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For other telephone numbers, see the Reader Aids section at the end of this issue.

Contents

Federal Register
Vol. 54, No. 34
Wednesday, February 22, 1989

Agriculture Department
See Farmers Home Administration; Federal Crop Insurance Corporation; Federal Grain Inspection Service; Food and Nutrition Service; Forest Service; Soil Conservation Service

Air Force Department
NOTICES
Meetings:
Scientific Advisory Board, 7583

Army Department
NOTICES
Meetings:
Science Board, 7583
(2 documents)

Coast Guard
PROPOSED RULES
Ports and waterways safety:
Portsmouth Harbor, NH; safety zone, 7571
NOTICES
Meetings:
Coast Guard Academy Advisory Committee, 7660
Lower Mississippi River Waterway Safety Advisory Committee, 7660

Commerce Department
See Foreign-Trade Zones Board; International Trade Administration; National Oceanic and Atmospheric Administration; National Technical Information Service; Patent and Trademark Office

Defense Department
See also Air Force Department; Army Department
RULES
Natural resources management program, 7539
Personnel:
DOD members, employees, and family members outside U.S.; court orders compliance, 7539
PROPOSED RULES
Banking offices on DOD installations; operating procedures, 7551
Civil rights:
Off-base housing; equal opportunity, 7566
Credit unions on DOD installations; operating procedures, 7561
Financial insititutions on DOD installations; operating procedures, 7558
NOTICES
Meetings:
DIA Advisory Board, 7582
(3 documents)
Government-Industry Relations Defense Advisory Panel, 7583

Education Department
RULES
Postsecondary education:
Special programs staff and leadership personnel; training program, 7736
NOTICES
Grants and cooperative agreements; availability, etc.:
Rehabilitation long-term training program, 7584

Employment and Training Administration
NOTICES
Adjustment assistance:
A.J. Boyd Industries et al., 7612
Diamond M. Drilling, 7613
Excel Energy Corp., 7614
Gavin Energy Service, 7614
General Motors Corp., 7613
Peacock, Williams and Co., 7614
R.E. Williams Drilling Co., 7614
Westburn Drilling Co., 7614
Wintershall Oil & Gas Corp., 7615

Employment Standards Administration
See Wage and Hour Division

Energy Department
See also Federal Energy Regulatory Commission
NOTICES
Environmental statements; availability, etc.:
Waste Isolation Pilot Plant, Carlsbad, NM [**Editorial Note:** This document appearing at 54 FR 7251, February 17, 1989, was incorrectly indexed in the table of contents of that issue.]
Grants and cooperative agreement awards:
Harvard University Energy and Environmental Policy Center, 7584
Meetings:
National Petroleum Council, 7584

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States:
Ohio, 7543
Superfund program:
National oil and hazardous substances contingency plan—
National priorities list update, 7548, 7549
(2 documents)
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States:
Wisconsin, 7572
NOTICES
Hazardous waste:
Solid waste management dilemma; action agenda; report availability, 7592
Meetings:
Science Advisory Board, 7594
Pesticide, food, and feed additive petitions:
E. I. Du Pont de Nemours & Co., Inc., et al., 7596
Pesticide programs:
Boyce Thompson Institute for Plant Research; genetically engineered microbial pesticide to use on cabbage; field test, 7594
Registration standards—
Chemical substances list, 7740

Tuberculocidal effectiveness data call-in to registrants of antimicrobial pesticides; responses availability, 7594
Pesticides; experimental use permits, etc.:
Abbott Laboratories et al., 7596
Toxic and hazardous substances control:
Confidential business information and data transfer to contractors, 7598
Premanufacture notices review period extensions, 7598
Water pollution control:
Drinking water—
Health advisories, 7599

Farmers Home Administration
RULES
Program regulations:
Real property—
Multiple family housing loans; security servicing, 7528

Federal Aviation Administration
PROPOSED RULES
Airmen certification, etc.:
Advanced qualification program (SFAR No. 55), 7670

Federal Crop Insurance Corporation
RULES
Crop insurance endorsements, etc.:
Pears, 7526

Federal Deposit Insurance Corporation
NOTICES
Privacy Act:
Systems of records, 7599

Federal Energy Regulatory Commission
NOTICES
Electric rate, small power production, and interlocking directorate filings, etc.:
Duquesne Light Co. et al., 7584
Meetings; Sunshine Act, 7665
Natural gas certificate filings:
United Gas Pipe Line Co. et al., 7587
Williams Natural Gas Co. et al., 7589
Preliminary permits surrender:
Skagit River Hydro et al., 7590
Applications, hearings, determinations, etc.:
Southern Natural Gas Co., 7591
Texas Eastern Transmission Corp., 7591

Federal Grain Inspection Service
NOTICES
Sunflower seeds; oil equipment calibration, 7575

Federal Maritime Commission
NOTICES
Agreements filed etc., 7600, 7601
(2 documents)

Federal Mine Safety and Health Review Commission
NOTICES
Meetings; Sunshine Act, 7665

Federal Reserve System
NOTICES
Meetings; Sunshine Act, 7665
Applications, hearings, determinations, etc.:
First Chicago Corp., 7601
North East Bancshares, Inc., et al., 7601
UST Corp. et al., 7602

Food and Drug Administration
NOTICES
Biological product licenses:
PFE Plasma Corp., 7603
Human drugs:
Antibiotic drugs—
Neomycin sulfate for prescription compounding; approval withdrawn; correction, 7666
Medical devices; premarket approval:
Murine Sterile Saline Solution; correction, 7666
Meetings:
Consumer information exchange, 7603

Food and Nutrition Service
RULES
Food distribution program:
Food donations—
Use in United States, territories, and possessions and areas under jurisdiction, 7521

Foreign-Trade Zones Board
NOTICES
Applications, hearings, determinations, etc.:
Texas
E.I. Du Pont De Nemours & Co. hydrofluoric acid manufacturing plant, 7576

Forest Service
NOTICES
Environmental statements; availability, etc.:
Klamath National Forest, CA; King-Titus fire recovery project, 7575

Health and Human Services Department
See Food and Drug Administration; Health Care Financing Administration; National Institutes of Health

Health Care Financing Administration
NOTICES
Privacy Act:
Systems of records, 7603

Indian Affairs Bureau
RULES
Practice and procedure:
Appeals from administrative action
Correction, 7666

Interior Department
See Indian Affairs Bureau; Land Management Bureau; Minerals Management Service; Surface Mining Reclamation and Enforcement Office

Internal Revenue Service
PROPOSED RULES
Income and excise taxes:
Public charities and private foundations; lobbying expenditures; correction, 7666

International Trade Administration
NOTICES
Antidumping:
Malleable cast iron pipe fittings, other than grooved, from—
Korea, 7577
Export trade certificates of review, 7578

Short supply determinations:
Steel plate used in manufacture of large diameter pipe, 7578
Tin-free steel, 7578

International Trade Commission
NOTICES
Import investigations:
Dry aluminum sulfate from Sweden, 7609

Interstate Commerce Commission
NOTICES
Railroad services abandonment:
Detroit & Mackinac Railway Co., 7610

Justice Department
NOTICES
Pollution control; consent judgments:
Monticello, FL, 7611

Labor Department
See also Employment and Training Administration; Mine Safety and Health Administration; Occupational Safety and Health Administration; Wage and Hour Division
NOTICES
Agency information collection activities under OMB review, 7611

Land Management Bureau
NOTICES
Meetings:
Craig District Grazing Advisory Board, 7606
Miles City District Advisory Council, 7607
Miles City District Grazing Advisory Board, 7606
Realty actions; sales, leases, etc.:
California, 7607
(2 documents)
Survey plat filings:
Michigan, 7608
Withdrawal and reservation of lands:
New Mexico, 7608

Mine Safety and Health Administration
NOTICES
Safety standard petitions:
Wyoming Fuel Co., 7615

Mine Safety and Health Federal Review Commission
See Federal Mine Safety and Health Review Commission

Minerals Management Service
NOTICES
Outer Continental Shelf; development operations coordination:
Samedan Oil Corp., 7609

National Institutes of Health
NOTICES
Meetings:
National Institute of General Medical Sciences, 7606

National Oceanic and Atmospheric Administration
NOTICES
Coastal zone management programs and estuarine sanctuaries:
State programs—
South Carolina, 7580

National Science Foundation
NOTICES
Agency information collection activities under OMB review, 7616

National Technical Information Service
NOTICES
Patent licenses, exclusive:
AgriSense, 7579
Catalyst Corp.; correction, 7579
HELIX International Corp., 7579

Nuclear Regulatory Commission
RULES
Production and utilization facilities; domestic licensing:
Commercial nuclear power plants and other nuclear production or utilization facilities; cooperation with States; policy statement, 7530
NOTICES
Low-level radioactive waste policy amendments; 1990 milestone guidance on governors' certifications, 7616
Meetings:
Nuclear Waste Reactors Safeguards Advisory Committees Proposed schedule, 7618
Reactor Safeguards Advisory Committee, 7620
Meetings; Sunshine Act, 7665
Operating licenses, amendments; no significant hazards considerations; biweekly notices, 7622
Applications, hearings, determinations, etc.:
Consumers Power Co., 7620
Northern States Power Co., 7621

Occupational Safety and Health Administration
NOTICES
Meetings:
Shipyard Employment Standards Advisory Committee, 7615
State plans; standards approval, etc.:
Oregon, 7615

Patent and Trademark Office
NOTICES
Committees; establishment, renewal, termination, etc.:
Biotechnology Institute, 7580

Public Health Service
See Food and Drug Administration; National Institutes of Health

Securities and Exchange Commission
NOTICES
Agency information collection activities under OMB review, 7654
Self-regulatory organizations; proposed rule changes:
American Stock Exchange, Inc., 7655
Cincinnati Stock Exchange, Inc., 7657
Midwest Stock Exchange, Inc., 7658
National Securities Clearing Corp., 7658

Soil Conservation Service
NOTICES
Environmental statements; availability, etc.:
South Webster High School, OH, 7576

State Department
NOTICES
Passports, foreign; validity:
List update—
Malta, etc., 7660

Surface Mining Reclamation and Enforcement Office
PROPOSED RULES
Permanent program and abandoned mine land reclamation plan submissions:
Kentucky, 7550

