sought enhanced matching. It should be noted, however, that there are separate rules affecting the receipt of enhanced matching in the context of the approval and reapproval of MMIS systems set forth in 42 CFR part 433, subpart C.

In response to public comments HHS has reconsidered the threshold for noncompetitive acquisitions. HHS recognized, generally, that the cost of ADP equipment and services has increased since the establishment of the current threshold and that recognition has resulted in increasing the threshold for this type of acquisition from $25,000 (as provided in the NPRM) to $100,000 (as provided herein). This section of the NPRM applied to regular FFP acquisitions. The final rule has been revised to make this point more clearly.

In response to public comments HHS has reconsidered the threshold for regular FFP acquisitions. HHS agrees with the public comments that argue for a higher dollar threshold for regular FFP acquisitions (planning and implementation combined) and feels that the use of a single dollar threshold instead of an annual threshold and a project threshold, will simplify the rule in this area. Therefore, a single threshold, of $500,000, for this type of acquisition has been added to the final rule.

In the final rule § 95.611(a) has been reconstructed into numbered subsections. This change was made to make the section more readable and understandable.

3. In the final § 95.611(b) has been reconstructed to delineate the prior approval requirements as they apply to State requests for regular FFP and enhanced FFP.

In the final rule, RFPs and contracts which exceed $300,000 under a regular funded project will require HHS prior approval unless specifically exempted by the Department.

This is a change from the NPRM which did not require prior approval or establish specific approval thresholds for regular funded RFPs, but which required that all regular funded RFPs be submitted to HHS for review, and possible disapproval.

HHS feels that for RFPs for regular funding in excess of $300,000, the scope of work portion of the RFP is critical to the successful acquisition of the ADP equipment or service and for that reason has chosen to retain prior approval authority for those RFPs.

In the final rule RFPs and/or contracts for enhanced funding, in excess of $100,000, will require prior approval unless specifically exempted by the Department. This is a change from the NPRM which required that all RFPs and contracts for enhanced funding be prior approved if HHS so required, and those not submitted for prior approval were required to be submitted for HHS review.

HHS made this change in order to be responsive to States' requests for added reporting burden relief by establishing specific thresholds under which prior approval would not be required and over which it would be at the Department's discretion.

A contract amendment prior to execution of the amendment, involving cost increases exceeding $100,000 or time extensions of more than 60 days, requires prior approval unless specifically exempted by Department.

The NPRM provided for absolute HHS discretion regarding the application of the prior approval requirement to contract amendments and required that all contract amendments be submitted for prior approval unless specifically exempted by the Department. The final rule applies dollar and time thresholds under which the Department does not require prior approval of contract amendments for regular or enhanced matched projects. Documents not subject to prior approval need not be submitted to HHS for review.

4. In the final rule § 95.611(c) has been reconstructed to delineate the approval requirements as they apply to the newly defined Annual APDUs and As Needed

APDUs for regular FFP and enhanced FFP. Additionally, criteria for submitting and obtaining approval for the newly defined Annual and As Needed APDU are listed and are as follows:

(A) For regular FFP requests.

(1) An Annual APDU needs HHS approval if the total acquisition cost is more than one million dollars, and when specifically required by the Department.

(2) An "As Needed APDU" needs HHS approval if changes cause any of the following:

(a) A projected cost increase of $300,000 or 10 percent of the project cost, whichever is less;

(b) A schedule extension of more than 60 days for major milestones;

(c) A significant change in procurement approach, and/or scope of procurement activities beyond that approved in the APD;

(d) A change in system concept, or a change to the scope of the project; or,

(e) A change to the approved cost allocation methodology.

The State shall submit the "As Needed APDU" to the Department, no later than 60 days after the occurrence of the project change.

(B) For enhanced FFP requests.

(1) An Annual APDU needs HHS approval.

(2) An "As needed" APDU needs HHS approval if changes cause any of the following:

(a) A projected cost increase of $100,000 or 10 percent of the project cost, whichever is less;

(b) A schedule extension of more than 60 days for major milestones. For Aid to Families with Dependent Children (AFDC) Family Assistance Management Information System (FAMIS)-type projects, in accordance with section 402(e)(2)(C) of the Social Security Act, any schedule change which affects the State's implementation date as specified in the approved APD requires that the Department recover 40 percent of the amount expended. The Secretary may extend the implementation date, if the implementation date is not met because of circumstances beyond the State's control. Examples of circumstances beyond the State's control are:

(i) Equipment failure due to physical damage or destruction; or,

(ii) Change imposed by Federal judicial decisions, or by Federal legislation or regulations;

(c) A significant change in procurement approach, scope or activities beyond that approved in the APD;

(d) A change in system concept or scope of the project;

(e) A significant change to the approved cost methodology; or

(f) A decrease of more than 10% of estimated cost benefits.

The State shall submit the "As Needed APDU" to the Department, no later than 60 days after the occurrence of the project changes to be reported in the "APDU".

The changes in the final rule to the APDU submission requirements respond to comments received concerning the APDU. These changes require the submission of either an Annual APDU or an As Needed APDU, replacing the requirements in the NPRM for submission of APD modifications (APDMs), APD Updates (APDUs) and Annually Updated APDs. The final rule limits the requirement for Annual APDUs for regular matched projects to when required by the Department for acquisitions with a total cost of over one million dollars, rather than for all regular matched projects as was required in the NPRM, and distinguishes between the submission of an Annual APDU and an As Needed APDU for project changes.

5. In the final rule § 95.611(d) has been deleted. In the NPRM this section required submission, for the Department's information, of all documents that did not require either prior approval or approval. This change substantially lessens the number of documents that State agencies must submit to HHS.

6. The NPRM added a new § 95.612 Disallowance of Federal Financial Participation (FFP) which provided that if the Department found that any equipment or services acquisition approved or modified under the provisions of § 95.611 failed to comply with the criteria, requirements, and other undertakings prescribed in the approved advance planning document, payment of FFP might be disallowed. This section of the final rule remains essentially unchanged, except for the deletion of the word "substantially" which is unnecessary. To the extent an expenditure is inappropriate it is disallowable, regardless of the amount.

7. The NPRM added a new § 95.621(f) to establish minimum standard requirements for the security of non-Federal ADP systems used by State and local governments to administer programs covered under 45 CFR part 95, subpart F. The final rule deletes the requirement, that would have been imposed by § 95.621(f)(3), for States to provide HHS with copies of their completed security review reports. A new § 95.621(f)(6) has been added to the final rule that requires State agencies to provide HHS with a copy of a summary of the State's findings and an action plan for correcting any security weaknesses. This change reflects a reduction of reporting burden on States.

8. In the NPRM we proposed that these regulations would expire on December 31, 1992. This would allow insufficient time to gain experience under these regulations in order to make informed changes. Accordingly, we have decided to delete the sunset provisions and to make informed changes through the notice and comment process.

9. The NPRM proposed revising 45 CFR 205.35 to add the terms "Annually updated advance automatic data processing planning document" and "Initial advance automatic data processing planning document" and indicated that these terms would be defined at 45 CFR part 95, subpart F § 95.605. This revision remains unchanged in the final rule.

The NPRM proposed revising 45 CFR 205.37 to add new introductory language. This revision remains unchanged in the final rule.

10. The NPRM proposed revising 45 CFR 307.1 to add the terms "Annually Updated APD" and "Initial APD" and indicated that these terms would be defined at 45 CFR part 95, subpart F § 95.605. This revision remains unchanged in the final rule.

11. The NPRM proposed revising 45 CFR 307.15(a) to refer to 45 CFR part 95, subpart F, § 95.611 (a), (b) (c) and (d) for the appropriate process for approval of APDs. The final rule retains 45 CFR 307.15(a). The Office of Child Support Enforcement (OCSE) decided to retain the agency prior approval process since most OCSE systems are single agency (OCSE) systems as opposed to integrated eligibility systems for HCFA and FSA.

12. The NPRM proposed the removal of 45 CFR 307.15 (c) and (d) since these functions would be addressed under 45 CFR part 95 subpart F. The final rule removes section 45 CFR 307.15(d). 45 CFR 307.15(c) is retained. 45 CFR 307.15(c) has been retained because the Office of Child Support Enforcement (OCSE) decided to retain the agency prior approval process since most OCSE systems are single agency (OCSE) systems as opposed to integrated eligibility systems for HCFA and FSA.

13. The NPRM proposed the removal of 45 CFR 307.20 (b) and (c) and 45 CFR 307.30(e). The final rule removes these sections. The final rule revises § 307.20 to eliminate the designation of subsection (a) since the removal of subsections (b) and (c), the only other subsections of § 307.20, remove the requirement for subsection designation.

14. The final rule revises the Medicaid regulations at 42 CFR 433.112(a) and

433.116(b) to provide parallel references, for purposes of clarity, to the same prior approval requirements being finalized in § 95.611.

15. To bring the rules into conformance with current practice, under which Refugee Resettlement program requirements are included in integrated systems submitted to HHS for prior approval, we have added 8 U.S.C. 1521 to the authorities for this rule.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980, the Department has previously obtained OMB clearance of the process described in this document under which the States may apply for and obtain Federal financial participation in their ADP acquisitions. The OMB approval number is 0990–0174.

The reporting burden over and above what the States already do for this process is estimated to average 18 hours per response, including 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 the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to:

Naomi B. Marr, Family Support Administration, Associate Administrator for Management and Information Systems, MAIL STOP MMIS/SDSS, 370 L'Enfant Promenade, SW, Washington, DC 20407

and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

Public Comments

This section addresses public comments received in response to the Interim Final Rule published in the **Federal Register** (51 FR 3337) on January 27, 1986 and the NPRM published in the **Federal Register** (52 FR 35454) on September 21, 1987. This section first addresses the public comments received regarding the Interim Final Regulation.

The Interim Final Regulation requested comments within a period of 60 days after publication in the **Federal Register**. The comment period closed on April 2, 1986. Although some of these comments are condensed, summarized or paraphrased, we have responded to each of the comments we received.

Comment #1

A number of States commented that the Department should not end its policy of permitting retroactive prior approvals until the Department has fulfilled its commitment to reform its approval process to insure more timely decisions on ADP applications.

Response #1

At the time of this comment the Department has only just begun its efforts to revise its prior approval requirements, efforts which have culminated in this final rule. In this sense, the comment has been overtaken by events. However, in a broader sense the Department did not and would not consider changing its policy of requiring prior approval as a condition for HHS Federal financial participation in States' acquisition of ADP equipment and services, because this would be inconsistent with the Department's mandate to ensure the effective use of Federal funds for ADP acquisitions.

Comment #2

A number of States commented that the definition of an "emergency situation" should be expanded to include immediate acquisitions necessitated by the requirements of Federal, State and local legislation, regulations and court orders. The commentors expressed concern that the definition which appeared in the Interim Final Rule is too restrictive and will not cover these situations.

Response #2

The suggestion in this comment was not accepted. The examples in the preamble of the Interim Final Rule of an "emergency situation" were not intended to be all inclusive. The intent of the emergency procedure is to grant relief where an emergency situation exists depending on the specific circumstances involved. The language contained in the preamble to the regulation and the regulation itself gives the Department sufficient flexibility to decide if an emergency exists in a particular case, including those involving changes mandated by judicial decisions, legislation and regulations. Whether the Department will agree that an emergency situation exists in individual cases will depend on each State's particular circumstances.

Comment #3

Some States commented that the Department should apply the "emergency" procedures to all ADP acquisitions until the new procedures the Department is developing are promulgated.

Response #3

Again this comment has been overtaken by this final rule which represents the new procedures developed by the Department. Through this final rule the Department continues to require prior approval and provides "emergency" procedures for instances where ongoing operations would be affected. The belief that an ADP acquisition needs to be accomplished on an expedited basis is insufficient for the "emergency" procedures to apply. These can only apply where a true emergency exists as defined in this rule.

Comment #4

States suggested that the Department should increase the threshold under which it requires prior approval to $250,000, as soon as possible.

Response #4

Again, this comment has been overtaken by events. In the final rule published in the **Federal Register** on December 18, 1986 (51 FR 45321), the Department changed its prior approval thresholds to require a State to obtain prior written approval from the Department when it plans to acquire ADP equipment or services with proposed FFP at the regular matching rate that it anticipates will have total acquisition costs of $200,000 or more in Federal and State funds over any twelve-month period, or $300,000 or more in Federal and State funds for the total acquisition. In this final rule we have established a single threshold of $500,000 or more in Federal and State funds for the total acquisition.

We published the Notice of Proposed Rulemaking in the **Federal Register** on September 21, 1987 (52 FR 35454). We asked for public comments within a period of 60 days. The comment period closed on November 20, 1987. For ease of comprehension and perspective, we have grouped comments according to the issues raised. Although some of the comments are condensed, summarized or paraphrased, we have responded to each of the comments we received.

ISSUE: PLANNING APD

Comment #5

Several commenters suggested simplification of the Planning APD format and content and changing the name of the Planning APD to a "Notification of Pending APD".

Responses #5

It is our intent that the Planning APD be a relatively brief document. This has been explained in the preamble to this rule. We have revised the definition and format of the Planning APD in response to this comment to eliminate redundancies with the Implementation APD definition. We believe that the revised format and content of the Planning APD more clearly states, to State agencies, the Federal requirements for the Planning APD. Finally, we believe that introduction of the new term "Notification of Pending APD" would be confusing, especially since the States are currently using the term Planning APD when requesting FFP for planning from the Office of Child Support Enforcement. For this reason the new terminology was not used in the revision to the final rule.

Comment #6

Two commenters felt that the Planning APD and Implementation APD activities were redundant. The commenters felt that both the Planning APD and the Implementation APD required a feasibility study, a requirements analysis, a conceptual system design and a General Systems Design.

Response #6

In the final rule the definition of the Planning APD is revised to emphasize the level of detail that needs to be provided by the Planning APD. This is intended to make clear the differences between the Planning and Implementation APDs.

The Planning APD and Implementation APDs differ in terms of the activities they address and the level of detail the Department expects each to contain. The Planning APD primarily requires a commitment to undertake a feasibility study, a requirements analysis and to develop a cost benefits analysis which the Department considers critical to any planning project. It also requires a description of the planning project (e.g., project staff, costs, etc.). The Implementation APD is intended to be derived from the requirements analysis and feasibility study conducted under the Planning APD. It shall describe in some detail the APD systems acquisition to be undertaken, justify the acquisition using the results of the planning project, describe the implementation project (e.g., project staff, costs, etc.), and describe any procurements to be undertaken to support and or conduct the implementation activities.

Comment #7

One commenter felt that the NPRM did not clearly indicate whether Planning APDs applied to large integrated systems or a single system.

Response #7

We have clarified this in the definitions of the final rule. The planning APD was not intended to be peculiar to either integrated or single system acquisitions. The criterion for submitting a planning APD is: Does the State plan to claim FFP for planning activities for the proposed acquisition (e.g. for the development of a Functional Requirements Specification)?

Comment #8

Two commenters felt that the NPRM divided the APD process into planning and implementation phases. Funding for planning activities now requires prior approval where the previous process did not contain this requirement. The previous process of one comprehensive APD was far more reasonable.

Response #8

HHS does not share the commenter's view. HHS believes the two-phase, planning and implementation APD, will place a needed premium on the planning process and will lead to the development of a more definitive implementation APD that will improve the chances for successful implementation of the project.

Also, as the revised final rule explains, the Planning APD is that part of the review process under which a State would determine the feasibility of a system transfer.

ISSUE: IMPLEMENTATION APD

Comment #9

One commenter felt that § 95.611 should specify that total acquisition costs include planning, development and implementation. This explicit statement in Section 95.611 would make it consistent with the statement regarding total acquisition costs as contained in the substantive background section.

Response #9

Section 95.611 has been amended to clearly indicate that total acquisition costs include planning, development and implementation costs.

Comment #10

One commenter felt that the APD process, with one APD was already cumbersome and the notion of having two APDs, a Planning APD and an Implementation APD would add to the complexity of the process.

Response #10

The Implementation APD format and content are very similar to the existing APD format and content. The Planning APD, as explained in responses to previous comments, is intended to be a brief, less detailed document. The Planning and Implementation APDs are intended to serve two distinctly different phases of the development and implementation of a project.

Also, having separate documents for planning and implementation will allow States and HHS to concentrate on the planning aspects of a project during the planning phase, and on implementation during the implementation phase. An entire project, including planning, will not be delayed because the implementation part of the APD lacked sufficient detail.

Comment #11

Two commenters recommended that the General System Design (GSD) development activity be a part of the Implementation APD.

Response #11

We agree with the commenter that in many cases, the GSD development belongs as a milestone in the Implementation APD. In fact in the final rule we encourage States that are transferring a system to also transfer and adjust the GSD. When this is

carried out it will indeed be part of the implementation APD.

HHS believes that in order to get an accurate picture of the proposed project and an estimate of the project costs submitted as part of the implementation APD, it is necessary that the State develop a completed General System Design document during the Planning APD activities. However, as the revised definition of a Planning APD clearly indicates, we also feel that the State agency should thoroughly examine the possibility of transferring a system from another State prior to moving ahead with a new GSD for the State. Part of the process of examining the possibility of a systems transfer is to develop a Functional Requirements Specifications document. In the case where a State will seek contractor assistance for transfer of a system, we prefer that the transfer activities include transfer and adaptation of another State's GSD. In these cases, the GSD would become part of the Implementation APD not the Planning APD. Our experience is that implementation projects which are undertaken without benefit of a General Systems Design are likely to have cost overruns of 50 percent or more.

Comment #12

Two commenters felt that incremental funding of Implementation APD activities would cause costly delays.

Response #12

Incremental funding will be based upon APDUs, which do not require prior approval and therefore will not cause the State to delay implementation of the project. Also the Department will generally provide incremental funding for large, complex multi-year projects of many millions of dollars in order to tie funds approval to meaningful project milestones (e.g., completion of detailed design, software development, pilot test, etc.).

ISSUE: REPORTING REQUIREMENTS

Comment #13

One commenter suggested that the Annually Updated APD should not include previous years' activities.

Response #13

The Annually Updated APD, now labeled the "Annual APDU" under the revised definitions of the final rule, is basically a status report of the past year's project activities. It must, however, contain a summary of the project background and activity which references approved APDs or update documents from previous years (i.e., prior to the past year). It should not be a restatement of the activities which were reported in previous "Annually Updated APDs", and the plans for the remainder of the project. If the State needs additional funding and/or schedule extensions these requests should be made with an "As Needed" APD.

Comment #14

One commenter felt that the Annually Updated APD may be duplicative of State agency required reports.

Response #14

State required reports may be submitted to satisfy HHS requirements if State reports provide the kind of data that would satisfy Federal requirements and are submitted within the deadlines for the approved APD.

Comment #15

One commenter felt that the statement "Updated APD is not required when certification requirements are met", needed to be clarified.

Response #15

We assumed that the commenter meant "Annually Updated APD" when using the term "Updated APD". This statement in the NPRM was not clear, and we have clarified our intent in §§ 95.605(3)(vii) and 95.611(c)(2) (i) and (ii). The final rule states when and what is required in an annual APDU both during and following a system implemention. The commenter may have been questioning certification requirements. Enhanced funded systems, (e.g., a Family Assistance Management Information System (FAMIS) or a Child Support Enforcement System (CSES)) when implemented statewide, must be certified as meeting all Federal program specific requirements in order to receive enhanced operational funding for on-going hardware operational costs. For FAMIS and CSES, the final rule specifies that an annual APDU is necessary for a period of 2–5 years beyond the system certification date to provide HHS with system cost benefit data.

Comment #16

Two commenters felt that the purpose of the Annually Updated APD was not clear.

Response #16

The purpose of the annually updated APD is the same as the annually updated APD that is required under sections 402(e) and 454(16) of the Social Security Act, which apply to title *IV–A* and title *IV–D* of the Social Security Act. That purpose is to give the Department a status report on the acquisition of ADP equipment or services for multi-year projects.

In the final rule the definition of an APDU has been defined to distinguish between an Annual APDU and an As Needed APDU. This replaces the requirement in the NPRM, which commenters found confusing, for an APD Modification (APDM), and APD Update (APDU), and a Annual APDU.

Comment #17

Two commenters suggested that the FAMIS Quarterly updates could be substituted for reporting requirements set forth in the proposed rule.

Response #17

The FAMIS Quarterly Updates are intended to satisfy specific FSA requirements. Since the FAMIS Quarterly Updates submitted during the year do not duplicate the Annually Updated APD, HHS will not accept these quarterly reports in lieu of the annual APD update.

Comment #18

One commenter felt that the APDMs should be reported at the time of the Annually Updated APD.

Response #18

The final rule no longer provides for an APDM. The final rule defines "as needed APDUs" which States may submit separately or as part of an Annual APDU.

ISSUE: ADP SECURITY REQUIREMENTS

Comment #19

Several commenters suggested that HHS provide more specificity regarding ADP system security requirements in § 95.621(f)(2).

Response #19

HHS has intentionally kept § 95.621(f) broad in order to allow States maximum flexibility in establishing ADP security programs for the programs covered under this subpart.

Comment #20

A number of commenters felt that security requirements should not be part of the regulation, since security requirements should be applied to existing systems as well as newly acquired systems.

Response #20

The Department intends § 95.621(f) ADP System Security Requirements and Review Process to form the basis for States to develop security programs

which encompass a State's total ADP systems activites (e.g., total software, hardware, communications, etc.) which support the operation of the Social Security Act programs covered under subpart F. Section 95.621(f) is not intended to establish specific security requirements for specific State systems (e.g., FAMIS, CSES, MMIS). The system security requirements specific to such systems are contained in separate HHS program specific confidentiality regulations (e.g., 45 CFR 205.37(a)(3), 45 CFR 205.50, 45 CFR 307.10(a)(2)(xi), 45 CFR 303.21 and 42 CFR 431.300ff). The Department would expect States to develop security programs, under the provisions of § 95.621(f) which apply to both existing and new systems and encompass the specific system security requirements referred to in the previous sentence.

The Department investigated whether existing single State audits could address State systems security requirements. If found that these audits require pre-established regulatory requirements such as those established in this rule, against which to audit; and that such audits generally only address the existence of internal controls, as opposed to the full gamut of ADP security. Thus single State audits will not meet the requirements contained in these rules.

HHS recognizes that State ADP security programs are important to and encompass more than these programs. Under the Secretary's broad rule making authority, Section 1102 of the Social Security Act and 8 U.S.C. 1522(a)(9), HHS is retaining § 95.621(f) in these final rules. HHS believes that § 95.621(f) is sufficiently broad and flexible to allow States to incorporate the requirements for ADP systems security in these programs in their State-wide security programs.

Comment #21

Several commenters suggested that HHS provide clarification and timeframes for implementation and consequences for failure to comply with the ADP system security requirements.

Response #21

HHS has added § 95.621(f)(6) to address this comment. This subsection requires States to provide summary reports, after completing the required biennial ADP system security review, which verify their compliance with the requirements of § 95.621(f)(2), and identify areas of non-compliance and corrective actions to be taken. While the security requirement in itself does not carry specific penalties for non-compliance, States must be cognizant that failure to have an adequate security program in place will jeopardize their enhanced funding for hardware operational costs for a FAMIS system. Non-compliance could also result in the disapproval of APDs for acquisition of ADP equipment and services because these APDs do not meet the security requirements imposed by regulation 45 CFR 205.37(a) and FSA Guidelines contained at section 62–M, "Certification Criteria-Security and Backup Procedures of the Automated Application Processing and Information and Retrieval System (AAPIRS) or because a State does not meet the overall security requirements of § 95.621(f).

Comment #22

One State suggested that States should set standards for ADP security and provide reports to HHS.

Response #22

Section 95.621(f) calls for States to establish their own security standards using tried and tested Federal or recognized industry standards. The Department's intent is to give States the flexibility to use standards which best meet their security needs and environments.

We have added § 95.621(f)(6) to the final rule which requires States to provide summary reports which certify their compliance with the requirements of § 95.621(f)(2), and identify areas of non-compliance and corrective actions to be taken.

Comment #23

Two commenters asked what level of funding is available for ADP security systems?

Response #23

Funding for ADP security will generally be available at the regular administrative cost for operating the programs covered by this rule. As an exception however, the statutes authorizing enhanced funding, sections 454(16)(c) and 402(a)(30) of the Social Security Act, specifically reference security as a requirement of the State. For example, these requirements are addressed within the review and approval of a FAMIS APD and enhanced funding will be provided for those automated procedures related to security of this system.

ISSUE: RECOUPMENT OF FFP

Comment #24

One commenter felt that HCFA is being granted authority under the proposed regulation to recoup FFP without statutory basis.