Transportation Department
See Coast Guard; Federal Aviation Administration

Treasury Department
See also Internal Revenue Service
NOTICES
Agency information collection activities under OMB review, 7660
Notes, Treasury:
J-1994 series, 7662
W-1991 series, 7661

United States Information Agency
NOTICES
Meetings:
Public Diplomacy, U.S. Advisory Commission, 7664

Wage and Hour Division
RULES
Seasonal agricutural workers; employers' reporting and employment requirements, 7668

Separate Parts In This Issue

Part II
Department of Labor, Wage and Hour Division, 7668

Part III
Department of Transportation, Federal Aviation Administration, 7670

Part IV
Department of Education, 7736

Part V
Environmental Protection Agency, 7740

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

CFR PARTS AFFECTED IN THIS ISSUE

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

7 CFR
250 7521
401 7526
1965 7528

10 CFR
50 7530

14 CFR
Proposed Rules:
61 7770
63 7770
65 7770
121 7770
135 7770

25 CFR
2 7666

26 CFR
Proposed Rules:
53 7666

29 CFR
502 7668

30 CFR
Proposed Rules:
917 7550

32 CFR
146 7539
217 7539
232 7539
233 7539
234 7539
265 7539
Proposed Rules:
230 7551
231 7558
231a 7561
301 7566

33 CFR
Proposed Rules:
165 7571

34 CFR
642 7736

40 CFR
52 7543
300 (2 documents) 7548, 7549
Proposed Rules:
52 7572

Rules and Regulations

Federal Register
Vol. 54, No. 34
Wednesday, February 22, 1989

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
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DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 250

Donation of Food for Use in the United States, Its Territories, Possessions and Areas Under Its Jurisdiction

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends the Food Distribution Program Regulations to strengthen provisions concerning the processing of donated foods and to increase uniformity between provisions governing State processing activities and those governing the National Commodity Processing (NCP) Program (Part 252).

EFFECTIVE DATE: This final rule is effective March 24, 1989.

FOR FURTHER INFORMATION CONTACT: Susan E. Proden, Chief, Program Administration Branch, Food Distribution Division, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Alexandria, Virginia 22302 or telephone Area Code (703) 756-3660.

SUPPLEMENTARY INFORMATION:

Classification

This action has been reviewed under Executive Order 12291 and has been classified not major. We anticipate that this proposal will not have an annual impact on the economy of more than $100 million. No major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions is anticipated. This action is not expected to have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This action has been reviewed with regard to requirements of the Regulatory Flexibility Act (5 U.S.C. 601-612). The 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.

This program is listed in the Catalog of Federal Domestic Assistance under 10.550 and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials (7 CFR Part 3015, Subpart V and final rule related notice published June 24, 1983 (48 FR 29112).

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501-3520) the additional recordkeeping and reporting requirements contained in § 250.15 of this rule are subject to review and approval by the Office of Management and Budget (OMB). Current reporting and recordkeeping requirements for Part 250 were approved by OMB under control number 0584-0007.

Background

Section 250.30 of the current regulations sets forth most of the terms and conditions under which State distributing agencies, subdistributing agencies and recipient agencies may enter into contracts with food processors to incorporate government-donated commodities into processed end products.

On February 2, 1988, the Department published a proposed rule in the **Federal Register** (52 FR 2846-2849) to amend the Food Distribution Program Regulations to strengthen provisions concerning the processing of donated foods and to increase uniformity between provisions governing State processing activities and those governing the National Commodity Processing Program (Part 252). The proposed rule provided a forty-five-day comment period. Under the proposed rule, all references to the State processing program were found in § 250.15. Since that time, the overall revision of Part 250 regulations was published in the **Federal Register** on June 3, 1988 (53 FR 20416-20556). Most references to the State processing program are now contained in § 250.30. Several other portions of this final rule have been renumbered to fit in the revised Part 250.

In an effort to enhance processing activities for the 1988-89 school year, those provisions which relate to alternative value-pass-through systems and the crediting of a distributor's account for the value of the donated food contained in an end product were finalized separately and published in the **Federal Register** on June 6, 1988 (53 FR 20597-20599).

This final rule addresses those provisions regarding sales verification, contract duration, end product data, contract termination, refund applications, performance reports, annual reconciliation and audits.

Processing agreements received after the date of this rule are subject to the 30-days provisions contained herein. However, processing agreements which have been substantially reviewed or which have been approved prior to this date may remain in effect for the duration of the contract or until June 30, 1989, which ever occurs first.

Analysis of Comments

A total of 158 comment letters were received from various entities such as the American School Food Service Association, National Association of State Agencies for Food Distribution, National Frozen Pizza Institute and Dairy Institute of California. Other commenters included processors, distributors, local school food authorities, State distributing agencies, private consultants and members of the U.S. Congress.

Sales Verification

Under § 250.15 of the proposed rule, State distributing agencies or processors were required to conduct a statistically valid sample of processor sales twice a year rather than quarterly. The statistical sample must produce a sales verification confidence level of 95 percent.

Ten of the commenters supported the provisions to reduce the workload associated with quarterly sales verification. Twelve commenters recommended maintaining the quarterly verification requirement stating that the verification of sales must take place soon after the purchase of the end products. These commenters claim that it becomes increasingly difficult to

verify sales as the time between the sale and the verification increases. Several commenters recommended that sales verification be done monthly. Two commenters agreed that reducing the verification requirement to twice a year was good; however, language should be added so the processors would not be prohibited from verifying sales more often. One commenter recommended requiring delivery receipts from distributors stating that this would eliminate the need to conduct a sales verification at all.

The Department believes that reducing the frequency of verification of sales and the submission of the data from quarterly to twice a year will reduce the State distributing agencies' and processors' work load, while providing sufficient data to accomplish the monitoring goals. However, since many commenters believe that sales verification should take place more frequently, §§ 250.19(b)(2)(i) and 250.30(m)(1)(ix) is being revised in this final rule to require that sales verification be conducted twice a year, *at a minimum,* and § 250.30(m)(1)(ix) is being revised to require sales verification reports to be submitted twice a year in conjunction with the sales verification requirement contained in § 250.19(b)(2)(i). If a State distributing agency or processor wants to verify sales more frequently, they may do so. However, the Department is further recommending that verification efforts take place in a timely manner to ensure that recipient agencies can readily recall the purchases being verified. Under the proposed rule, the sales verification sample size must ensure a 95 percent confidence level.

Four commenters commented on this provision stating that State distributing agencies do not have the expertise to set up sampling procedures which guarantee a 95 percent confidence level. They commented that guidelines for ensuring this degree of accuracy should be established by the Department and furnished to the State distributing agencies.

In order to be consistent with the NCP regulations, § 250.30(b)(2) will remain as proposed in this final rule. However, guidelines will be furnished by the Department so State distributing agencies will be able to determine a sample size which will ensure a 95 percent confidence level.

Section 250.15(b)(2) of the proposed rule also required the adjustment of performance reports and processing inventory reports to reflect invalid sales which were identified as a result of the sales verification effort and the development and submission of a corrective action plan by the processor designed to correct deficiencies. This change to the regulations was proposed to ensure that recipient agencies receive the benefit of the donated food and that the value pass-through-system being used is accountable.

No comments were received regarding this proposed change. Therefore, the requirement as proposed is being incorporated in § 250.30(b)(2) of this final rule.

Section 250.15(b)(2) of the proposed rule required State distributing agencies to review the processors' sales verification systems and findings in instances in which the responsibility for sales verification has been delegated to the processor.

As part of the distributing agency's review of the processor's sales verification system, § 250.15(b)(2) of the proposed rule required State distributing agencies to select a sub-sample of at least 10 percent of all sales verified by the processor by contacting the recipient agency either by telephone or through written correspondence. The reverification of these sales will assist that State distributing agency in determining the efficacy of the processor's sales verification system.

Eighteen commenters opposed this provision stating that the 10 percent reverification by States should not be required, especially if the original sample verified by the processors was 95 percent accurate. Seven of these commenters stated that the State reverification of sales imposes an additional workload on State distributing agencies that will not be funded by USDA. Three commenters felt that the reverification of sales should not be imposed on the State distributing agencies but should be included as part of the CPA audit required of all processors.

The Department continues to support the requirement for State distributing agencies to reverify processor-verified sales information. Based on verifications conducted by the Department, there is a significant error rate in reporting sales. The only way to ensure that performance report figures are accurate is to verify the figures with the recipient agencies on a regular basis. Reverification of reported sales will ensure that sales reported by processors were actually made in the amounts reported.

Making reverification a part of the CPA audit requirement will not accomplish the goal of annual reverification because an audit is not required of all processors each year. Only multi-State processors are required to obtain CPA audits. The frequency of these CPA audits is based on the cumulative value of donated food received under all processing agreements. There is a minimum requirement that multi-State processors obtain a CPA audit at least once every three years.

The proposed rule contained a requirement that in instances in which poor processor performance is revealed, the State distributing agency must require the processor to discontinue the abused value-pass-through system, initiate an audit or review to determine the extent to which sales are to be disallowed, establish a claim and/or terminate the contract.

One commenter recommended that the language referring to "discontinuance of the abused value pass through system" be removed from the rule. This commenter believed that abuse of a value pass-through system should result in claims activity and/or termination of the agreement. The commenter did not believe the processor should be permitted to make and report any sales until problems are corrected and claims paid.

In the event problems are discovered with a particular value-pass-through system or with a particular distributor, the Department does not believe the processor should automatically be prohibited from selling products under another system(s) or through another distributor. Such action would also adversely affect recipient agencies' purchases if the supply of a processed product was abruptly ended. It should be noted, however, that even though other systems or distributors are still being used, the State should pursue claims activity, if warranted. For these reasons, we are retaining the provision as proposed.

Contract Duration

Under § 250.15(c) of the proposed rule, all processing contracts would terminate as of June 30 of each year.

Twenty-seven commenters supported this provision as proposed while twelve were opposed. The majority of the commenters who opposed this provision believed that processing contracts should be renewable. Ten commenters believed that by renewing agreements and updating price and yield information, the time needed for contract approval could be significantly reduced. They also believed that the time needed to approve new agreements each year resulted in delayed shipments of commodities to processors, thereby causing problems with deliveries of end products to schools for the opening of school.

Two commenters saw the June 30 date as arbitrary. Having all agreements terminate on that date may prohibit summer feeding programs from having processed commodities available to them. Two commenters believed that agreement information should be available by March 1 so agreements can be approved and end products available to recipient agencies for the beginning of school.

The Department continues to support the June 30 termination date for processing contracts. Establishing this date will help regularize those activities associated with audits and management evaluation reviews. Also, this provision is consistent with NCP regulations. However, this will not preclude a State distributing agency's decision from beginning contract negotiations for the upcoming year prior to the termination date of the existing contract. By doing this, contracts which are reviewed and approved prior to July 1, but effective July 1, will ensure processed end products are available to all programs for a one year period.

End Product Data

Under § 250.15(c)(4)(ii) of the proposed rule, the Department eliminated the requirement that processors list the quantity of non-donated food in end products. Processors would have to identify these ingredients to provide contracting agencies with information for which they have expressed a need while ensuring that information which is considered to be "trade secrets" by some processors is not disclosed.

Eighteen commenters supported this provision as it was proposed. Twelve commenters were opposed. Three commenters who opposed the provision did so stating a need to know the quantity of non-donated food in order to perform nutrient analyses of the end products. Several commenters said they need to know the amount of non-donated food contained in an end product in order to calculate yield, quantity and price factors. Two commenters suggested that processors list the total quantity of non-donated food as it will enable them to calculate the percentage of donated food in the formula and it will not give away of the companies' "trade secrets." One commenter said the information was necessary to verify production runs. One commenter expressed a need for the information and stated that if it were not supplied, State distributing agencies should require copies of CN labels or product specifications. One commenter said the ingredient information is necessary to compare similar products between companies. Three commenters claimed they must have information regarding non-donated food ingredients for food allergy reactions and therapeutic diets. One commenter stated that even flavorings and seasonings should be sublisted to avoid allergy problems.

The Department has decided to make final the proposed change. Processors must provide State distributing agencies with basic information concerning products, but can be assured that "trade secrets" need not be disclosed. Processors will continue to be required to identify all ingredients contained in an end product. By knowing all the ingredients in the formula, State and recipient agencies will be able to compare formulas for similar products and identify ingredients which may trigger allergic reactions. The specific amount of each nondonated food ingredient will not have to be identified. The total weight of the batch, however, will have to be specified so the percentage of donated food in the formula can be determined.

Value-Pass-Through Systems

Under § 250.15(e) of the proposed rule, a requirement was added that processors ensure that distributors maintain copies of invoices issued to recipient agencies when end products are sold through a discount system. Furthermore, the invoices must be provided to the processor upon request. This change to the regulation was proposed to significantly reduce the flow of paper between processors and distributors, while ensuring accountability. It was also proposed that processors retain such invoices.

One comment was received regarding this proposed change concerning distributors. The commenter supported this provision but claimed it would be difficult to enforce. The distributor's invoices are essential to an accountable processing program. Once food is delivered to a recipient agency, the distributor issues an invoice that generates payment by the recipient agency. It is essential that copies of invoices be maintained as back up for sales figures which are reported on the processors' monthly performance reports. It is not essential that distributors provide processors with copies of all invoices for sales of processed end products. Distributors, however must maintain this information. For this reason, the requirement as proposed is being incorporated in § 250.30(e) of this final rule. The requirement that processors retain invoices has also been made final in § 250.30(d).

Section 250.15 (d) and (e) of the proposed rule required that processors ensure that all invoices, both processor generated and distributor generated, clearly indicate the discount included or refund due on the end product, and that the invoices clearly identify that the discount included or refund payment due is for the value of the donated food, regardless of the value pass through system used. This change to the regulations was proposed to ensure that recipient agencies are receiving the benefits of the donated food contained in the end products.

Six commenters supported this provision as proposed while seventeen were opposed. The majority of the commenters who opposed this provision believed that modifications to distributor invoice systems to implement the requirement would be overly expensive and inconvenient. One commenter stated that this requirement places processors in the impossible position of attempting to dictate how their distributor customers do business. The commenter also believed that processors would not be able to enforce the requirement. One commenter stated that the requirement was not necessary and including another figure on the invoice, raises the possibility that recipient agencies will pay the wrong figure. Several commenters stated that processors cannot require distributors to "double price" items on invoices. Three commenters did not agree that distributor invoices need to include the amount of the refund due.

Those commenters who supported the proposed rule did so because they believed the requirement would help document that the recipient agency received the full value pass through of the donated food. They believed it eliminates confusion by telling recipient agencies up front when they have received a discounted price or when they are due a refund. One commenter stated that the proposed rule was a good idea especially for end products sold under the refund system. The invoice will serve as a reminder to the recipient agency to submit a refund application to the processor.

The Department continues to support the requirement that the distributors' invoice clearly indicate the discount included or refund due on an end product. It is impossible to document that the contract value of donated food has been passed on to recipient agencies unless this value is clearly identified to the recipient agency. The best document for verifying that a discount was passed on to recipient agencies or informing recipient agencies of the refund due

them is the invoice. The discount or refund information must appear on the invoice whether it is generated by the processor or the distributor.

Contract Termination

Under § 250.16(j) of the proposed rule, the option of requiring payment for commodities remaining in a processor's inventory based on the CCC unrestricted sales price had been added.

Three commenters were in favor of this provision while twenty were opposed. Two commenters suggested that we define what the CCC unrestricted sales price is. Fourteen commenters who opposed this provision recommended that processors not be required to pay the CCC unrestricted sales price for commodities remaining in inventory. One commenter did not think it was fair to require processors to pay for remaining inventory at the termination of an agreement only to have to turn around and order more food to start up a new year. One commenter stated that processors should have the option of paying for the inventory or transferring it to another processor. Another commenter questioned why a processor must pay for meat that cannot be sold or exchanged.

Sections 250.30 (j)(1)(i)(D) and (j)(1)(ii)(F) are added to the final rule as proposed in order to maintain consistency with the NCP regulations. However, if processing contracts are going to be approved for another year, payment for the inventory will not be required unless the carry over inventory is in excess of a six months supply. Under no circumstances will processors be permitted to maintain donated food inventory in excess of a six-month supply based on the processor's average monthly usage, unless a higher level has been specifically approved by the State distributing agency on the basis of written justification submitted by the processor.

Refunds

Under the proposed rule, § 250.15(k) was revised to require the submission of refund applications by recipient agencies and distributors within 30 days of receipt of the processed end product by the recipient agency. Also, processors were required to make payment within 30 days after receipt of any refund application. However, at the end of the contract period, processors were required to make refunds as soon as possible, but not later than 60 days after the close of the contract period. The Department also specifically solicited comments as to whether the time period associated with the submission of refund applications should be tied to the date the end product was purchased, date the end product was received or some other time period.

Fourteen of the commenters support this provision as proposed while eighty-three were opposed. Fifteen commenters were opposed to the requirement that recipient agencies submit refund applications within 30 days stating that 30 days does not allow for sufficient time for a large school district to compile data needed to complete the refund application. One commenter believed the date of submission of the refund appication should be tied to the date the invoice is received. Several commenters believed the date of submission should be tied to the date the product is received. Nine commenters stated that the date of submission should be within 30 days of the close of the month of purchase rather than having to submit applications within 30 days of receipt of the product. The commenters believed that by making this change recipient agencies can submit one refund application to cover all purchases made during the preceding month.

Sixty-six commenters were opposed to giving processors 30 days to pay refunds. These commenters want processors to continue making refund payments within 10 days of receipt of the application. Many of these commenters stated that it is unrealistic to have to wait 30 days to receive money due the recipient agency. Such a requirement would have a negative effect on a school system's cash flow.

Based on the comments received in response to the proposed rule, § 250.30, paragraph (k) is amended in this final rule by changing the words "30 days" to "30 days from the close of the month of purchase." This would give recipient agencies 30 days to complete the information on purchases for the preceding month and submit a refund application to cover all purchases made that month. The Department believes this will be less costly and time consuming than requiring the recipient agency to keep track of refund application deadlines for each individual purchase. Also, the proposed provision that processors make payment within 30 days of receipt of any refund application is being changed. Large processors with staffs that work exclusively on records and reports for the processing program are able to process refund checks expeditiously. Also, the majority of the commenters want processors to continue making refund payments within 10 days of receipt of the application. They requested that the Department retain the original requirement as it was. For these reasons, the proposed requirement is being amended in the final rule to retain the requirement that processors make refund payments within 10 days of receipt of any refund application.

The final rule is also being amended from the proposed rule to remove the requirement that processors make refund payments as soon as possible, but no later than 60 days after the close of the contract period. Recipient agencies will have a deadline for submitting refund applications at the close of the contract year. Processors will have 10 days from receipt of the final refund application to make payment to the recipient agency.

Performance Reports

Under § 250.15(m) of the proposed rule, the requirement that processors report the number of pounds of each donated food represented in sales to distributors was deleted.

Fourteen commenters supported this change to the regulations stating that there was no need to know the number of pounds of donated food in end products at distributors. Only one commenter favored maintaining the requirement.

The Department continues to support the requirement as proposed; however, processors must maintain distributor inventory information as part of the overall inventory control system to ensure an acceptable audit trail. Section 250.30(m) of this final rule is being amended accordingly.

Annual Reconciliation

Section 250.15(n)(3) of the proposed rule contained new language requiring that as part of the annual reconciliation process processors must pay distributing agencies for all donated food remaining at contract termination, unless the processor has entered into a contract for the next year. In that circumstance the processor would be required to pay the distributing agency for any donated food inventory in excess of approved levels.

Fourteen commenters supported this provision; however, the majority of these commenters wanted the regulations to include the provision requiring that at agreement termination, processors who have gone into negative inventory status should be made whole at that time. Four commenters opposed the provision as proposed, pointing out the donated food inventory could be transferred to another processor or State at agreement termination or returned to the State which initiated the agreement. These commenters stated that payment

for donated food should not be the only option available at contract termination.

The provisions under § 250.30(n)(3) of the regulations were intended to address the handling of excess amounts of commodity inventory at the time of annual reconciliation for processors who will continue their contractual relationship with the distributing agency. This section does not address what is to be done with inventory remaining or commodities unaccounted for at the termination or completion of processing contracts. The provisions for termination and completion of processing contracts are found in § 250.30(j). Based on the comments received on the proposed rule, it is clear that confusion has been created by these two sections.