Response #24

We do not agree with the commenter. The disallowance provision of § 95.612 is based on the general regulatory requirement, contained in subpart F, that ADP system acquisitions require an approved APD, and that changes to an approved APD require approval. If a State deviates from an approved APD without HHS approval, it may exceed the limits of its authority to receive FFP and thereby be liable for the disallowance of FFP. This requirement applies equally to all programs covered by this rule.

Comment #25

One commenter felt that the term "Management Information System" as used in § 95.612 should be defined.

Response #25

The term "Management Information System" was inconsistent with the other parts of the regulation. Thus this is now referenced as an ADP acquisition. The term does not appear in the final rule.

Comment #26

One commenter felt that the expression "failure to substantially comply with an approved APD" as used in § 95.612 should be clarified.

Response #26

In this final rule we have changed this to "failure to comply with an approved APD." The Department approves FFP on the basis that the equipment or service acquisitions proposed under APDs will add to the proper and efficient operation of Social Security Act programs to which this subpart applies. By the same token, if the Department finds that a State fails to comply with the terms of an approved APD, to the detriment of the proper and efficient operation of these affected programs, the Department may disallow FFP. The reasons for which the Department may disallow FFP include, but are not limited to, schedule slippages and cost overruns which eliminate expected future cost savings or otherwise adversely affect cost-benefit projections.

ISSUE: FEDERAL TIMEFRAMES FOR RESPONDING TO STATE SUBMITTED DOCUMENTS

Comment #27

Several commenters felt that HCFA and in turn HHS should be required to establish timeframes for responding to State agency requests for prior approval of APDs RFPs, contracts and contract amendments.

Response #27

Under this regulation, at § 95.611(d) there is an established timeframe for HHS response to State submitted documents. While the Department could establish a specific timeframe for providing funding decisions, we are not doing so because ADP projects vary in complexity and size and the documents submitted by the States vary in completeness and quality.

Comment #28

One commenter felt that the NPRM did not address the failure of DHHS to deal responsibly with initial APD submissions. We interpreted this to mean that the commenter questioned how the rule would improve HHS responsiveness to APDs.

Response #28

The new procedures outlined in this final rule are intended to improve HHS responsiveness to State APD submissions by eliminating the number of documents to be reviewed and by implementing a more uniform, and HHS believes, a less burdensome process.

Comment #29

One commenter felt that the NPRM does not deal with HHS' inclination to request more detailed information rather than issue a timely response. We interpreted this to mean that the commenter questioned how the rule would lead to more timely funding decisions and fewer questions for additional information in order to make a funding decision.

Response #29

If States adhere to the requirements set forth in the definitions of this final rule and submit quality documents, additional information will not be requested.

The new process promulgated by this final rule, with its emphasis on the need for adequate project planning, is intended to improve the likelihood that APDs will contain the information which HHS needs to make funding decisions. The process separates out initial project planning activities for which little information to support the project definition exists, from project implementation activities and requires minimum Planning APD information to support a decision of funding planning activities. HHS expects that due to improved project planning, States will more likely submit to the Department beter Implementation APDs which will make it less likely that the Department will require more detailed information before issuing a final funding decision.

ISSUE: THRESHOLDS:

Comment #30

Several commenters felt that the prior approval dollar thresholds should be substantially increased.

Response #30

In response to public comment HHS has reconsidered the threshold for regular FFP acquisitions. HHS agrees with the public comments that argue for a higher dollar threshold for regular FFP acquisitions and feels that the use of a single dollar threshold instead of an annual threshold and a project threshold, will simplify the rule in this area. Therefore, a single threshold, of $500,000, for this type of acquisition has been added to the final rule.

Comment #31

Several commenters felt that the dollar thresholds for noncompetitive acquisitions should be substantially increased.

Response #31

In response to public comments HHS has reconsidered the threshold for noncompetitive acquisitions and raised it from $25,000 to $100,000.

Comment #32

Several commenters felt that APDs for regular funded acquisitions should not be required.

Response #32

Given that the requirements of subpart F apply to large open-ended entitlement programs, HHS continues to believe that expenditures for ADP equipment and services, because of their technical nature and magnitude of cost, require HHS oversight through the prior approval process, regardless of the FFP rate involved. However, the prior approval threshold for regular funded APDs has been increased to $500,000 in this final rule.

Comment #33

One commenter noted that prior approval of 75 percent FFP enhanced funding for MMIS projects is currently not required when the expenditure is less than HCFA thresholds. The new rule would require prior approval below the threshold.

Response #33

HCFA has a policy of applying thresholds to the 75 percent enhanced funding rate for MMIS projects. Accordingly, HHS has modified § 95.611(a) in the final rule to incorporate such a threshold.

Comment #34

One commenter recommended that State projects of limited scope should have a simplified approval process. Federally mandated requirements should have an automated procedure applied.

Response #34

The regulation has several provisions which allow States to move forward more quickly with State projects of limited scope. Projects for which a State will claim regular FFP which are below the dollar threshold established in § 95.611(a) do not require HHS prior approval. The APD requirements are sufficiently flexible to allow for shorter, less complex submissions for less complex systems.

Beyond this, § 95.624 provides procedures under which a State can requires a waiver of the prior approval requirement in certain emergency situations.

Comment #35

Two commenters recommended that enhanced funding APDs should be required only when planned expenditures exceed $500,000.

Response #35

All initial acquisitions under sections 405 and 406 of Public Law 96–265 require an APD. The law makes no provision for a dollar threshold on initial acquisitions under which APDs would not be required.

ISSUE: APD CHANGES

Comment #36

Several commenters suggested that HHS raise the dollar threshold for APDMs to $100,000 or 10% of project costs whichever is less.

Response #36

The "As Needed APDU" has replaced the APDM and the dollar threshold has been raised to $300,000 or 10 percent of the project whichever is less. HHS has raised the dollar threshold because ADP acquisitions have increased in cost and the definition of a significant dollar change for these acquisitions should also show a corresponding increase.

Comment #37

One commenter suggested that the prior approval requirements not be applied to APDMs.

Response #37

Since APDMs do not exist under this final rule, we responded to the comment as if it referenced an As Needed APDU. The prior approval requirement is not

applied to As Needed APDUs. APDUs require approval as opposed to prior approval. A State, however, has the option to submit an As Needed APDU for prior approval in order to assure that it will receive FFP for costs incurred under the APDU.

Comment #38

Several commenters suggested that APDM criteria should be changed to: (1) Address only increases in costs not decreases; (2) eliminate criterion of shifts in costs between years; and, (3) use a two-tiered approach to dollar thresholds (large State and small State).

Response #38

HHS has recognized the value of the first two points made by the commenter and the final rule has been revised accordingly. Under the As Needed APDU, the first and second parts of the comment are no longer applicable, because we agree that increases in overall project cost are our major concern. HHS is not accepting the two-tiered approach because it believes the provision of an absolute dollar cap coupled with a percentage cap provides sufficient flexibility between small and large projects.

Comment #39

One commenter suggested that a conceptual system design change, in and of itself, should not be a criterion for APDMs.

Response #39

HHS believes that changes to a conceptual design are significant and thus warrant review under an APDU which has replaced APDMs in the final rule. This is because the design could be altered to the point where the original functional requirements were no longer supported.

Comment #40

Several commenters suggested that APD modifications should not be required if the project is ahead of schedule.

Response #40

HHS agrees that projects that are ahead of schedule do not need to be monitored through the use of APD modifications, which are now referred to as "As Needed APDUs" and the final rule has been adjusted accordingly.

Comment #41

One commenter suggested that a 10% delay in scheduled milestones is ill-defined and will create administrative burdens.

Response #41

HHS agrees with the commenter's point that tracking a 10% delay in scheduled milestones would be difficult to administer. The 10% factor has been deleted from the final rule.

ISSUE: APPROVAL AUTHORITY AND LOCATION:

Comment #42

One commenter noted that MMIS projects are prior approved through the HCFA regional office, and suggested that this should remain unchanged.

Response #42

There is no intent to change Medicaid Management Information System (MMIS) approval procedures through this regulation because current procedures parallel this final rule.

Comment #43

One commenter felt that it is not clear whether central or regional offices would provide a formal written approval letter.

Response #43

It is intended that the Associate Administrator, Family Support Administration, Office of Management and Information Systems will have signature authority for all multi-program requests for FFP (e.g., ADP acquisitions for which more than one HHS program title covered under subpart F will provide FFP).

Except for HCFA in the case of MMIS, the Central Office will provide the formal written approval letter for ADP acquisitions for which only one HHS program title covered under subpart F will provide FFP.

ISSUE: RETROACTIVE APPROVAL

Comment #44

Several commenters suggested that mandated system changes and sole source contract amendments should not require prior approval.

Response #44

States have flexibility in implementing Federally mandated changes. Because of this, HHS believes that such changes should be subject to subpart F, in order to insure that States choose the most cost effective methodology for implementing mandated changes (e.g., monthly reporting under title IV–A). If the implementation date or deadline for Federal changes is short, the emergency procedures under § 95.624 allow a State to request a waiver of prior approval. Contract amendments are considered by HHS to be critical procurement documents and HHS chooses to exercise prior approval over these, when they exceed $100,000, or involve a time extension of more than 60 days. HHS has chosen the dollar threshold of $100,000 because it represents a significant change to the original contract.

Comment #45

One commenter noted that the NPRM does not provide a mechanism for retroactive approval of APDs.

Response #45

The Interim Final Rule published in January 1986 included a procedure in § 95.624, that allows for retroactive approval of APDs under certain emergency conditions. The NPRM did not amend this section of the rule in any way for reasons explained in response to other comments. Therefore, HHS will continue to accept State requests for HHS recognition of emergency situations and in those situations where an emergency is recognized HHS will waive its prior approval requirement.

ISSUE: EFFECTIVE DATE:

Comment #46

Several commenters felt that the effective date of the final rule was not clear.

Response #46

Dates: These rules are effective 90 days after publication. The rule provisions apply to all on-going and new acquisitions of automatic data processing equipment or services. APDs for ongoing acquisitions, that have been prior approved under the existing rule, are deemed approved under this rule.

ISSUE: PROGRAM SPECIFIC COMMENTS:

Comment #47

Two commenters felt that the new process will be more complex and time consuming for Medicaid Management Information System APDs.

Response #47

The commenter may have been concerned because the NPRM inadvertently inferred that MMIS APDs were to come directly into the Assistant Secretary for Management and Budget. This final regulation, however, does not change the procedure for submittal of an MMIS APD, which provides for submission of APDs to HCFA. Also the implementation APD in the new process parallels the definition of an APD in the previous process. Thus, there is no change regarding MMIS APDs.

(v) A commitment to conduct/prepare the needs assessment, feasibility study, alternatives analysis, cost benefit analysis, and to develop a Functional Requirements Specification and/or a General Systems Design (GSD); and,

(vi) A commitment to define the State's functional requirements for the purpose of evaluating the transfer of an existing system, including the transfer of another State's General System Design, which the State may adapt to meet State specific requirements.

Additional *Planning APD* content requirements, for enhanced funding projects are contained in 45 CFR 205.37(a)(1)–(8) and CFR 307.15.

(2) *Implementation APD* means a written plan of action to acquire the proposed APD services or equipment.

The *Implementation APD* shall include:

(i) The results of the activities conducted under a Planning APD, if any;

(ii) A statement of needs and objectives;

(iii) A requirements analysis, feasibility study and a statement of alternative considerations including, where appropriate, a transfer of an existing system and an explanation of why such a transfer is not feasible if another alternative is identified;

(iv) A cost benefit analysis;

(v) A personnel resource statement indicating availability of qualified and adequate staff, including a project director to accomplish the project objectives;

(vi) A detailed description of the nature and scope of the activities to be undertaken and the methods to be used to accomplish the project;

(vii) The proposed activity schedule for the project;

(viii) A proposed budget (including a consideration of all possible "Implementation APD" activity costs, e.g., system conversion, computer capacity planning, supplies, training, and miscellaneous ADP expenses) for the project;

(ix) A statement indicating the period of time the State expects to use the equipment or system;

(x) An estimate of prospective cost distribution to the various State and Federal funding sources and the proposed procedures for distributing costs; and

(xi) A statement setting forth the security and interface requirements to be employed and the system failure and disaster recovery procedures available.

Additional requirements, for acquisitions for which the State is requesting enhanced funding, are contained at 45 CFR 205.37(a)(1)–(8), 45 CFR 307.15 and 42 CFR part 433 subpart C.

(3) *Advance Planning Document Update* (APDU) means a document submitted "annually" (Annual APDU) to report project status and/or post implementation cost-savings, or on an "as needed" (As Needed APDU) basis to request funding approval for project continuation when significant project changes are anticipated; for incremental funding authority and project continuation when approval is being granted by phase; or to provide detailed information on project and/or budget activities.

(a) The *Annual APDU* is due 60 days from the *Planning APD* or "Implementation APD" approved anniversary and includes:

(i) A reference to the approved APD and all approved changes;

(ii) A project activity status which reports the status of the past year's major project tasks and milestones, addressing the degree of completion and tasks/milestones remaining to be completed and discusses past and anticipated problems or delays in meeting target dates in the approved APD and approved changes to it;

(iii) A report of all project deliverables completed in the past year and degree of completion for unfinished products;

(iv) A project activity schedule for the remainder of the project;

(v) A project expenditures status which consists of a detailed accounting of all expenditures for project development over the past year and an explanation of the differences between projected expenses in the approved APD and actual expenditures for the past year;

(vi) A report of any approved or anticipated changes to the allocation basis in the APD's approved cost methodology;

(vii) A report which compares the estimated cost-savings from the State's approved APD to actual cost-benefits to date (in the development phase of a project, this may be reported as non-applicable). The proportion of costs to savings must remain as projected in the APD. Once the State begins operation, either on a pilot basis or under a phased approval, the cost-savings shall be submitted 2–5 years after statewide operation until the Department determines projected cost savings have been achieved.

(b) The "As Needed APDU" is defined as a document which requests approval for additional funding and/or authority for project continuation when significant changes are anticipated; when the project is being funded on a phased implementation basis; to clarify project information requested as an approval condition of the "Planning APD" or "Implementation APD". The "As Needed APDU" may be submitted anytime as a stand-alone funding or project continuation request, or may be submitted with the "Annual APDU":

(i) When the State anticipates incremental project expenditures (exceeding specified thresholds);

(ii) When the State anticipates a schedule extension of more than 60 days for major milestones. For Aid to Families with Dependent Children (AFDC) Family Assistance Management Information System (FAMIS)-type projects, in accordance with section 402(e)(2)(C) of the Social Security Act, any schedule change which affects the State's implementation date as specified in the approved APD requires that the Department recover 40 percent of the amount expended. The Secretary may extend the implementation date, if the implementation date is not met because of circumstances beyond the State's control. Examples of circumstances beyond the State's control are:

(1) Equipment failure due to physical damage or destruction; or,

(2) Change imposed by Federal judicial decisions, or by Federal legislation or regulations;

(iii) When the State anticipates major changes in the scope of its project, e.g., a change in its procurement plan, procurement activities, system concept or development approach;

(iv) When the State anticipates significant changes to its cost distribution methodology or distribution of costs among Federal programs; and/or,

(v) When the State anticipates significant changes to its cost-benefit projections.

The "As needed APDU" shall provide supporting documentation to justify the need for a change to the approved budget.

* * * * *

Automatic Data Processing Services or ADP Services means:

(a) Services to operate ADP equipment, either by agency, or by State or local organizations other than the State agency; and/or

(b) Services provided by private sources or by employees of the State agency or by State and local organizations other than the State agency to perform such tasks as feasibility studies, system studies, system design efforts, development of system specifications, system analysis, programming, system conversion and

system implementation and include, for example, the following:

(1) Systems Training,

(2) Systems Development,

(3) Site Preparation,

(4) Data Entry, and

(5) Personal services related to automated systems development and operations that are specifically identified as part of a "Planning ADP" or "Implementation ADP". As an example, a personal service would be the service of an "expert individual" to provide advice on the use of ADP software or hardware in developing a State automated management information system.

* * * * *

Functional Requirements Specification is defined as an initial definition of the proposed system, which documents the goals, objectives, user or programmatic requirements, management requirements, the operating environment, and the proposed design methodology, e.g., centralized or distributed. This document details what the new system and or hardware should do, not how it is to do it. The Specifications document shall be based upon a clear and accurate description of the functional requirements for the project, and shall not, in competitive procurements, lead to requirements which unduly restrict competition. The Specification document is the user's definition of the requirements the system must meet.

General Systems Design means a combination of narrative and graphic description of the generic architecture of a system as opposed to the detailed architecture of the system. A general systems design would include a systems diagram and narrative identifying overall logic flow and systems functions; a description of equipment needed (including processing data transmission and storage requirements); a description of other resource requirements which will be necessary to operate the system; a description of system performance requirements; and a description of the physical and organizational environment in which the system will operate including how the system will function within that environment (e.g. how workers will interface with the system).

Project means an automated systems effort undertaken by the State to improve the administration and/or operation of one or more of its public assistance programs. For example, a State may undertake a comprehensive, integrated initiative in support of its AFDC and Medicaid programs' intake, eligibility and case management functions. A project may also be a less comprehensive activity such as, office automation, enhancements to an existing system or an upgrade of computer hardware.

Implementation means design, development and installation and does not include operation.

Medicaid Management Information System (MMIS) is a commonly accepted term for "Mechanized Claim Processing and Information Retrieval System" as provided by Section 1903(a)(3) and 1903(r) of the Social Security Act and at 42 CFR 433.110 et seq.

Total Acquisition Cost means all anticipated expenditures (including State staff costs) for planning and implementation for the project. For purposes of this regulation total acquisition cost and project cost are synonymous.

* * * * *

4. Section 95.611 is amended by revising paragraphs (a), (b) and (c) to read as follows:

§ 95.611 Specific Conditions for FFP.

(a) *General acquisition requirements.*—(1) A State shall obtain prior written approval from the Department as specified in paragraph (b) of this section, when the State plans to acquire ADP equipment or services with proposed FFP at the regular matching rate that it anticipates will have total acquisition costs of $500,000 or more in Federal and State funds.

(2) A State shall obtain prior written approval from the Department as specified in paragraph (b) of this section, when the State plans to acquire ADP equipment or services with proposed FFP at the enhanced matching rate authorized by 45 CFR 205.35, 45 CFR part 307 or 42 CFR part 433, subpart C, regardless of the acquisition cost, except as specified in paragraph (a)(3) of this section.

(3) A State shall obtain prior written approval, when the State plans to acquire ADP equipment or services in support of the operation of the approved State Medicaid System, when it anticipates the total acquisition costs will be $500,000 or more in Federal and State funds and the State plans to claim FFP at the 75 percent rate for the ADP equipment or services to be acquired.

(4) A State shall obtain prior written approval from the Department as specified in paragraph (b) of this section, when it plans to acquire noncompetitively from a nongovernmental source ADP equipment or services, with proposed FFP at the regular matching rate, that has a total acquisition cost of more than $100,000.

(5) Except as provided for in paragraph (a)(6) of this section, the State shall submit requests for Department approval, signed by the appropriate State official, to the Associate Administrator, Family Support Administration, Office of Management and Information Systems. The State shall send to FSA one copy of the request for each HHS component, from which the State is requesting funding, and one for the State Data Systems Staff, the coordinating staff for these requests. The State must also send one copy of the request directly to each Regional program component and one copy to the Regional Director.

(6) States shall submit requests for approval which involve solely Title XIX funding (i.e., State Medicaid Systems), to HCFA for action.

(7) The Department will not approve any Planning or Implementation ADP that does not include all information required as defined in § 95.605.

(b) *Specific prior approval requirements.* The State agency shall obtain written approval of the Department prior to the initiation of project activity.

(1) For regular FFP requests.

(i) For the Planning APD subject to the dollar thresholds specified in paragraph (a) of this section.

(ii) For the Implementation APD subject to the dollar thresholds specified in paragraph (a) of this section.

(iii) For the Request for Proposal and Contract, unless specifically exempted by the Department, prior to release of the RFP or prior to the execution of the contract when the contract is anticipated to or will exceed $300,000.

(iv) For contract amendments, unless specifically exempted by the Department, prior to execution of the contract amendment involving contract cost increases exceeding $100,000 or contract time extensions of more than 60 days.

(2) For enhanced FFP requests.

(i) For the Planning APD.

(ii) For the Implementation APD.

(iii) For the Request for Proposal and contract, unless specifically exempted by the Department, prior to release of the RFP or prior to execution of the contract when the contract is anticipated to or will exceed $100,000.

(iv) For contract amendments, unless specifically exempted by the Department, prior to execution of the contract amendment, involving contract cost increases exceeding $100,000 or contract time extensions of more than 60 days.

(3) Failure to submit any of the above to the satisfaction of the Department

may result in disapproval or suspension of project funding.

(c) *Specific approval requirements.* The State agency shall obtain written approval from the Department:

(1) For regular FFP requests.

(i) For an Annual APDU for projects with a total acquisition of more than one million dollars, when specifically required by the Department.

(ii) For an "As Needed APDU" when changes cause any of the following:

(A) A projected cost increase of $300,000 or 10 percent of the project cost, whichever is less;

(B) A schedule extension of more than 60 days for major milestones;

(C) A significant change in procurement approach, and/or scope of procurement activities beyond that approved in the APD;

(D) A change in system concept, or a change to the scope of the project;

(E) A change to the approved cost allocation methodology.

The State shall submit the "As Needed APDU" to the Department, no later than 60 days after the occurrence of the project changes to be reported in the "As Needed APDU".

(2) For enhanced FFP requests.

(i) For an Annual APDU.

(ii) For an "As needed" APDU when changes cause any of the following:

(A) A projected cost increase of $100,000 or 10 percent of the project cost, whichever is less;

(B) A schedule extension of more than 60 days for major milestones. For Aid to Families with Dependent Children (AFDC) Family Assistance Management Information System (FAMIS)-type projects, in accordance with section 402(e)(2)(C) of the Social Security Act, any schedule change which affects the State's implementation date as specified in the approved APD requires that the Department recover 40 percent of the amount expended. The Secretary may extend the implementation date, if the implementation date is not met because of circumstances beyond the State's control. Examples of circumstances beyond the State's control are:

(*1*) Equipment failure due to physical damage or destruction; or,

(*2*) Change imposed by Federal judicial decisions, or by Federal legislation or regulations;

(C) A significant change in procurement approach, and/or a scope of procurement activities beyond that approved in the APD;

(D) A change in system concept or scope of the project;

(E) A change to the approved cost methodology;

(F) A change of more than 10% of estimated cost benefits.

The State shall submit the "As Needed APDU" to the Department, no later than 60 days after the occurrence of the project changes to be reported in the "As Needed APDU".

(3) Failure to submit any of the above to the satisfaction of the Department may result in disapproval or suspension of project funding.

5. Section 95.612 is added to read as follows:

§ 95.612 Disallowance of Federal Financial Participation (FFP).

If the Department finds that any ADP acquisition approved or modified under the provisions of § 95.611 fails to comply with the criteria, requirements, and other undertakings described in the approved advance planning document to the detriment of the proper and efficient operation of the affected program, payment of FFP may be disallowed. In the case of a suspension of approval of an APD for enhanced funding, see 45 CFR 205.37(c), 307.40(a) and 307.35(d).

6. Section 95.621 is amended by adding a new paragraph (f) to read as follows:

§ 95.621 ADP Reviews.

* * * * *

(f) *ADP System Security Requirements and Review Process*—(1) *ADP System Security Requirement.* State agencies are responsible for the security of all ADP projects under development, and operational systems involved in the administration of HHS programs. State agencies shall determine the appropriate ADP security requirements based on recognized industry standards or standards governing security of Federal ADP systems and information processing.

(2) *ADP Security Program.* State ADP Security requirements shall include the following components:

(i) Determination and implementation of appropriate security requirements as secified in paragraph (f)(1) of this section.

(ii) Establishment of a security plan and, as appropriate, policies and procedures to address the following area of ADP security:

(A) Physical security of ADP resources;

(B) Equipment security to protect equipment from theft and unauthorized use;

(C) Software and data security;

(D) Telecommunications security;

(E) Personnel security;

(F) Contingency plans to meet critical processing needs in the event of short or long-term interruption of service;

(G) Emergency preparedness; and,

(H) Designation of an Agency ADP Security Manager.

(iii) Periodic risk analyses. State agencies must establish and maintain a program for conducting periodic risk analyses to ensure that appropriate, cost effective safeguards are incorporated into new and existing systems. State agencies must perform risk analyses whenever significant system changes occur.

(3) *ADP System Security Reviews.* State agencies shall review the ADP system security of installations involved in the administration of HHS programs on a biennial basis. At a minimum, the reviews shall include an evaluation of physical and data security operating procedures, and personnel practices.

(4) Costs incurred in complying with provisions of paragraphs (f)(1)–(3) of this section are considered regular administrative costs which are funded at the regular match rate.

(5) The security requirements of this section apply to all ADP systems used by State and local governments to administer programs covered under 45 CFR part 95, subpart F.