Therefore, § 250.30(n)(3) as contained in this final rule, makes clear that at annual reconciliation, processors who will continue their processing relationship with the distributing agency will be required to pay for commodities in excess of the level approved by the distributing agency. Section 250.30(j)(1) has also been changed to reflect the long-standing practice that at termination or completion of contractual relations with a distributing agency, if the processor has commodities remaining in inventory or unaccounted for, the processor shall return the commodities to the contracting agency or pay for the commodities as required by that section. Further, a technical change to § 250.30(q)(5) was necessitated by these amendments. This corresponding change embodies no new policy decision, but was omitted from the proposed rule.

Audits

Under the proposed rule the Department revised § 250.15(t) of the regulations by stating that the audit frequency was determined by adding the value of donated foods received under State and National Commodity Processing contracts.

No comments were received regarding this requirement. Therefore the requirement as proposed has been retained in § 250.18(b)(1) of this final rule.

List of Subjects in 7 CFR Part 250

Aged, Agricultural commodities, Business and industry, Food assistance programs, Food donations, Food processing, Grant programs-social programs, Infants and children, Price support programs, Reporting and recordkeeping requirements, School breakfast and lunch programs, Surplus agricultural commodities.

Accordingly, Part 250 is amended as follows:

PART 250—DONATION OF FOOD FOR USE IN THE UNITED STATES, ITS TERRITORIES AND POSSESSIONS AND AREAS UNDER ITS JURISDICTION

1. The authority citation for Part 250 continues to read as follows:

Authority: Sec. 32, Pub. L. 74–320, 49 Stat. 744 (7 U.S.C. 612c); Pub. L. 75–165, 50 Stat. 323 (15 U.S.C. 713c); secs. 6, 9, Pub. L. 79–396, 60 Stat. 231, 233 (42 U.S.C. 1755, 1758); Sec. 416, Pub. L. 81–439, 63 Stat. 1058 (7 U.S.C. 1431); Sec. 402, Pub. L. 91–665, 68 Stat. 843 (22 U.S.C. 1922); Sec. 210, Pub. L. 84–540, 70 Stat. 202 (7 U.S.C. 1859); Sec. 9, Pub. L. 85–931, 72 Stat. 1792 (7 U.S.C. 1431b); Pub. L. 86–756, 74 Stat. 899 (7 U.S.C. 1431 note); Sec. 709, Pub. L. 89–321, 79 Stat. 1212 (7 U.S.C. 1446a–1); Sec. 3, Pub. L. 90–302, 82 Stat. 117 (42 U.S.C. 1761); Secs. 409, 410, Pub. L. 93–288, 88 Stat. 157 (42 U.S.C. 5179, 5180); Sec. 2, Pub. L. 93–326, 88 Stat. 286 (42 U.S.C. 1762a); Sec. 16, Pub. L. 94–105, 89 Stat. 522 (42 U.S.C. 1766); Sec. 1304(a), Pub. L. 95–113, 91 Stat. 980 (7 U.S.C. 612c note); Sec 311, Pub. L. 95–478, 92 Stat. 1533 (42 U.S.C. 3030a); Sec. 10, Pub. L. 95–627, 92 Stat. 3623 (42 U.S.C. 1760); Sec. 1114(a), Pub. L. 97–98, 95 Stat. 1269 (7 U.S.C. 1431e); Title II, Pub. L. 98–8, 97 Stat. 35 (7 U.S.C. 612c note); (5 U.S.C. 301), unless otherwise noted.

2. In § 250.18 paragraph (b)(1) is amended by adding a sentence between the third and fourth sentences to read as follows:

§ 250.18 Audits.

* * * * *

(b) *Independent CPA audits of multi-State processors.* (1) * * * The total value of donated food received shall be computed by adding the value of food received under State and National Commodity Processing contracts. * * *

* * * * *

3. In § 250.19 paragraphs (b)(2)(i) and (b)(2)(iii) are revised and paragraphs (b)(2)(iv) through (b)(2)(vi) are added to read as follows:

§ 250.19 Reviews.

* * * * *

(b) * * *

(2) * * *

(i) At a minimum, provide for a semi-annual review of a statistically valid sample of sales for the previous six-month period for all processors which contract with the distributing agency or contracting agencies under the authority of the distributing agency, including multi-State processors. The sample size must ensure a 95 percent confidence level;

* * * * *

(iii) Provide for the assessment of claims against the processor in accordance with FNS Instruction 410–1, Non-Audit Claims, Food Distribution Program, in instances when deficiences have been identified.

(iv) Provide for the adjustment of performance reports and processing inventory reports to refect any invalid sales;

(v) Provide for the development and submission by processors to the distributing agency of a corrective action plan designed to correct problems identified during the sales verification; and

(vi) In instances in which the distributing agency has delegated the responsibility of sales verification to processors, the distributing agency must:

(A) Establish guidelines which ensure that the criteria contained in paragraphs (b)(2)(ii)(A) through (E) are met;

(B) Ensure that processors report their findings to the distributing agency on a semi-annaul basis in accordance with § 250.15(m);

(C) Review the processor's findings and select a random sub-sample of at least 10 percent of all sales verified by the processor and reverify the sale by contacting the recipient agency by telephone or through written correspondence; and

(D) Submit a copy of the processor's review report and findings and the results of the reverification efforts to the appropriate FNSRO. In instances of poor processor performance, the distributing agency shall require the processor to discontinue the abused value pass-through-system, initiate an audit or review to determine the extent to which sales are to be disallowed, establish a claim, and/or terminate the contract.

* * * * *

4. In § 250.30, the first two sentences of paragraph (c)(1) are revised to read as follows:

§ 250.30 State processing of donated foods.

* * * * *

(c) *Requirements for processing contracts.* (1) Contracts with processors shall be in a standard written form and shall be reviewed by the appropriate FNSRO. Processing contracts shall terminate on June 30 of each year. * * *

* * * * *

5. In § 250.30, paragraphs (c)(4)(ii) and (c)(4)(viii)(I) are revised to read as follows:

* * * * *

(c) * * *

(4) * * *

(ii) A description of each end product, the quantity of each donated food and the identification of any other ingredient which is needed to yield a specific

number of units of each end product (except that the contracting agency may permit the processor to specify the total quantity of any flavorings or seasonings which may be used without identifying the ingredients which are, or may be, components of flavorings or seasonings), the total weight of all ingredients in the batch formula, the processor's free on board (FOB) plant price schedule for quantity purchases of processed products, and the yield factor for each donated food. The yield factor is the precentage of the donated food which must be returned in the end product to be distributed to eligible recipient agencies. For substitutable donated foods, at least 100 percent of the donated food provided to the processor must be physically contained in the end products with no allowable tolerance;

* * * * *

(viii) * * *

(I) Submit annual reconciliation reports and make payments to distributing agencies for any inventory remaining at the termination of the contract in accordance with paragraph (n)(3) of this section.

* * * * *

6. In § 250.30, paragraphs (d) and (e) are revised to read as follows:

* * * * *

(d) *End products sold by processors.* (1) When recipient agencies pay the processor for end products, the processing contract shall include the processor's established wholesale price schedule for quantity purchases of specific units of end products and an assurance that:

(i) The price of each unit of end product purchased by eligible recipient agencies shall be discounted by the stated contract value of the donated foods contained therein; or

(ii) A refund equal to the value of the donated foods contained therein shall be made upon presentation of proof of purchase by an eligible recipient agency in accordance with paragraph (k) of this section; or

(iii) The value of donated food contained therein shall be passed to the recipient agency through a system which has been approved by FNS at the request of the distributing agency.

(2) Any value pass-through-system approved under this part must comply with the sales verification requirements specified in § 250.30(b), or an alternative verification system approved by FNS. The Department retains the authority to inspect and review all pertinent records including records pertaining to the verification of a statistically valid sample of sales.

(3) Processors shall ensure that invoices clearly indicate the discount included or refund due on the end product and that the invoice clearly identifies that the discount included or refund due is for the value of the donated food regardless of the value pass-though-system used.

(4) Processors shall retain invoices from recipient agencies when end products are sold through a discount system.

(e) *End products sold by distributors.* (1) When a processor transfers end products to a distributor for sale and delivery to recipient agencies, such sales shall be under either a refund system as defined in § 250.3 or a system which provides refunds to distributors and discounts to recipient agencies unless another value pass through system has been approved in accordance with paragraph (d)(2) of this section. The processor shall make refund payments to distributors or recipient agencies in accordance with paragraph (k) of this section.

(2) Processors shall ensure that invoices clearly indicate the discount included or refund due on the end product and the invoice clearly identifies that the discount included or refund due is for the value of the donated food regardless of the value pass through system used.

(3) Processors shall ensure that distributors maintain invoices from recipient agencies when end products are sold through a discount system and that such invoices shall be provided to the processor upon request.

* * * * *

7. In § 250.30, paragraph (j)(1) is amended by adding new paragraphs (j)(1)(i)(D) and (j)(1)(ii)(F) to read as follows:

* * * * *

(j) *Termination of processing contracts.* (1) When contracts are terminated or completed and the processor has commodities remaining in inventory or has not accounted for commodities, the processor shall be directed, at the option of the distributing agency and the FNSRO, to do the following:

(i) * * *

(D) Pay the contracting agency the CCC unrestricted sales price;

(ii) * * *

(F) Pay the contracting agency the CCC unrestricted sales price.

* * * * *

9. In § 250.30, paragraph (k) is amended by changing the words "60 days" wherever they appear to "30 days from the close of the month in which the sales were made".

10. In § 250.30, paragraph (m)(1)(vii) is removed, and paragraphs (m)(1)(viii) through (m)(1)(x) are redesignated (m)(1)(vii) through (m)(1)(ix) respectively and newly redesignated paragraph (m)(1)(viii) is revised to read as follows:

* * * * *

(m) *Performance reports.* (1) * * *

(viii) In instances in which sales verification has been delegated to the processor pursuant to § 250.19(b)(2), sales verification findings shall be reported as an attachment to the December and June performance reports in whatever format the State distributing agency deems necessary.

* * * * *

11. In § 250.30, paragraph (n)(3) is revised to read as follows:

* * * * *

(n) * * *

(3) Processors shall complete and submit annual reconciliation reports to distributing agencies within 90 days following the end of the contract period. As a part of the annual reconciliation, a processor which has entered into a contract with the contracting agency for the next year shall pay the distributing agency, at the contract value, for any donated food inventory held which is in excess of the inventory level which has been approved by the State distributing agency. A processor whose contract has been completed or terminated shall return or pay for commodities as required by subsection (j).

* * * * *

12. In § 250.30, paragraph (q)(5) is revised to read as follows:

* * * * *

(q) * * *

(5) Review annual reconciliation reports required by paragraph (n) of this section and ensure that payments for commodities have been made.

* * * * *

Date: February 14, 1989.

G. Scott Dunn,

Acting Administrator.

[FR Doc. 89-4043 Filed 2-21-89; 8:45 am]

BILLING CODE 3410-30-M

Federal Crop Insurance Corporation

7 CFR Part 401

[Amdt. No. 34; Doc. No. 6414S]

General Crop Insurance Regulations; Pear Endorsement

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) amends the General Crop Insurance Regulations (7 CFR Part 401), effective for the 1989 and succeeding crop years, by adding a new section, 7 CFR 401.140, Pear Endorsement. The intended effect of this rule is to provide the provisions of crop insurance protection on pears in an endorsement to the general crop insurance policy.

EFFECTIVE DATE: March 24, 1989.

FOR FURTHER INFORMATION CONTACT: Peter 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 established as April 1, 1993.

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.

FCIC herewith adds to the General Crop Insurance Regulations (7 CFR Part 401), a new section to be known as 7 CFR § 401.140, the Pear Endorsement, effective for the 1989 and succeeding crop years, to provide the provisions for insuring pears.

On Thursday, September 8, 1988, FCIC published a notice of proposed rulemaking in the **Federal Register** at 53 FR 34762, to provide the provisions of crop insurance protection on pears in an endorsement to the general crop insurance policy. The public was given 30 days in which to submit written comments, data, and opinions on the proposed rule, but none were received. Therefore, the proposed rule published at 53 FR 34762 is hereby adopted as a final rule without change.

List of Subjects in 7 CFR Part 401

Crop insurance; Pear endorsement.

Final 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 amends the General Crop Insurance Regulations (7 CFR Part 401), effective for the 1989 and succeeding crop years, as follows:

PART 401—[AMENDED]

1. The authority citation for 7 CFR Part 401 continues to read as follows:

Authority: 7 U.S.C. 1506, 1516.

2. 7 CFR Part 401 is amended to add a new section to be known as 7 CFR 401.140, Pear Endorsement, effective for the 1989 and Succeeding Crop Years, to read as follows:

§ 401.140 Pear endorsement

The provisions of the Pear Crop Insurance Endorsement for the 1989 and subsequent crop years are as follows:

Federal Crop Insurance Corporation Pear Endorsement

1. *Insured Crop*

a. The crop insured will be all pear varieties established as adapted to the area and classified as follows:

(1) Type I: Green Bartlett; and

(2) Type II: all others.

b. In addition to the pears not insurable in section 2 of the general crop insurance policy, we do not insure any pears:

(1) Of any type which has not produced an average of 4 tons per acre of first grade canning or U.S. number 1 pears in at least one of the four previous crop years;

(2) Which we inspect and consider not acceptable; or

(3) Which do not have production records acceptable to us.

2. *Causes of Loss*

a. The insurance provided is against unavoidable loss of production resulting from any of the following causes occurring within the insurance period:

(1) Drought;

(2) Earthquake;

(3) Excess wind;

(4) Fire;

(5) Flood;

(6) Freeze;

(7) Frost;

(8) Fruit-set failure;

(9) Hail;

(10) Volcanic eruption; or

(11) If applicable, failure of the irrigation water supply due to an unavoidable cause occurring after insurance attaches;

unless those causes are excepted, excluded, or limited by the actuarial table or section 9 of the general crop insurance policy.

b. In addition to the causes of loss not insured against, contained in section 1 of the general crop insurance policy, we will not insure against any loss of production due to fire if weeds and other forms of undergrowth have not been controlled or tree pruning debris has not been removed from the orchard. We also specifically do not insure against failure of the fruit to color properly, or the inability to market the fruit as a direct result of quarantine, boycott, or refusal of any entity to accept production.

3. *Report of Acreage, Share, and Type (Acreage Report)*

a. In addition to the information required in section 3 of the general crop insurance policy, you must report the crop type.

b. The date you must annually submit the acreage report is December 15 of the calendar year insurance attaches in California and January 15 of the calendar year the insured crop normally blooms in all other states.

4. *Production Reporting and Production Guarantees*

a. In addition to the information required by section 4 of the general crop insurance policy, you must report by variety:

(1) The number of bearing trees;

(2) The number and age of trees per acre and the current planting pattern; and

(3) Any tree damage or change in farming practices which will or may reduce yields from previous levels.

5. *Annual Premium*

The annual premium amount is computed by multiplying the production guarantee (in tons) times the price election, times the premium rate, times the insured acreage, times your share on the date insurance attaches.

6. *Insurance Period*

a. The calendar date on which insurance attaches is November 21.

b. The calendar date for the end of the insurance period is the following applicable date of the calendar year in which the pears are normally harvested:

Variety	Date
Bartlett (green and red)	September 15.
Star Crimson (Crimson Red)	September 15.
all others	October 15.

7. *Unit Division*

a. Pear acreage that would otherwise be one unit, as defined in section 17 of the general crop insurance policy may be divided between type I and type II. However, alternating rows of, or interplanting of type I and II pears will not be divided into separate units.

b. Pear acreage that would otherwise be one unit, as defined in section 17 of the general crop insurance policy and subsection 7.a. above may be further divided into more than one unit if:

(1) You agree to pay an additional premium if provided for by the actuarial table;

(2) For each proposed unit you maintain written, verifiable records of acreage and harvested production for at least the previous crop year and production reports based on those records are timely filed to obtain an insurance guarantee; and

(3) The acreage of insured pears is located on non-contiguous land.

c. If you have a loss on any unit, production records for all harvested units must be provided. Production that is commingled between optional units will cause those units to be combined.

8. *Notice of Damage or Loss*

In addition to the notices required in the general crop insurance policy and in case of damage or probable loss you must give us notice of the date and cause of damage within 10 days of such damage.

9. *Claim for Indemnity*

a. The indemnity will be determined on each unit by:

(1) Multiplying the insured acreage by the production guarantee;

(2) Multiplying this product by the price election;

(3) Subtracting the dollar amount obtained by multiplying the total production to be counted (see subsection 9.c.) by the price election; and

(4) Multiplying the result by your share.

b. If a unit contains acreage to which both type I and type II pear guarantees apply, the dollar amount of insurance and the dollar amount of production to be counted will be determined separately for each type and then added together to determine the total amount for the unit.

c. The total production to be counted for a unit will include:

(1) All harvested and appraised production that meets the following applicable U.S.D.A. grade standards except those pears specified in subsection 9.d.:

(a) For Type I pears, first grade canning (under California Tree Fruit Agreement Standards) or U.S. Number 1 (under U.S. Standards for summer and fall pears) in California, or U.S. Number 1 (under either U.S. standards for summer and fall pears or processing pears) in states other than California; or

(b) For Type II pears, U.S. Number 1 (under U.S. standards for summer and fall or winter pears); and

(2) All production that due to insurable causes does not meet the grade requirements in subsection 9.c.(1) but could be marketed for any use. The amount of such production to be counted will be determined by:

(a) Dividing the value of the pears per ton by the highest price election available for the insured type and;

(b) Multiplying the result by the number of tons of such pears.

c. The amount of size 180 and smaller pears in excess of 10 percent of the total production of a type will not be considered as production to count except under the provisions of subsection 9.c.(2) if the quantity of such pears is the result of an insured cause of loss. (This adjustment is not applicable to the Forelle, Seckel, or Winter Nelis varieties.)

d. Appraised production will include:

(1) Mature and potential production on unharvested acreage;

(2) Unharvested production on harvested acreage and potential production lost due to uninsured causes and failure to follow recognized good pear farming practices; and

(3) Not less than the guarantee for any pears which are abanonded, damaged solely by an uninsured cause, or destroyed by you without our consent.

e. Any appraisal we have made on insured acreage will be considered production to count unless such appraised production is:

(1) Further damaged by an insured cause and is reappraised by us; or

(2) Harvested.

f. If you are going to claim an indemnity on any unit, all production must be inspected by us prior to the beginning of harvest and we must give you written consent prior to disposal or sale of any damaged fruit. If you fail to meet the requirements of this subsection all such production may be considered undamaged and included as production to count.

10. *Cancellation and Termination Dates*

The cancellation and termination dates are November 20.

11. *Contract Changes*

The date by which contract changes will be available in your service office is August 31 preceding the cancellation date.

12. *Meaning of Terms*

a. *"Crop year"* means the period beginning with the date insurance attaches and extending through normal harvest time and is designated by the calendar year in which the pears are normally harvested.

b. *"Excess wind"* means a natural movement of air of sufficient velocity to separate pears from the trees.

c. *"Freeze"* means the condition that exists when air temperature over a widespread area fall to or below 32 degrees fahrenheit, and cause damage to plant tissue or fruit.

d. *"Frost"* means a deposit or covering of minute ice crystals formed from frozen water vapor which causes damage to plant tissue or fruit.

e. *"Fruit-set failure"* means failure of the pear trees to develop blossoms or set fruit due only to adverse weather conditions.

f. *"Harvest"* means the picking of pears from the trees or removing the fruit from the ground.

g. *"Non-contiguous Land"* means any land owned by you or rented by you for cash, a fixed commodity payment or any consideration other than a share in the insured crop, whose boundaries do not touch at any point. Land which is separated by a public or private right-of-way, waterway or irrigation canal will be considered to be touching (contiguous).

h. *"Ton"* means 2,000 pounds. All production in varying container sizes will be converted to tons.

Done in Washington, DC on February 13, 1989.