(6) Heads of State agencies after completing the required biennial ADP system security review, shall provide the Department with a written summary of the State's findings and determination of compliance with these ADP security requirements. The State shall describe its ADP security program and prepare an action plan with scheduled dates of milestones which when completed will correct any security weaknesses. The State shall certify compliance with those areas cited in paragraph (f)(2) of this section.

§ 95.623 [Amended]

7. Section 95.623 is amended to remove:

"(Approved by the Office of Management and Budget under control number 0990–0058)"

§ 95.624 [Amended]

8. Section 95.624 is amended to remove:

"(Approved by the Office of Management and Budget under control number 0990–0160)"

PART 205—[AMENDED]

9. The authority citation for part 205 continues to read as follows:

Authority: Sec. 1102, 49 Stat. 647; 42 U.S.C. 1302.

§ 205.35 [Amended]

10. Section 205.35 paragraph (c) is revised to read as follows:

§ 205.35 Mechanized claims processing and information retrieval systems; definitions.

* * * * *

(c) The following terms are defined at 45 CFR part 95, subpart F, § 95.605:

"Annually updated advance automatic data processing planning document";
"Design" or "System Design";
"Development";
"Initial advance automatic data processing planning document";
"Installation";
"Operation"; and
"Software".

11. Section 205.37 is amended by revising the introductory text of paragraph (a) to read as follows:

§ 205.37 Responsibilities of the Social Security Administration (SSA).

(a) SSA shall not approve the initial and annually updated advance automatic data processing planning document unless the document, when implemented, will carry out the requirements of the law and the objectives of title IV–A (AFDC) Automated Application Processing and Information Retrieval System Guide. The initial advance automatic data processing planning document must include:

* * * * *

PART 307—[AMENDED]

12. The authority citation for part 307 continues to read as follows:

Authority: 42 U.S.C. 652 through 658, 664, 666, 667 and 1302.

13. Section 307.1 paragraph (c) is revised to read as follows:

§ 307.1 Definitions

* * * * *

(c) The following terms are defined at 45 CFR part 95, subpart F, § 95.605:

"Advance Planning Document";
"Annually updated APD";
"Design" or "System Design";
"Development";
"Initial APD";
"Installation";
"Operation";
"Requirements Analysis"; and,
"Software".

* * * * *

§ 307.15 [Amended]

14. Section 307.15 paragraph (d) is removed.

§ 307.20 [Amended]

15. Sections 307.20 paragraphs (b) and (c) are removed.

16. Section 307.20 is revised to read as follows:

§ 307.20 Submittal of advance planning documents for computerized support enforcement systems eligible for 90 percent FFP.

The State IV–D agency must submit an APD for a computerized support enforcement system, approved and signed by the State IV–D Director and the appropriate State official, in accordance with the submission process prescribed in 45 CFR part 95, subpart F.

§ 307.30 [Amended]

17. Section 307.30 paragraph (e) is removed.

[FR Doc. 90–2671 Filed 2–6–90; 8:45 am]
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federal register

Wednesday
February 7, 1990

Part V

Department of Agriculture

Federal Crop Insurance Corporation

7 CFR Part 499

Common Crop Insurance Regulations (Single Policy); Proposed Rule

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 499

[Doc. No. 7577S]

Common Crop Insurance Regulations (Single Policy)

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to issue a new part 499 in chapter IV of title 7 of the Code of Federal Regulations (CFR), effective for the 1991 and succeeding crop years, to contain one common set of crop insurance regulations and a common policy of insurance applicable to all such regulations now contained in 7 CFR chapter IV which will be applicable to all crop insurance policies sold by FCIC, or sold by private insurance companies and reinsured by FCIC under the provisions of a Standard Reinsurance Agreement when appropriate Crop Provisions are published.

The intended effect of this rule is to provide a standard set of regulations and a master policy for insuring most crops authorized under the provisions of the Federal Crop Insurance Act, as amended, that will: (1) Provide a common set of crop insurance regulations and terminology between FCIC and private insurance companies under a Standard Reinsurance Agreement; (2) substantially reduce the time involved in amendment or revision; and (3) eliminate the necessity of a repetitious review process thus substantially reducing the volume of paperwork processed by FCIC. This rule also clarifies FCIC's long standing position on the preemption of inconsistent state laws and regulations.

DATES: Written comments, data, and opinions on this proposed rule must be submitted not later than March 9, 1990, to be sure of consideration.

ADDRESSES: Written comments on this proposed rule should be sent to Peter F. Cole, Office of the Manager, Federal Crop Insurance Corporation, Room 4090, South Building, U.S. Department of Agriculture, Washington, DC, 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC 20250, telephone (202) 447–3325.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation 1512–1. This action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is November 1, 1994.

John Marshall, Manager, FCIC, (1) has determined that this action is not a major rule as defined by Executive Order 12291 because it will not result in: (a) An annual effect on the economy of $100 million or more; (b) major increases in costs or prices for consumers, individual industries, federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) certifies that this action will not increase the federal paperwork burden for individuals, small businesses, and other persons and will not have a significant impact on a substantial number of small entities.

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

This program is not subject to the provisions of Executive Order 12612 (Federalism) and Secretary's Memorandum 1200–1 because:

(1) The statutory mandate for preemption is express, clear, and unequivocal (7 U.S.C. 1506(k));

(2) The Supreme Court of the United States has determined preemption in an express, clear and unequivocal manner (*Federal Crop Insurance Corporation* v. *Merrill,* 332 U.S. 380 (1947)); and

(3) The provisions outlined in this regulation announce no new policy but only serve to clarify and enunciate the policy and provisions which have been in existence since prior to 1947.

FCIC proposes to issue one set of regulations containing one common policy of insurance applicable to all such crops now contained in 7 CFR part 401 and which will be applicable to crop insurance policies sold by FCIC, or sold by private insurance companies and reinsured by FCIC under the provisions of a Standard Reinsurance Agreement. The proposal will insure that all recipients of the Federal Program are treated equally.

As revisions on individual policies are necessary, FCIC will publish a "crop provision" which will contain the language of the policy unique to that crop, and any exceptions to the common policy language necessary for that crop. When a crop provision is published in a section to part 499, effective for a subsequent crop year, the present policy contained in 7 CFR part 401, or in a separate part of chapter IV, will be revoked at the end of the crop year then in effect and later removed and reserved.

Certain portions of the common policy, by virtue of the differences between FCIC policies and Reinsured policies, with respect to Federal jurisdiction, appeals vs. arbitration, and treatment of amounts due (Federal offset vs. private insurance collection procedures), are not identical. For this reason, and in the applicable sections, the common policy is published with FCIC policies in the left column and Reinsured policies in the right column. Where a commonality of language exists, the provisions are not separated and are jointly applicable.

FCIC is also proposing to clarify and further define its preemption of State laws and regulations in this rule. State statutes and regulations of the FCIC program have always been specifically preempted by the Federal Crop Insurance Act and the Supremacy Clause of the Constitution of the United States. See 7 U.S.C. 1506(k); *Federal Crop Insurance Corporation* v. *Merrill,* 332 U.S. 380 (1947). Despite this well recognized preemption of State law and regulation in the Federal Assistance Program, FCIC has encountered frequent occurrences of State agencies requiring change in federally approved insurance policies to the extent that neighboring policyholders receive differing levels of federal assistance depending on whether they obtain their policy from FCIC or from a reinsured company or depending on whether they live in differing States.

Additionally, many States have been asserting the right to tax premiums on the reinsured policies under various State taxing statutes. Since FCIC is required to reimburse the reinsured companies for their expenses, the incidence of these taxes falls on the

Corporation which, by virtue of 7 U.S.C. 1511, is exempt therefrom. The FCIC estimates that it has paid over $15 million in the last year as reimbursement for State Premium taxes which should not have been assessed.

A number of instances have been reported where indemnities have not reached the intended recipient because of garnishments, liens, attachments, etc. served upon the reinsured companies under the various State laws. The clear statutory intent was that these assistance benefits be exempt from such interference. 7 U.S.C. 1509.

Judgements have been entered in State Courts under State Statutory or common law providing for the payment of punitive damages or providing for some multiplication of damages under "good faith" or some other State provision because of requirements of the FCIC Act or procedures and policy provisions mandated by the FCIC. The Federal Crop Insurance Act restricts the losses which can be covered and causes of losses which can be insured against. The procedures, rules, and terms of insurance are to be established by FCIC. Appropriations by the Congress are to be used for their intended purpose and not to pay judgements which may or may not bear any relation to the loss which has been incurred.

Obviously, reinsured companies cannot stand the risk of exorbitant damages imposed because of that company's following of FCIC mandated terms and procedures unless FCIC agrees to reimburse that company for those losses. Since appropriated funds may only be used for the purpose for which they were appropriated, the continuation of the delivery of the program through the reinsured companies depends on the straight forwarded clarification and declaration of federal preemption which has always existed but seldom been enforced.

The Federal Crop Insurance Act encourages the sales and service of policies under the Act through licensed agents and brokers. FCIC requires that the crop insurance program be delivered through the use of licensed agents and brokers by specifying the requirement that the persons selling or servicing its policies be licensed in certain generic categories by the State in which sales will occur. FCIC proposes to continue this requirement as being in accordance with the intent of the legislation and as a further protection of the intended recipients of this federal benefit.

FCIC, as always, remains open to suggestions from any person, including State insurance regulatory bodies, on ways to improve the program including changes in policy terms of conditions. However, it is FCIC which must determine the necessity of and scope of such changes. They cannot be enforced in a patchwork pattern, with no regard for the requirements of, or the safeguards to the program.

FCIC has therefore, included, a proposal for Federal preemption in this proposed rule. Several specific preemptions are listed as examples only, and are not intended to be inclusive.

FCIC is soliciting public comment on this proposed rule for 30 days following publication in the **Federal Register**. Written comment should be sent to Peter F. Cole, Office of the Manager, Federal Crop Insurance Corporation, Room 4090, South Building, U.S. Department of Agriculture, Washington, DC 20250.

All written comments received pursuant to this proposed rule will be available for public inspection and copying in the Office of the Manager, Federal Crop Insurance Corporation, Room 4090, South Building, U.S. Department of Agriculture, Washington, DC 20250, during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Part 499

Crop insurance, common policy basic provisions.

Proposed rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes to add a new part 499, the Common Policy and Crop Provisions (7 CFR part 499), proposed to be effective for the 1991 and succeeding crop years, as follows:

PART 499—COMMON CROP INSURANCE REGULATIONS; REGULATIONS FOR THE 1991 AND SUBSEQUENT CONTRACT YEARS

Sec.

Authority: 7 U.S.C. 1506, 1516.

§ 499.1 Applicability.

The provisions of this part are applicable only to crops for which a Crop Provision is published as a section to 7 CFR part 499 and then only for the crops and crop years designated by the applicable section.

§ 499.2 Availability of Federal crop insurance.

(a) Insurance shall be offered under the provisions of this section on the insured crop in counties within the limits prescribed by and in accordance with the provisions of the Federal Crop Insurance Act, as amended, (the Act). The crops and counties shall be designated by the Manager of the Corporation from those approved by the Board of Directors of the Corporation.

(b) The insurance is offered through two methods. First, the Corporation offers the contract contained in this part directly to the insured through agents of the Corporation. Those contracts are specifically identified as being offered by the Federal Crop Insurance Corporation. Second, companies reinsured by the Corporation offer contracts containing identical terms and conditions as the contract set out in this part. These contracts are clearly identified as being reinsured by the Corporation.

(c) No person may have in force more than one contract on the same crop for the crop year, whether insured by the Corporation or insured by a company which is reinsured by the Corporation.

(d) If a person has more than one contract under the Act outstanding on the same crop for the same crop year, all such contracts shall be voided for that crop year and the person will be liable for the premium on all contracts, unless the person can show to the satisfaction of the Corporation that the multiple peril contract insurance was inadvertent and without the fault of the person.

(e) If the multiple peril contract insurance is shown to be inadvertent and without the fault of the insured, the contract with the earliest application will be valid and all other contracts on that crop for that crop year will be cancelled. No liability for indemnity or premium will attach to the contracts so cancelled.

(f) The person must repay all amounts received in violation of this section with interest at the rate contained in the contract for delinquent premiums.

(g) An insured whose contract with the Corporation or with a company reinsured by the Corporation under the Act has been terminated because of violation of the terms of the contract is not eligible to obtain multi-peril crop insurance under the Act with the Corporation or with a company reinsured by the Corporation unless the insured can show that the default in the

prior contract was cured prior to the sales closing date of the contract applied for or unless the insured can show that the termination was improper and should not result in subsequent ineligibility.