John Marshall,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 89-3953 Filed 2-21-89; 8:45 am]

BILLING CODE 3410-08-M

Farmers Home Administration

7 CFR Part 1965

Security Servicing for Multiple Family Housing Loans

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its multiple family housing security servicing regulations to prescribe new FmHA forms and to eliminate an administrative distribution of Form FmHA 1944-52 to the Finance Office. This action is necessary to remove the requirement that FmHA modify existing Loan Agreement/Resolution forms to consolidate loan agreements/resolutions. The intended effect of this action is to reduce the Agency administrative burden.

EFFECTIVE DATE: February 22, 1989.

ADDRESSES: Public reporting burden for this collection of information is estimated to vary from 5 minutes to 4.25 hours per response, with an average of .60 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 this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Agriculture, Clearance Officer, OIRM, Room 404-W, Washington, DC 20250; and to the Office of Management and Budget, Paperwork Reduction Project

(OMB #0575-0100), Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Deborah E. Pope, Loan Specialist, Multiple Family Housing Servicing and Property Management (MHSPM) Division, Room 5321-S, Farmers Home Administration, USDA, 14th and Independence Avenue SW., Washington, DC 20250, telephone: (202) 382-1600.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Departmental Regulations 1512-1 which implements Executive Order 12291, and has been determined to be exempt from those requirements because it involves only internal Agency management.

FmHA is consolidating its Rural Rental Housing (RRH) and Labor Housing (LH) loan agreements and resolutions to reduce the administrative recordkeeping and budgeting, and to improve cost effectiveness and efficiencies of project operation. The new forms are: Form FmHA 1944-33A, "Consolidated Loan Agreement, Rural Rental Housing (RRH) Insured Loan to an Individual Operating on a Profit Basis; RRH Loan to an Individual Operating on a Limited Profit Basis"; Form FmHA 1944-34A, "Consolidated RRH Loan Agreement, To a Partnership Operating on a Profit Basis; To a Limited Partnership Operating on a Profit Basis; To a Partnership Operating on a Limited Profit Basis; To a Limited Partnership Operating on a Limited Profit Basis"; Form FmHA 1944-35A, "Consolidated Loan Resolution, RRH Loan to a Broadly Based Nonprofit Corporation; RRH Loan to a Profit Type Corporation; RRH Loan to Profit Type Corporation Operating on a Limited Profit Basis"; and Form FmHA 1965-17A, "Multiple Family Housing Consolidation of Projects/Loan Agreements/Resolutions."

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 and publication for comment is unnecessary.

These programs/activities are listed in the Catalog of Federal Domestic Assistance under Numbers 10.405—Labor Housing Loans and Grants, and 10.415—Rural Rental Housing Loans, and are subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials (7 CFR Part 3015, Subpart V, 48 FR 29112, June 24, 1983).

This document has been reviewed in accordance with FmHA Instruction 1940-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, Pub. L. 91-190, an Environmental Impact Statement is not needed.

List of Subjects in 7 CFR Part 1965

Administrative practice and procedure, Low- and moderate-income housing—Rental, Mortgages.

Therefore, for the reasons stated above, Chapter XVIII, Title 7, Code of Federal Regulations is amended as follows:

PART 1965—REAL PROPERTY

1. The authority citation for Part 1965 continues to read as follows:

Authority: 42 U.S.C. 1480; 7 CFR 2.23; 7 CFR 2.70.

Subpart B—Security Servicing for Multiple Housing Loans

2. Section 1965.68 is amended by revising paragraphs (a)(2)(iii), (b)(1)(i), (b)(1)(ii), (b)(1)(iv) and (b)(2)(ii) to read as follows:

§ 1965.68 Consolidation.

(a) * * *

(2) * * *

(iii) The loan agreements being consolidated are for loans made for the same purpose, to the same borrower entity and have the same plan of operation (non-profit, limited profit or full profit), and when appropriate are operating under the same type of Interest Credit. The Automated Multi-Housing Accounting System (AMAS) does not validate that all of a borrower's loans to be consolidated have the same plan of operation. There are no plans to include this validation in AMAS so field offices should ensure compliance with this requirement.

* * * * *

(b) * * *

(1) * * *

(i) Form FmHA 1944-52, "Multiple Family Housing Promissory Note," will be prepared for the notes or assumption agreements being consolidated according to the FMI. If the District Office does not have possession of the original note or assumption agreement, the District Director will call the Finance Office to request the return of the original form so it is in the District Office before a new Form FmHA 1944-52 is processed. All promissory notes will be prepared on a monthly payment basis, as appropriate. A new Form FmHA 1944-7 will also be prepared and submitted to the Finance Office in accordance with this FMI.

(ii) Form FmHA 1965-17A, "Multiple Family Housing Consolidation of Projects/Loan Agreements/Resolutions," will be completed to show all of the notes which have been consolidated in the new Form FmHA 1944-52. A copy of the completed Form FmHA 1965-17A will also be sent to the Finance Office. Form FmHA 1944-50 will also be completed and submitted in accordance with the FMI to reflect the nature of the new project.

* * * * *

(iv) A consolidated loan agreement or resolution using Form FmHA 1944-33A, "Consolidated Loan Agreement, Rural Rental Housing (RRH) Insured Loan to an Individual Operating on a Profit Basis; RRH Loan to an Individual Operating on a Limited Profit Basis," Form FmHA 1944-34A, "Consolidated RRH Loan Agreement, To a Partnership Operating on a Profit Basis; To a Limited Partnership Operating on a Profit Basis; To a Partnership Operating on a Limited Profit Basis; To a Limited Partnership Operating on a Limited Profit Basis," or Form FmHA 1944-35A, "Consolidated Loan Resolution, RRH Loan to a Broadly Based Nonprofit Corporation; RRH Loan to a Profit Type Corporation; RRH Loan to Profit Type Corporation Operating on a Limited Profit Basis," as appropriate, will be prepared for RRH loans to reflect current reporting requirements and the authorized initial investment attributable to the owner after the consolidation has occurred. A revised consolidated loan agreement or resolution will be prepared for LH loans containing the requirements of Exhibits C, D or E of Subpart D of Part 1944 of this chapter, as appropriate.

* * * * *

(2) * * *

(ii) For RRH loans, a consolidated loan agreement or loan resolution using Form FmHA 1944-33A, Form FmHA 1944-34A, for Form FmHA 1944-35A, as appropriate, referencing the security instruments must be executed which accurately reflects the total indebtedness, reserve requirements, and return to owner originally described in the individual agreements. A revised consolidated loan agreement or resolution will be prepared for LH loans containing the requirements of Exhibit

C, D or E of Subpart D of Part 1944 of this chapter, as appropriate.

* * * * *

Date: December 2, 1988.

Neal Sox Johnson,

Acting Administrator, Farmers Home Administration.

[FR Doc. 89-4057 Filed 2-21-89; 8:45 am]

BILLING CODE 3410-07-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Cooperation With States at Commercial Nuclear Power Plants and Other Nuclear Production or Utilization Facilities; Policy Statement

AGENCY: Nuclear Regulatory Commission.

ACTION: Final policy statement.

SUMMARY: The Nuclear Regulatory Commission (NRC) believes that the agency's mission to protect the public health and safety and the environment can best be served by a policy of cooperation with State governments which unites the common goals of the NRC and the States. In accordance with this policy statement, the NRC will keep Governor-appointed State Liaison Officers routinely informed on matters of interest to the States, and NRC will respond in a timely manner to State requests for information and State recommendations concerning matters within NRC's regulatory jurisdiction. If requested, the NRC will routinely inform State Liaison Officers of public meetings between the NRC and its licensees and applicants, in order that State representatives may attend as observers, and NRC will allow State observation of NRC inspection activities. The NRC will consider State proposals to enter into instruments of cooperation for State participation in NRC inspection activities when these programs have provisions to ensure close cooperation with NRC. The NRC will not consider State proposals for instruments of cooperation to conduct inspection programs of NRC-regulated activities without close cooperation with, and oversight by, the NRC. This policy statement is intended to provide a uniform basis for NRC/State cooperation as it relates to the regulatory oversight of commercial nuclear power plants and other nuclear production or utilization facilities. Instruments of cooperation between the NRC and the States, approved prior to the effective date of this policy statement will continue to be honored by the NRC.

EFFECTIVE DATE: February 22, 1989.

FOR FURTHER INFORMATION CONTACT: Carlton C. Kammerer, Director for State, Local and Indian Tribe Programs, Office of Governmental Affairs, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: (301) 492-0321.

SUPPLEMENTARY INFORMATION:

I. Background

The Atomic Energy Act of 1954 (the Act) was amended in 1959 to add section 274, "Cooperation With States." Section 274 of the Act provides the statutory basis for NRC/State cooperation in nuclear matters and prescribes the framework for State regulation of certain nuclear materials. The focus of section 274 is primarily on protecting the public from radiological hazards of source, byproduct, and special nuclear materials below critical mass. Under section 274, the Federal Government, primarily NRC, is assigned exclusive authority and responsibility to regulate the radiological and national security aspects of the construction and operation of any nuclear production or utilization facility, except for certain authority over air emissions later granted to States by the Clean Air Act.

The NRC has had extensive formal and informal interaction with the States throughout its history. The Agreement State Program, under section 274b of the Act, is an example of a formal program where the NRC relinquishes its regulatory authority over certain radioactive materials to the States. There are currently 29 Agreement States regulating approximately 65 percent of those licensees nationwide that use or manufacture those types of radioactive material. The Agreement State Program operates under two Commission Policy Statements, one for entering into section 274b agreements and one for periodically reviewing Agreement State radiation control programs for adequacy in protecting public health and safety and for compatibility with NRC programs. This policy statement supports continuation of the Agreement State Program and is not meant to affect it.

This policy statement is not intended to affect rights to notice and to participate in hearings granted to States by statute or NRC regulations.

Under 10 CFR Part 9, Subpart D, the NRC has provided procedures for handling requests for an NRC representative to participate or provide information in judicial or quasi-judicial proceedings conducted by States or other courts and agencies. This policy statement supports these procedures and does not affect them.

Under 10 CFR 50.55a, the NRC has recognized the role of the States within the American Society of Mechanical Engineers' Boiler and Pressure Vessel Code (ASME Code) System. This policy statement does not affect the State and NRC relationship as laid out in the ASME Code.