(h) All applicants for insurance under the Act must advise the agent, in writing, at the time of application, of any previous applications for insurance under the Act and the present status of any such applications or insurance.

§ 499.3 Premium rates, production guarantees or amounts of insurance, coverage levels, and prices at which indemnities shall be computed.

(a) The Manager shall establish premium rates, production guarantees or amounts of insurance, coverage levels, and prices at which indemnities shall be computed for the insured crop which will be included in the actuarial table on file in the applicable service offices for the county and which may be changed from year to year.

(b) At the time the application for insurance is made, the applicant will elect an amount of insurance or a coverage level and price from among those contained in the actuarial table for the crop year.

§ 499.4 OMB control numbers.

OMB control numbers are contained in subpart H to part 400 in title 7 CFR.

§ 499.5 Creditors.

An interest of a person in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy, involuntary transfer or other similar interest shall not entitle the holder of the interest to any benefit under the contract.

§ 499.6 Good faith reliance on misrepresentation.

Notwithstanding any other provision of the crop insurance contract, whenever:

(a) A person entering into a contract of crop insurance under these regulations who, as result of misrepresentation or other erroneous action or advice by an agent or employee of the Corporation or reinsured company:

(1) Is indebted to the Corporation or the reinsured company for additional premiums; or

(2) Has suffered a loss to a crop which is not insured or for which the insured is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the person believed to be insured, or believed the terms of the insurance contract to have been complied with or waived; and

(b) The Board of Directors of the Corporation (or its designee) or the reinsured company, as applicable finds that:

(1) The agent or employee did in fact make such misrepresentation or take other erroneous action or give erroneous advice;

(2) Said person relied thereon in good faith; and

(3) To require the payment of the additional premium or to deny said person's entitlement to indemnity would not be fair and equitable, such person shall be granted relief the same as if otherwise entitled thereto. Requests for relief under this section must be submitted to the Corporation or the reinsured company (whichever is applicable) in writing. Arbitration panels established under contracts for insurance issued by reinsured companies may grant relief under this section if all applicable provisions have been established by the person seeking relief. Corporation hearing officers must, upon application by the person claiming relief under this section, refer such application to the appropriate official of the Corporation for determination as to whether to grant relief under this section. Corporation hearing officers do not have authority to grant relief under this section.

§ 499.7 The contract.

The insurance contract shall become effective upon the acceptance by the Corporation or the reinsured company of a duly executed application for insurance on a form prescribed by the Corporation or the reinsured company. The contract shall cover the crop as provided in the common policy and the crop endorsement. The contract shall consist of the application, the policy, the crop provisions, the State Provisions, the county actuarial table, and any amendments thereto. Changes made in the contract shall not affect its continuity from year to year. No indemnity shall be paid unless the insured complies with all terms and conditions of the contract. The forms referred to in the contract are available at the offices of the crop insurance agent.

§ 499.8 State and local laws and regulations preempted.

(a) No State or local governmental body or non-governmental body shall have the authority to promulgate rules or regulations, pass laws, or issue policies or decisions that directly or indirectly affect or govern agreements, contracts, or actions authorized by this part unless such authority is specifically authorized by this part or by the Corporation.

(b) The following is a non-inclusive list of examples of actions that State or local governmental entities or non-governmental entities are specifically prohibited from taking against the Corporation or any party that is acting pursuant to this part. Such entities may not:

(1) Impose or enforce liens, garnishments, or other similar actions against proceeds obtained, or payments issued in accordance with the Federal Crop Insurance Act, these regulations, or contracts or agreements entered into pursuant to these regulations;

(2) Tax premiums associated with policies issued hereunder;

(3) Exercise approval authority over policies issued;

(4) Levy fines, judgments, punitive damages, compensatory damages, or judgments for attorney fees or other costs against companies, employees of companies including agents and loss adjustors arising out of actions or inactions on the part of such individuals and entities authorized or required under the Federal Crop Insurance Act, the regulations, any contract or agreement authorized by the Federal Crop Insurance Act or by regulations, or procedures issued by the Corporation (Nothing herein is intended to preclude any action on the part of any authorized State regulatory body or any State court or any other authorized entity concerning any actions or inactions on the part of any agent, company or employee of any company whose action or inaction is not authorized or required under the Federal Crop Insurance Act, the regulations, any contract or agreement authorized by the Federal Crop Insurance Act or by regulations or procedures issued by the Corporation); or

(5) Assess any tax, fee, or amount for the funding or maintenance of any State or local insolvency pool or other similar fund.

The preceding list does not limit the scope or meaning of paragraph (a) of this section.

§ 499.9 The application and policy.

(a) Application for insurance on a form prescribed by, or approved by the Corporation must be made by any person who wishes to participate in the program, to cover such person's share in the insured crop as landlord, owner-operator, crop ownership interest, or tenant. No other person's interest in the crop may be insured under an application unless that person's interest is clearly shown on the application and

unless that other person's interest is insured in accordance with the procedures of the Corporation. The application must be submitted to the Corporation or the reinsured company through the crop insurance agent and must be submitted on or before the applicable sales closing date on file at the crop insurance agent's office.

(b) The Corporation or the reinsured company may reject or discontinue the acceptance of applications in any county or of any individual application upon the Corporation's or the reinsured company's determination that the insurance risk is excessive. If the reinsurance company rejects any application and such rejection is not required by the Corporation, the applicant must be immediately referred to an agent authorized to sell the Corporation's policies of insurance. The Manager of the Corporation is authorized in any crop year to extend the sales closing date for submitting applications in any county, by placing the extended date on file at the office of the crop insurance agent and publishing a notice in the **Federal Register** upon the Manager's determination that no adverse selectivity will result during the extended period or that such extension is required to comply with other programs of the United States Department of Agriculture. However, if adverse conditions should develop during such period, the Corporation will immediately discontinue the acceptance of applications and will require that the reinsured companies also immediately discontinue such acceptance.

United States Department of Agriculture

Federal Crop Insurance Corporation

Common Crop Insurance Policy

(This is a continuous policy. Refer to section 2.)

FCIC Policies

United States Department of Agriculture
Federal Crop Insurance Corporation

This is an insurance policy issued by the Federal Crop Insurance Corporation, a United States Government agency. The provisions of the policy are published in the **Federal Register** and in the Code of Federal Regulations (CFR) under the **Federal Register** Act (44 U.S.C. 1501 *et seq.*), and may not be waived or varied in any way by the crop insurance agent or any other agent or employee of FCIC.

Throughout this policy, "you" and "your" refer to the named insured shown on the accepted Application and "we" "us" and "our" refer to the Federal Crop Insurance Corporation. Unless the context indicates otherwise, use of the plural form of a word includes the singular and use of the singular form of the word includes the plural.

Reinsured Policies

This policy is reinsured by the Federal Crop Insurance Corporation (FCIC) under the provisions of the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*). All provisions of the policy and rights and responsibilities of the parties are specifically subject to the Federal Crop Insurance Act. The provisions of the policy are published in chapter IV of title 7 of the **Federal Register** and in chapter IV of title 7 of the Code of Federal Regulations (CFR) under the **Federal Register Act** (44 U.S.C. 1501 *et seq.*), and may not be waived or varied in any way by the crop insurance agent or any other agent or employee of the company.

In the event we cannot pay your loss, your claim will be settled in accordance with the provisions of this policy and paid by the FCIC. No state guarantee fund will be liable to pay your loss.
Throughout this policy "you" and "your" refer to the named insured shown on the accepted application and "we" "us" and "our" refer to the company providing the insurance. Unless the context indicates otherwise, use of the plural form of a word includes the singular and use of the singular form of the word includes the plural.

Agreement to Insure: In return for the payment of the premium, and subject to all of the provisions of this policy, we agree with you to provide the insurance as stated in this policy. If a conflict exists between the basic provisions contained herein and the specific Crop Provisions, the Crop Provisions will control.

Terms and Conditions

Basic Provisions

1. *Definitions.*

As used in this Policy these terms are defined as follows:

(a) *"Abandon"*—Failure to continue providing sufficient care, such as cultivation, irrigation, fertilization, application of chemicals, etc., consistent with good farming practices, for the insured crop to make normal progress toward harvest or maturity, or failure to harvest in a timely manner.

(b) *"Acreage report"*—A report required by section 6 of these basic provisions which contains, in addition to other required information, your report of your share of all acreage of an insured crop in the county whether insurable or uninsurable. This report must be filed prior to the final acreage reporting date contained in the State Provisions for the county for the crop insured.

(c) *"Another use, Notice of"*—The written notice required when you wish to put acreage to another use (see section 13).

(d) *"Application"*—The form required before insurance coverage will commence. This form must be completed and filed in your agent's office prior to the sale closing date (contained in the Crop Provisions) of the initial insurance year for each crop for which insurance coverage is requested.

(e) *"ASCS"*—The Agricultural Stabilization and Conservation Service of the United States Department of Agriculture.

(f) *"ASCS Farm Serial Number"*—The number assigned to the farm by the ASCS County Committee.

(g) *"Assignment of indemnity"*—A transfer of policy rights, made on our form, and effective when approved by us. It is the arrangement whereby you assign your right to an indemnity payment to any party of your choice for the crop year.

(h) *"Billing date"*—The first date upon which an insured is billed for insurance coverage and which generally falls at or near harvest time.

(i) *"Cancellation date"*—The calendar date on which all policies will automatically renew unless canceled by either you or us by providing the other written notice. This is the last date for you to make changes in your crop insurance coverage.

(j) *"Claim for indemnity"*—(See: section 13)— A claim made by the insured for damage or loss to an insured crop and submitted to us not later than 60 days after the end of the insurance period.

(k) *"Contract change date"*—The calendar date by which we make any contract changes available for inspection in the office of your crop insurance agent (See: section 4).

(l) *"Consent"*—Approval in writing by us allowing you to take a specific action.

(m) *"County*—The county shown on your summary of coverage.

(n) *"Coverage"*—The insurance provided by this policy against loss of insured production by farm unit as shown on your summary of coverage.

(o) *"Coverage begins, Date"*—The date insurance begins on the crop, generally after planting is completed or the calendar date contained in the Crop Provisions (See: section 11).

(p) *"Crop Provisions"*—The part of the policy that contains the specific provisions of insurance for each crop insured.

(q) *"Crop year"*—The period within which the crop is normally grown and designated by the calendar year in which the insured crop is normally harvested.

(r) *"Damage"*—Injury, deterioration, or loss of production of the insured crop due to insured or uninsured causes.

(s) *"Damage, notice of"*—A written notice required to be filed in your agent's office whenever you believe that the insured crop has been damaged to the extent that a loss is probable (See: section 13).

(t) *"Earliest planting date"*—The earliest date established for planting the insured crop and qualifying for a replant payment if applicable (See: State Provisions and section 22).

(u) *"End of insurance period, Date of"*—The date upon which the insured's crop insurance coverage ceases for the crop year. (See State crop provisions and section 11).

(v) *"Insured"*—The person who submitted the application accepted by us. This term does not extend to any other person having a share or interest in the crop such as a partnership, landlord, or any other person unless specifically indicated on the accepted application.

(w) *"Insured crop"*—The crop defined under the provisions of the applicable Crop Provisions.

(x) *"Intent to abandon, Notice of"*—The written notice to us by you indicating that because of damage from an insured cause, the insured has decided to no longer care for or harvest any part of the crop.

(y) *"Late Planting Agreement"*—Available on selected crops. An amendment to the insurance policy which, when planting has been delayed, allows you to insure a crop planted after the final planting date in exchange for a reduction in coverage.

(z) *"Loss, Notice of"*—The notice required to be given by the insured not later than 10 days after certain occurrences (See: section 13).

(aa) *"Negligence"*—The failure to use such care as a reasonably prudent and careful person would use under similar circumstances.

(bb) *"Person"*—An individual, partnership, association, corporation, estate, trust, or other legal entity, and wherever applicable, a State or a political subdivison or agency of a State.

(cc) *"Practical to replant"*—Our determination, after loss or damage to the insured crop, based upon all factors, including, but not limited to moisture availability, condition of the field, time to crop maturity, etc., on the feasibility of replanting and harvesting the crop. It is not practical to replant after the final planting date (for crops without an offered Late Planting Agreement) or after 20 days after the final planting date (for crops with an offered Late Planting Agreement).