The State Liaison Officer Program, established in 1976, provides a focal point in each of the 50 States and the Commonwealth of Puerto Rico for communication between NRC and the States. The Governor-appointed State Liaison Officer is intended to be the principal person in the State to keep the Governor informed of nuclear regulatory matters of interest to the Governor, to keep other State officials informed of these matters, and to respond to NRC inquiries.

Other areas in which NRC and States have worked together include environmental monitoring around the premises of nuclear power plant facilities and participation in the Conference of Radiation Control Program Directors, Inc., which addresses radiological health in areas such as diagnostic and therapeutic X-rays, radioactive materials, and other related activities.

Under subsection 274i of the Act, the Commission is authorized, in carrying out its licensing and regulatory responsibilities to enter into a Memorandum of Understanding (MOU) with any State to perform inspections or other functions on a cooperative basis as the NRC deems appropriate. According to the legislative history of section 274, subsection 274i clarifies the Commission's existing authority under subsection 161f which enables the NRC to obtain the services of State personnel to perform functions on its behalf as may be desirable.

NRC has entered into MOUs with several States under subsection 274i of the Act. MOUs have helped to facilitate environmental review during construction of nuclear power plants. At one point, there was a perceived need to broaden the basis for formal cooperative instruments with States under subsection 274i beyond that of water quality MOUs. As a result, general or "umbrella" MOUs were negotiated, with subagreements on specific issues such as low-level waste package and transport inspections. Two unique agreements were negotiated with Oregon; one concerning the sharing of proprietary information regarding the Trojan facility and the other covering coordination of the State and NRC

resident inspector programs at Trojan. Additionally, the NRC has documented the protocol that States must follow to be permitted to observe certain NRC activities in "letter agreements."

In recent years, States have taken the initiative to monitor more closely commercial nuclear power plants and other nuclear production or utilization facilities within, and adjacent to, their State boundaries by becoming better informed and, in some cases, more involved in activities related to the regulation and operation of those facilities. It was this increased interest by States to become more actively involved in NRC activities that caused the NRC to re-examine those agreements previously negotiated with States and to determine a uniform policy for how further State proposals should be handled. In developing this policy statement to be used to respond to future State proposals, the Commission, recognizing that the regulatory responsibilities assigned exclusively to the NRC by the Act cannot be delegated, has considered: (1) Those activities it deems appropriate for States to conduct on a cooperative basis and are desirable for State personnel to perform on behalf of the NRC; and (2) its oversight responsibility to ensure that NRC standards, regulations, and procedures are met where State representatives carry out NRC functions. Further, it is the Commission's intention to provide uniformity in its handling of State requests.

II. Summary of Comments and NRC Response

On June 13, 1988, the Commission's Policy Statement on Cooperation with States at Commercial Nuclear Power Plants and Other Nuclear Production or Utilization Facilities was published in the **Federal Register** for public comment (53 FR 21981.) The comment period expired July 13, 1988. In the **Federal Register** notice, the Commission stated that the "proposed policy will be followed in the interim, except for those paragraphs in the policy statement and Implementation section dealing with State proposals for instruments of cooperation for participation in inspections and inspection entrance and exit meetings. The Commission will not act on these specific types of State-proposed instruments of cooperation until the comment period expires and the policy statement is published as a final policy statement."

The NRC received 28 letters of comment; fourteen from members and representatives of the nuclear power industry, including electric utilities and their counsel, thirteen from various State offices and one from a public interest group.

State Comments

Most of the State offices expressed support for the NRC's policy "to cooperate fully with State governments as they seek to respond to the expectations of their citizens that their health and safety be protected and that there be minimal impact on the environment as a result of activities licensed by the NRC." In the opinion of these States, the NRC policy statement would, among other things, enable the NRC to maintain uniformity in its relations with all the States, strengthen Federal-State cooperation, reduce duplication of effort, encourage the development of a unified NRC/State position on matters of joint concern, avoid the perception of dual regulation and improve nuclear safety. By giving "host" States, i.e., States in which an NRC licensed facility is located, a greater opportunity to participate with NRC in matters involving the use of radioactive materials, including the use of those materials in nuclear power reactors located within the State, States would become better informed about the day-to-day activities of NRC licensees. With the opening of these avenues of communication, NRC licensees would be made more aware of State concerns in related areas.

Two States stated that they are prepared to enter into a joint inspection program with NRC at this time. One State expressed no immediate interest but indicated that it might wish to participate in such a program in the future. This State was supportive of the six conditions specified in the Policy Statement as prerequisites to State participation in NRC inspections and inspection entrance and exit meetings in accordance with the provisions of an instrument of cooperation entered into with NRC. One State indicated that it would appreciate routine notification of NRC inspection activities and public meetings affecting the State. One State supported, while another State opposed, independent State inspections of federally regulated facilities. The stated reasons for opposing such inspections were that they would confuse the regulated sector and would require the expenditure of scarce State resources in an area in which there is already adequate Federal enforcement. Noting the possible difficulty of securing needed funds for such inspections, one State recommended that the policy statement include suggested means of funding State inspections.

Noting that State needs for interaction with NRC are especially important in areas which are substantially affected by NRC actions but for which the State has central responsibility (e.g., rate-making,[1] emergency preparedness, environmental protection) several States expressed concern regarding the extent to which their differing needs and responsibilities would be accommodated under the NRC policy. Some States expressed the view that because of differing nature of State responsibilities, States might find it difficult to qualify for a Federal/State instrument of cooperation. One State suggested that the policy statement affirmatively recognize "the value of cooperation between the NRC and the States in areas where there is mutual interest but differing goals and responsibilities." Another State suggested that State representatives should be permitted to participate as observers in NRC enforcement, policy, exit or other meetings whenever the matters addressed involve issues of concern to the State.

Several States objected to that portion of the policy statement which would channel all communication between NRC and a State through the State Liaison Officer on the grounds that this procedure is too restrictive. Noting the needs of various State agencies to maintain a continuing relationship and ongoing dialogue with NRC, these States recommended that the policy statement be modified to allow for more than one State contact.

The comments submitted by the Oregon Department of Energy reflect Oregon's experience in implementing the provisions of a 1979 State law requiring the presence of a State inspector at the site of the Trojan Nuclear Facility in accordance with the provisions of an agreement relating to resident inspectors entered into between NRC and the Oregon Department of Energy (ODOE) in January 1980. Pursuant to these arrangements, ODOE participates in many of NRC's regulatory activities at Trojan. Based on its experience over the past eight years, ODOE is of the opinion that "personal interaction with plant staff is essential in gaining the information needed to accurately assess and influence plant safety." According to ODOE, this experience demonstrates that State and NRC regulatory programs can be complementary without being

[1] For example, for nine years the New York Public Service Commission has had staff located at the Nine Mile Point site and until recently at Shoreham for the purpose of construction monitoring in order to evaluate the reasonableness of construction costs that directly affect base rates as well as operation and maintenance expenses.

duplicative and that State-Federal interaction on plant safety issues has been very productive. In its comments, ODOE also states:

There have been no instances where Oregon has misinterpreted NRC safety requirements. Oregon regulators have never redirected the licensee's attention to areas not consistent with NRC safety priorities. And our agreement with the NRC prevents such problems from occurring. It states:

"If ODOE finds it necessary to direct the operators of Trojan to take action, ODOE shall obtain NRC's prior agreement that such action does not have an adverse effect on plant or public safety."

Expressing appreciation of NRC's cooperative approach to Oregon's regulatory program and noting that Oregon has worked hard to build and maintain public confidence that State and Federal regulatory programs assure safe operations at Trojan, ODOE expressed its belief that this relationship has benefited NRC and that dilution of the State's regulatory role to the level in the draft policy statement would not be in the best interest of the public.

Citing concerns relating to the operation of the Peach Bottom nuclear power reactor, located in Pennsylvania only three miles north of the Maryland-Pennsylvania border, Maryland expressed the view that the benefits accorded States under the policy statement should not be limited to "host" States, but should also be extended to all States within ten miles of a nuclear power plant.

One State expressed general concern with the provision in the policy statement which would require States, as a condition of entering into an instrument of cooperation with NRC for the purpose of State participation in inspections and inspection entrance and exit meetings, to recognize "the Federal Government, primarily NRC, as having the exclusive authority and responsibility to regulate the radiological and national security aspects of the construction and operation of nuclear production or utilization facilities, except for certain authority over air emissions granted to States by the Clean Air Act." (53 FR 21982, June 13, 1988.) This State declared that it "will not concede that the federal government has unqualified and unspecified authority over these matters where public health, safety and environmental concerns are at risk." Noting that in 1985 it had entered into an agreement [2] with NRC Region V which established a mutually acceptable procedure for the exchange of information concerning maintenance, engineering, quality assurance, security, emergency planning and operation of nuclear power plants located in the State, this State stated that it "will review the final policy statement adopted by the Commission to propose changes in the existing agreement which may be mutually productive."

Several States questioned the need to require State programs carried out under an instrument of cooperation to specify "minimum education, experience, training, and qualification requirements for State representatives which are patterned after those of NRC inspectors." In the opinion of some States, the standard of knowledge and training appropriate for State observers need not be as stringent as that for State inspectors. Other States expressed the view that the training and educational requirements applicable to Federal and State personnel need not be identical but should instead bear some reasonable relationship to the differing jurisdictional responsibilities of the Federal government and the States. One State questioned the provisions of the policy statement characterizing *qualified* State representatives as those "knowledgeable in radiological health and safety matters." This State pointed out that "[i]f the intent of this definition is to exclude persons from disciplines other than radiological health and safety, it will unreasonably limit state involvement * * *." and that "[t]his narrow a definition would contradict the spirit, if not the intent, of the objective of furthering federal/state cooperation."

In addition, the State commenters recommended that the policy statement be revised in the following respects:

- The policy statement should recognize the unique and diverse communication needs of various State agencies and allow for more than one State contact.
- The policy statement should affirmatively recognize the value of cooperation between NRC and the States in areas where there is mutual interest but differing goals and responsibilities.
- The policy statement should be broadened to recognize the States' needs for interaction with the NRC in areas central to State responsibilities, but substantially affected by NRC actions.
- The second paragraph of the Implementation section should be revised by inserting the following sentence between the fifth and sixth sentences in that paragraph: "After a positive assessment, State inspectors' inspections may be conducted individually and would be coordinated with the NRC resident inspector."
- The policy statement should be revised to accord all States located within ten miles [3] of a commercial nuclear power reactor the same rights and responsibilities accorded to the State in which the reactor is sited.
- The policy statement should include suggested means by which a State could obtain funding for its inspection program.