(dd) *"Policy"*—The insurance contract between you and us consisting of the application, these Basic Provisions, the Crop Provisions for the crops insured, the State Provisions and the applicable regulations as published at 7 CFR part IV.

(ee) *"Production report"*—A written record showing your annual production and used to determine the yield guarantee. (See: section 3). The report contains previous year yield information including planted acreage and harvested production. This report must be supported by written verifiable records from a warehouseman or buyer of the insured crop or by measurement of farm stored production.

(ff) *"Representative sample"*—Portions of the crop which are required to remain unharvested in the field for examination and review by our loss adjusters when making a crop appraisal. The samples are further defined in the crop provisions.

(gg) *"Reporting date"*—The acreage reporting date (contained in the State Provisions) by which you are required to report all your insurable and uninsurable acreage in the county in which you have a share and your share at the time insurance attaches.

(hh) *"Sales closing date"*—The date contained in the State Provisions which sets out the final date when an application may be filed.

(ii) *"Section"*(for the purposes of farm unit structure)—A unit of measure under the rectangular survey system describing a tract of land usually one mile square and usually containing approximately 640 acres.

(jj) *"Share"*—Your percentage of interest in the crop as an owner, operator or tenant at the time of coverage begins. However, only for the purpose of determining the amount of indemnity, your share will not exceed your share at the earlier of the time of loss or the beginning of harvest. Unless the application clearly indicates that insurance is requested for a partnership or joint venture, or is intended to cover the landlord share of the crop, insurance will only cover the crop share of the person completing the application. The insured share will not extend to any other person having an interest in the crop except as may otherwise be specifically allowed in this policy. We may consider any acreage or interest reported by or for your spouse, child or any member of your household to be your share. Leases containing provisions for both a cash or minimum payment and a crop share will be considered a crop share lease. We will adjust the share of the crop to consider the cash or minimum portion of the lease payment.

(kk) *"State"*—The state on your summary of coverage.

(ll) *"State Provisions"*—The part of the policy that outlines by state the specific provisions insurance for each crop insured.

(mm) *"Summary of Coverage"*—A listing, by farm unit, provided by us, of the crop insured and the amount of insurance for which coverage is provided.

(nn) *"Tenant"*—A person who rents land from another person for a share of the crop or a share of the proceeds of the proceeds of the crop. (See the definition of share above).

(oo) *"Termination date"*—The calendar date upon which your policy ceases for nonpayment of premium.

(pp) *"Uninsurable acreage"*—The land classified as not insurable by us and shown as such by maps and actuarial data available from your crop insurance agent.

(qq) *"Unit"*—All insurable acreage of the crop in the county on the date insurance attaches for the crop year:

(1) in which you have a 100 percent share; or

(2) which is owned by one entity and operated by another specific entity on a share basis.

(For example, if you rent land from five landlords, three on a crop share basis and two on a cash basis, you would be entitled to four units, one for each crop share lease and one for the two cash leases). Land rented for cash, a fixed commodity payment, a crop share with a minimum payment, or any consideration other than a share in the insured crop of land will be considered as owned by the lease. Land which would otherwise be one unit may, in certain instances, be divided according to guidelines contained in the applicable Crop Provisions. Units will be determined when the acreage is reported but may be adjusted to reflect the actual unit structure when adjusting a loss. No further division may be made at loss adjustment time.

2. *Life of Policy, Cancellation, and Termination.*

(a) This is a continuous policy and will remain in effect for each crop year following the signing of the original application. After acceptance of the application, you may not cancel this policy the initial crop year. Thereafter, the policy will continue in force for each succeeding crop year unless canceled or terminated as provided below.

(b) Either you or we may cancel this policy after the initial crop year by providing written notice to the other on or before the cancellation date shown in the State Provisions.

(c) All policies issued by us under the authority of the Federal Crop Insurance Act will terminate if any amount due us is not paid on or before the termination date contained in the State Provisions for the crop on which the amount is due. Unpaid debts will also make you ineligible for any crop insurance provided under the Federal Crop Insurance Act until payment is made. If we deduct any amount due us from an indemnity, the date of payment will be the date you sign the properly completed loss form.

(d) If you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved, the policy will terminate as of the date of death, judicial declaration, or dissolution. If such event occurs after coverage begins for any crop year, the policy will continue in force through the crop year and terminate at the end of the insurance period and any indemnity will be paid to the person determined to be beneficially entitled to the indemnity. Death of a partner in a partnership will dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons will dissolve the joint entity.

(e) If no premium is earned for three consecutive years, we may cancel your policy after notifying you.

3. *Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities.*

(a) For each crop year the insurance guarantee, coverage level and price at which an indemnity will be determined for each farm unit will be those used to calculate your Summary of Coverage. The information necessary to determine those factors will be contained in the State Provisions or in the actuarial material available from your crop insurance agent.

(b) You may select only one coverage level offered by us for each insured crop. Upon written notice you may change the coverage level, price election, or amount of insurance for the following crop year on or before the cancellation date for each insured crop which is shown on the Summary of Coverage. If you do not elect a coverage level, we will assign a coverage level which is designated for that purpose in the State Provisions. Since the price election or amount of insurance may change each year, if you do not select a new price election or amount of insurance before the next insurance year prior to the cancellation date, we will assign the price election (low, medium, high, variable) or amount of insurance which bears the same relationship to the price schedule as the price election or amount of insurance in effect for the preceding year (low, medium, high, variable).

(c) You must report production to us for the previous crop year by the earlier of the acreage reporting date or 45 days after the cancellation date for the current crop year. If you do not provide the required production report, we will assign a yield for the previous crop year. The yield assigned by us will not be more than 75% of the yield used by us to determine your guarantee for the previous crop year. The production report or assigned yield will be used to compute your production history for the purpose of determining your guarantee for the current crop year. If you have filed a claim for any crop year, the production used to determine the indemnity payment will be the production report for that year.

4. *Policy Changes.*

(a) We may change the coverage under this policy from year to year. Your crop insurance agent will have changes in policy provisions, price elections (or amounts of insurance), premium rates and program dates by the filing date contained in the Crop Provisions. In addition, you will be notified, in writing, of these changes. Such notification will be made at least 30 days prior to the cancellation date of the insured crop.

(b) The cancellation and termination dates are contained in the Crop Provisions.

5. *Liberalization.*

If we adopt any revisions which would broaden the coverage under this policy without additional premium, the broadened coverage will apply.

6. *Report of Acreage.*

(a) An annual acreage report must be submitted to us on our form for each crop insured in the county on or before the acreage reporting date shown in the State Provisions. This report must include the following information:

(1) All acreage of the crop (insurable and uninsurable) in which you have a share;

(2) Your share at the time coverage begins;

(3) The practice;

(4) The type; and

(5) The date the insured crop was planted.

(b) If you do not have a share in any insured crop in the county for the crop year, you must submit an acreage report indicating zero insurable acres.

(c) Because incorrect reporting on the acreage report may have the effect of changing your premium and any indemnity which may be due, you may not revise this report after the acreage reporting date without our consent.

(d) We may elect to determine all premiums and indemnities based on the information you submit on the acreage report or which we determine to have actually existed.

(e) If you do not submit an acreage report, or fail to report all units, we may elect to determine by unit the insurable crop acreage, share, type and practice or deny liability on any unit.

(f) If the information reported by you on the acreage report for a unit results in a lower premium than the actual premium determined to be due on the basis of the share, acreage, practice, type or other material information determined to actually exist, the per-acre production guarantee or amount of insurance on the unit will be reduced proportionately. In the event that acreage is under-reported, all production from insurable acreage, whether or not reported as insurable, will count against the guarantee.

7. *Annual Premium.*

(a) The annual premium is earned and payable at the time coverage begins. Your premium payment, plus any accrued interest, will be considered delinquent if any amount due us is not paid on or before the termination date specified in the State Provisions.

(b) Any amount due us may be deducted from any replant payment or indemnity due you under the provisions of this policy.

(c) The annual premium amount is determined by either:

(1) Multiplying the production guarantee per acre times the price election, times the premium rate, times the insured acreage, times your share at the time coverage begins, times any premium adjustment percentages that may apply; or

(2) Multiplying the amount of insurance per acre times the premium rate, times the insured acreage, times your share at the time coverage begins, times any premium adjustment percentages that may apply.

8. *Crop Insured.*

(a) The crop insured will be that shown on your summary of coverage and specified in the Crop Provisions and must be grown on insurable acreage.

(b) A crop which will NOT be insured will include, but will not be limited to, any crop:

(1) If the farming practices carried out are not in accordance with the farming practices for which the premium rates and production guarantees or amounts of insurance have been established;

(2) Initially planted after the final planting date, unless we allow and you agree in writing on our form, to a coverage reduction (the Late Planting Option is available only on selected crops);

(3) Of a type, class or variety not established as adapted to the area or excluded by the State Provisions;

(4) That is a volunteer crop;

(5) That is a second crop following the same crop (insured or uninsured) harvested in the same crop year unless specifically permitted by the Crop Provisions or the State Provisions;

(6) Which is planted for the development or production of bybrid seed or for experimental purposes, unless permitted by the Crop Provisions or unless we agree, in writing, to insure such crop; or

(7) Used for wildlife protection or management.

9. *Insurable Acreage.*

(a) The acreage upon which the crop is insured for each crop year is the insurable acreage, as designated by the State Provisions, which is planted to the insured crop in which crop you have a share.

(b) In addition to that acreage which is NOT insurable as designated by the State Provisions, acreage is also NOT insurable:

(1) Where a crop has not been planted and harvested in at least one of the three previous crop years, unless ASCS classifies such acreage as cropland and we agree in writing;

(2) Which has been strip-mined, unless we agree to insure such acreage in writing;

(3) Which does not meet the rotation requirements contained in the State Provisions;

(4) On which the crop is damaged, it is practical to replant to the insured crop, but the insured crop is not replanted; or

(5) Planted with a crop other than the insured crop;

(c) If insurance is provided for an irrigated practice, you must report as irrigated only that acreage for which you have adequate facilities and water, at the time coverage begins, to carry out a good irrigation practice.

(d) If acreage is irrigated and we do not provide a premium rate for an irrigated practice, you may either report and insure the irrigated acreage as "not irrigated," or report the irrigated acreage as uninsurable.

(e) We may restrict the amount of acreage which we will insure to the amount allowed under any acreage limitation program established by the United States Department of Agriculture if we notify you of that restriction prior to the time coverage begins.

10. *Share insured.*

(a) You may only insure your share as defined in section 1 above.

(b) A landlord (or tenant) may insure the tenant's (or landlord's) share of the crop if evidence of the other party's approval of that insurance is demonstrated (Lease, Power of Attorney, etc.). The respective shares must be clearly set out on the Acreage Report and a copy of the other party's approval must be retained in the insured's file. Indemnities will be paid in accordance with applicable shares.

11. *Insurance period.*

Coverage begins on each unit or part of a unit when the insured crop is planted or on the calendar date for the beginning of the insurance period if specified in the Crop Provisions, and ends at the earliest of:

(a) Total destruction of the insured crop on the unit;

(b) Harvest of the unit;

(c) Final adjustment of a loss on a unit; or

(d) The calendar date for the end of the insurance period contained in the Crop Provisions.

12. *Causes of loss.*

The insurance provided is against only unavoidable loss of production directly caused by specific causes of loss contained in the crop provisions. All other causes of loss, including but not limited to the following, are NOT covered:

(a) Negligence, mismanagement, or wrongdoing by you, any member of your family or household, your tenants, or employees;

(b) The failure to follow recognized good farming practices for the insured crop;

(c) Water contained by any governmental, public, or private dam or reservoir project;

(d) Failure or breakdown of irrigation equipment or facilities;

(e) Failure to carry out a good irrigation practice for the insured crop if applicable; or

(f) Flooding on any unit subject to a flood or water flowage easement unless allowed by the Crop Provisions.

13. *Duties in the event of loss or damage.*

Your Duties:

(a) In case of damage to any insured crop you must:

(1) Protect the crop for further damage by providing sufficient care.

(2) Give us notice within 72 hours of your discovery of damage, by farm unit, for each insured crop. This notice must be given no later than 15 days after the end of the insurance period.

(3) Leave representative unharvested samples intact for each field of the damaged unit that you intend to harvest if required by the Crop Provisions.

(b) You must give us notice within 72 hours of the time you abandon the insured crop.

(c) You must obtain consent from us before, and notify us after you:

(1) Destroy any of the insured crop which is not harvested;

(2) Put the insured crop to an alternative use; or

(3) Put the acreage to another use.

We will not give such consent if it is practical to replant the crop or until we have made an appraisal of the potential production of the crop.

(d) In addition to complying with all other notice requirements, you must submit a written claim declaring your loss not later than 60 days after the end of the insurance period. This claim must include all the information we require to settle the claim.

(e) Upon our request, you must:

(1) Provide a complete harvesting and marketing record or each insured crop by farm unit including separate records showing the same information for production from any uninsured acreage; and

(2) Submit to examination under oath;

(f) You must establish the total production and value received for the insured crop on the farm unit and that any loss of production or value has been directly caused by one or more of the insured causes during the insurance period.

(g) All notices required in this section that must be received by us within 72 hours may be made by telephone or in person to your crop insurance agent but must be confirmed in writing within 15 days.

Our Duties:

(a) If you have complied with all the policy provisions we will pay your loss within 30 days after:

(1) We reach agreement with you; or

(2) The entry of a final judgment by a court of competent jurisdiction.

(b) In the event we are unable to pay your loss within 30 days, we will give you notice of our intentions within the 30 day period.

(c) We may defer the adjustment of a loss until the amount of loss can be accurately determined. We will not pay for additional damage resulting from your failure to provide sufficient care for the crop during the deferral period.

(d) We recognize and apply the loss adjustment procedures established or approved by the Federal Crop Insurance Corporation.

14. *Abandonment.*

You must not abandon any crop to us. We will not accept any crop as compensation for payments due us.

For FCIC Policies

15. *Appeals.*

All determinations required by the policy will be made by us. If you disagree with our determinations, you may obtain reconsideration of or appeal those determinations in accordance with Appeal Regulation (7 CFR part 400, subpart J).

For Reinsured Policies

15. *Arbitration.*

If you and we fail to agree on the production to be counted against the production guarantee due to damage, the following procedure will be used:

(a) Either party may demand in writing, that the amount of production to be counted be set by appraisal.

(b) Each party will select an appraiser and notify the other of the appraiser's identity within 15 days after receipt of the written demand.

(c) The two appraisers will then select an umpire. If the two appraisers are unable to agree upon an umpire within 15 days, you or we can ask a judge of a court of record in the state in which the insured crop is grown to select an umpire.

(d) The appraisers will set the production to be counted against the production guarantee. When the appraisers submit a written report of an agreement to us, the amount agreed upon will be the production to be counted against the production guarantee.

(e) If the appraisers fail to agree within 15 days they must submit their difference to the umpire. A signed written agreement by two of the three will establish the production to be counted against the production guarantee. Each appraiser must be paid by the party selecting that appraiser. Other expenses of the appraisal and compensation of the umpire will be paid equally by you and us.

16. *Access to Crop and Record Retention.*

(a) We reserve the right to examine the crop as often as we reasonably require.

(b) For three years after the end of the crop year, you must provide, upon our request, complete records of the harvesting, storage, shipment, sale, or other disposition of all the insured crop produced on each farm unit. You must, also upon our request, provide separate records showing the same information for production from any uninsured acreage. We may extend the record retention period beyond three years by notifying you of such extension in writing. Failure to keep and maintain such records may, at our option, result in:

(1) Cancellation of the policy;

(2) Assignment of production to units by us; or

(3) A determination that no indemnity is due.

(c) Any persons designated by us will, at any time during the record retention period, have access:

(1) To any records relating to this insurance at any location where such records may be found or maintained; and

(2) To the farm.

(d) By applying for insurance under the Act or by continuing insurance previously applied for, you authorize us, or any person acting for us, to obtain records relating to the crop from any person who may have custody of those records including, but not limited to, banks, warehouses, gins, cooperatives, marketing associations, accountants, etc. You must assist us in obtaining all records which we request from third parties.

17. *Other Insurance.*

(a) Other Like Insurance.

You must not obtain any other crop insurance under the Federal Crop Insurance Act (Multiple Peril Crop Insurance Policy or Federal Crop Insurance Policy) on your share of the insured crop. If we determine that more than one policy on your share is intentional, you may be subject to the fraud provisions under this policy. If we determine that the violation was not intentional, the policy with the earliest date of application will be in force and all other policies will be void. Nothing in this paragraph prevents the insured from obtaining other insurance not issued under the Act.

(b) Other Insurance Against Fire.

If you have other insurance, whether valid or not, against damage by fire during the insurance period, and you have not excluded coverage for fire from this policy, we will be liable for loss due to fire only for the smaller of:

(1) The amount of indemnity determined pursuant to this policy without regard to any other insurance; or

(2) The amount by which the loss from fire is determined to exceed the indemnity paid or payable under such other insurance. For the purpose of this section, the amount of loss from fire will be the difference between the fair market value of the production on the farm unit involved before the fire and after the fire, as determined from appraisals made by us.

18. *Conformity to Food Security Act.*

Your policy will be cancelled if you are determined to be ineligible to receive benefits under the Federal Crop Insurance Act due to violation of the Conservation Provision (title XII) or the Controlled Substance Provision (title XVII) of the Food Security Act of 1985 (Pub. L. 99–198) and the regulations promulgated under the Act by the United States Department of Agriculture (USDA). We will recover any and all monies paid to you or received by you and your premium will be refunded.

19. *Amounts Due Us.*

(a) Any delinquent amount due us may be deducted from any loan or payment due you under any Act of Congress or program administered by the United States Department of Agriculture or its Agencies or from any amount due you from any other United States Government Agency.

(b) Interest will accrue at the rate of one and one-fourth percent (1¼%) simple interest per calendar month, or any part thereof, on any unpaid balance due us.

(c) For the purpose of premium amounts due us, interest will start on the first day of the month following the first premium billing date.

(d) For the purpose of any other amounts due us, such as repayment of indemnities found not to have been earned, interest will start on the date that notice is issued to you for the collection of the unearned amount. Amounts found due under this paragraph will not be charged interest if payment is made within 30 days of issuance of the notice by us. The amount will be considered delinquent if not paid within 30 days of the date the notice is issued by us.

(e) Interest and penalties will be charged in accordance with 31 U.S.C. 3717 and 4 CFR 102.13. The penalty for accounts more than 90 days delinquent (31 U.S.C. 3717(e)(2) is six percent (6%) per annum.

(f) Interest on any amount due us found to have been received by you because of fraud, misrepresentation or presentation by you of a false claim will start on the date you received the amount with the 6% penalty beginning 90 days after the notice of amount due is issued to you. This interest is in addition to any other amount found to be due under any other federal criminal or civil statute.

(g) All amounts paid will be applied first to the payment of the expenses of collection on delinquent accounts, second to the reduction of any penalties which may have been assessed then to reduction of accrued interest, then to reduction of the principal balance.

(h) If we determine that it is necessary to contract with a collection agency or to employ an attorney to assist in collection, you agree to pay all of the expenses of collection. Those expenses will be paid before the application of any amounts to interest or principal.

19. *Amounts Due Us.*

(a) Interest will accrue at the rate of one and one-fourth percent (1¼%) simple interest per calendar month, or any part thereof, on any unpaid due us. For the purpose of premium amounts due us, the interest will start on the first day of the month following the first premium billing date.

(b) For the purpose of any other amounts due us, such as repayment of indemnities found not to have been earned, interest will start on the date of the notice to you for the collection of the unearned amount. Amounts found due under this paragraph will not be charged interest if payment is made within 30 days of issuance of the notice by us. The amount will be considered delinquent if not paid within 30 days of the date the notice is issued by us.

(c) All amounts paid will be applied first to expenses of collection fees (see d below) if any, second, to the reduction of accrued interest, and then to the principal balance.

(d) If we determine that it is necessary to contract with a collection agency or to employ an attorney to assist in collection, you agree to pay all of the expenses of collection. Those expenses will be paid before the application of any amounts to interest or principal.

20. *Legal Action Against Us.*

(a) You may not bring legal action against us unless you have complied with all of the policy provisions.

(b) If you do take legal action against us you must do so within 12 months of the date of denial of the claim. Suit must be brought in accordance with the provisions of 7 U.S.C. 1508(c).

(c) Your right to recover damages (compensatory, punitive, or other), attorney's fees, or other charges may be limited or excluded by this contract or by Federal Regulations. State and local laws and regulations in conflict with this contract and in conflict with the applicable regulations do not apply to this policy.

21. *Production Included in Determining Indemnities.*

(a) The total production to be counted for a unit will include all production determined in accordance with the Policy.

(b) The amount of production of any unharvested insured crop may be determined on the basis of our field appraisals conducted after the end of the insurance period.

(c) If you elect to exclude hail and fire as insured causes of loss and the insured crop is damaged by hail or fire, appraisals will be made in accordance with the applicable Form FCI–78 or FCI–78–A, "Request To Exclude Hail and Fire."

22. *Replanting Payment.*

(a) If allowed by the Crop Provisions, a replanting payment may be made on an insured crop replanted after we have given consent and the acreage replanted is at least the lesser of 20 acres or 20 percent of the insured acreage for the unit (as determined on the final planting date).

(b) No replanting payment will be made on acreage:

(1) On which our appraisal establishes that production will exceed the level set by the crop endorsement;

(2) Initially planted prior to the date established by the State Provisions; or

(3) On which one replanting payment has already been allowed for the crop year.

(c) The replanting payment per acre will be your actual cost for replanting, but will not exceed the amount determined in accordance with the Crop Provisions.

(d) If the information reported by you on the acreage report results in a lower premium than the actual premium determined to be due based on the acreage, share, practice, or type determined actually to have existed, the replanting payment will be reduced proportionately.

(e) No replanting payment will be paid for replanting any crop after the final planting date (or for those crops where a Late Planting Option is available, 20 days following the final planting date).

23. *Payment and Interest Limitations.*

(a) Under no circumstances will we be liable for the payment of damages (compensatory, punitive, or other), attorney's fees, or other charges in connection with any claim for indemnity, whether we approve or disapprove such claim. (State and local laws to the contrary are not applicable to this insurance contract.)

(b) We will pay simple interest computed on the net indemnity ultimately found to be due by us or by a final judgment of a court of competent jurisdication, from and including the 31st day after the date you sign, date and submit to us the properly completed claim on our form. Interest will be paid only if the reason for our failure to timely pay is NOT due to your failure to provide information or other material necessary for the computation or payment of the indemnity. The interest rate will be that established by the Secretary of the Treasury under Section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611), and published in the **Federal Register** semiannually on or about January 1 and July 1 of each year and will vary with each publication.

24. *Concealment, Misrepresentation or Fraud.*

This policy will be void in the event you have falsely or fraudulently concealed either the fact that you are restricted from receiving benefits under the Federal Crop Insurance Act or that action is pending which may restrict your eligibility to receive such benefits. We will also void this policy if you or anyone assisting you has intentionally concealed or misrepresented any material fact relating to this or any other FCIC or FCIC reinsured policy. This voidance will not affect your obligation to pay premiums or waive any of our rights under this policy, including the right to collect any amount due us. The voidance will be effective as of the time coverage began for the crop year within which such act occurred.

25. *Transfer of Coverage and Right to Indemnity.*

If you transfer any part of your share during the crop year, you may transfer your coverage rights. The transfer must be on our form and approved by us. Both you and the person to whom you transfer your interest are jointly and severally liable for the payment of the premium. The transferee has all rights and responsibilities under this policy consistent with the transferee's interest.

26. *Assignment of Indemnity.*

You may assign to antoher party your right to an indemnity for the crop year. The assignment must be on our form and will not be effective until approved in writing by us. The assignee will have the right to submit all loss notices and forms as required by the policy.

27. *Subrogation (Recovery of loss from a third party).*

Because you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve this right. If we pay you for your loss, your right to recovery will, at our option, belong to us. If we recover more than we paid you plus our expenses, the excess will be paid to you.

28. *Nonconformity to Statutes.*

If the provisions of this policy conflict with statutes of the State in which this policy is issued the policy provisions will prevail.

29. *Descriptive Headings.*

The descriptive headings of the various policy provisions are formulated for convenience only and are not intended to affect the construction or meaning of any of the policy provisions.

30. *Notices.*

All notices required to be given by you must be in writing and received by your crop insurance agent within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice will be determined by the time of our receipt of the written notice. All notices and communications required to be sent by us to you will be mailed to the address contained in your records located with your Crop Insurance Agent. You should advise us immediately of any change of address.

Done in Washington, DC, on February 1, 1990.

David W. Gabriel,

Acting Deputy Manager, Federal Crop Insurance Corporation.

[FR Doc. 90–2762 Filed 2–6–90; 8:45 am]

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CFR PARTS AFFECTED DURING FEBRUARY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last List: January 19, 1990.