Public Interest Group Comments

The comments from the public interest group expressed support for the policy statement because if offers some important opportunities for State involvement in the protection of the health and safety of citizens and commended the NRC for taking the initiative in pursuing cooperation with States.

Industry Comments

Fourteen comments were received from representatives of the nuclear power industry, including one from a major industry organization, two from legal counsel on behalf of fifteen electric utilities holding NRC operating licenses for nuclear power plants, and eleven from individual electric utilities holding NRC operating licenses; three of the latter were also included in the group of electric utilities represented by legal counsel.

For the most part, the industry commenters acknowledged the legitimate concerns of the States in being kept well-informed of NRC's activities with respect to the regulation of commercial nuclear power plants. The industry commenters also expressed general support for the Commission's overall goal of promoting and enhancing NRC/State cooperation. One commenter expressed the view that "policies which aid qualified State representatives in improving their understanding of the design and operation of * * * [commercial nuclear power plants] are beneficial to all parties and should be encouraged." One commenter characterized the policy statement as "a timely reaffirmation of federal preemption in the area of nuclear safety, which properly focuses on state observation and participation in NRC meetings and inspections." One commenter expressed affirmation support fot the Commission's stated position that in those instances in which inspections were conducted by State representatives, "[a]ll enforcement action will be undertaken by the NRC."

[2] In accordance with this agreement, State personnel have attended NRC inspector's exit meetings, shared information on environmental monitoring, participated in significant meetings between plant management personnel and senior representatives of NRC and worked jointly with NRC on emergency response drills and exercises.

[3] An industry commenter noted that in the case of a particular facility, the Commission might find it necessary to deal with the concerns of all States located within 50 miles of the ingestion pathway.

(53 FR 21983, June 13, 1988)

The industry commenters were in substantial disagreement, however, as to how this goal might best be achieved. Two commenters expressed unqualified support for the policy statement as published June 13, 1988, one stating that the policy statement correctly maintains the current balance between Federal and State authority in the field of nuclear regulation, the other urging that the Commission promulgate the policy statement in final form as soon as practicable. Two commenters considered the policy statement's six criteria for an acceptable State proposal for entrance into an NRC/State instrument of cooperation relating to nuclear power plant inspections to be reasonable and appropriate. However, one of these commenters was concerned that the policy statement does not address how the NRC will enforce its authority should a State representative exceed the scope of his/her authority under an instrument of cooperation. In order to assure continuing compliance, the commenter recommended that either the policy statement or the instrument of cooperation provide for some sort of periodic review.

Several commenters expressed contrary views. One commenter did not believe a policy of allowing State participation in routine inspection activities to be necessary or in the best interest of the NRC or its licensees. Another commenter expressed the view that legitimate concerns of States regarding the safety and operation of nuclear power plants could be addressed in the currently prescribed licensing process. However, this commenter was also of the opinion that the NRC should proceed on a case-by-case basis [4] if it feels State input is essential. The commenter also noted that the policy statement as published for comment is ambiguous and that "[t]his ambiguity can lead to a situation where a State, for whatever reason, could hinder the NRC in its regulation of nuclear power."

Most commenters endorsed the second paragraph of the policy statement which provides that the NRC will (1) continue to keep Governor-appointed State Liaison Officers routinely informed on matters of interest to States, (2) respond in a timely manner to a State's requests for information and to its recommendations concerning matters within the NRC's regulatory jurisdiction, (3) upon request, routinely inform State Liaison Officers of public meetings between NRC and its licensees and applicants in order that State representatives may attend as observers, and (4) upon request, permit State representatives to observe but not to participate actively in specific inspections and/or inspection entrance and exit meetings where State representatives are knowledgeable in radiological health and safety matters. In the opinion of the commenters, these provisions constitute both an appropriate and an adequate basis for achieving the desired communication and cooperation between the Commission and the States. Two commenters expressed a willingness to have State representatives present at public meetings with NRC licensees. These same two commenters favored giving States timely information provided the information in question did not relate to proprietary or security matters.

Viewing the observation process as a logical first step to ultimate participation in NRC inspection activities, one commenter expressed concern that State representatives should be allowed to observe NRC inspections and/or NRC inspection entrance and exit meetings solely on the approval of an NRC Regional Administrator. In the opinion of the commenter, observation by State representatives should be delayed until the State and NRC have signed a formal instrument of cooperation.

Most industry commenters, including the respective legal counsel retained by electric utilities holding NRC operating licenses, opposed, in whole or in part, those portions of the policy statement which seek to achieve the goal of NRC/State cooperation by delegating to the States any part of the Commission's authority to conduct inspections at nuclear power plants. In particular, the commenters objected to the provisions of the policy statement which relate to State proposals to enter into instruments of cooperation for State participation in NRC inspections of commercial nuclear power plants and in NRC inspection entrance and exit meetings, and the types of inspection activities which qualified State representatives may be permitted to perform. Some of the commenters opposed any type of State inspection program, whether conducted independently or under continuing NRC oversight. Other commenters were principally concerned about those passages of the policy statement which, in their opinion, carry "the clear implication * * * that there will be occasions on which State representatives will be allowed to conduct their own inspections at nuclear generating plants 'on behalf of' the NRC, unaccompanied by NRC representatives." [5] Two commenters who opposed independent State inspection programs indicated a willingness to accept State participation in NRC inspections as long as the State representatives were always accompanied by a qualified NRC inspector. One of these commenters suggested that the role of State representatives at an NRC inspection should be the same as that accorded NRC consultants.

The commenters who opposed any type of State inspection program, whether conducted independently or under continuing NRC oversight, strongly urged the Commission to provide specifically that no State radiological health and safety inspections of NRC-licensed commercial nuclear power reactors will be permitted, independent or otherwise. In their view, the role of State representatives should be strictly limited to observation of, or participation in, entrance and exit meetings. Noting that implementation of this aspect of the policy statement would make the regulatory process unnecessarily complicated and redundant—under the policy NRC staff would be required both to qualify State inspectors and to assume full responsibility for the manner in which State inspectors conduct any subsequent activities—the commenters based their objections on legal, policy and practical grounds.

According to these commenters, the Atomic energy Act of 1954, as amended, gives the NRC exclusive responsibility

[4] If the NRC should decide to proceed in this manner, the commenter recommended that the following guidelines should be followed:

The NRC should:

- consider a State's concerns regarding safety of a nuclear power plant responding, when necessary, with an inspection which would include State observers;
- provide a State with timely information regarding its concerns, providing the information is not proprietary or does not pertain to security matters;
- include State representation in public meetings with the licensees;
- obtain State assistance when such assistance would be a benefit to the NRC in its regulatory duties; and
- have complete oversight of State activities regarding nuclear safety.

The NRC should not:

- permit independent State inspection programs or reviews;
- delegate responsibility for performing NRC inspections to State representatives.

[5] According to one commenter, "* * * the policy statement completely fails to establish the legal authority of State representatives to alone inspect nuclear safety activities—in the words of the policy statement, 'on behalf of the NRC.' "

for regulating the radiological and national security aspects of the construction and operation of nuclear production and utilization facilities. Therefore, under the doctrine of Federal preemption, States are without legal authority to conduct inspections of nuclear power plants for the purpose of protecting the radiological health and safety of the public. By the same token, NRC is also precluded from delegating to other persons, including States, any of its regulatory responsibilities respecting such facilities, including, among others, the responsibility of inspecting commercial nuclear power reactors. The commenters are also of the view that delegation of inspection authority to State representatives as proposed in the policy statement exceeds the scope and intent of section 274 of the Atomic Energy Act of 1954, as amended. In the opinion of these commenters, section 274i of the Act does not provide an independent legal basis for entering into agreements with States, but must be read in the context of section 274 of which it is a part. Under the provisions of section 274b, States are only authorized to enter into agreements to regulate materials, specifically, source, byproduct, special nuclear material and low-level radioactive waste. Section 274c of the Act, which reserves certain authorities to the Commission, makes clear that the responsibility for regulating nuclear power reactors from the standpoint of radiological health and safety remains with the NRC. In view of these statutory provisions, it is the considered opinion of the commenters that, under existing law, section 274i "should properly be read to permit only inspections related to * * * materials" and to allow "NRC to enter 'instruments of cooperation' only with respect to licensed activities other than commercial nuclear power reactors (e.g., materials licensees) or with respect to matters other than radiological health and safety (e.g., certain environmental matters.)" Section 274i should not be read as authorizing NRC to enter into agreements with States under which States will conduct inspections of commercial nuclear power plants for NRC.

The commenters also viewed the provisions of the policy statement inviting States to enter into instruments of cooperation with NRC for the purpose of participating in NRC inspections and inspection entrance and exit meetings as contrary to law because such arrangements constitute dual or concurrent regulation. As the legislative history of section 274 of the Atomic Energy Act of 1954, as amended, makes clear, it was the intent of section 274 that regulatory authority either be exercised by the Federal government or by the States, but not by both.

The commenters also objected to the provisions of the NRC policy statement respecting the use of State inspectors at nuclear power plants in accordance with NRC/State instruments of cooperation on the ground that despite these arrangements such activities could have negative implications for public health and safety. According to the commenters, permitting States to participate in NRC inspections would greatly increase the likelihood of divergent Federal and State interpretations of regulatory requirements which would, in turn, create uncertainty and confusion, inject an unsettling and destabilizing element into the regulatory process and result in significant delay in the resolution of specific problems identified during an inspection. In connection with this objection, the commenters noted the parallel concerns expressed by NRC "that independent State inspection programs could direct an applicant's or licensee's attention to areas not consistent with NRC safety priorities, misinterpret NRC safety requirements, or give the perception of dual regulation." (53 FR 21981, June 13, 1988.) As an example of the practical difficulties that might be encountered, the commenters pointed to the Commission's own recent experience with its emergency planning regulations which accorded State and local governments a substantial role. According to the commenters, 'history has shown that those regulations have resulted in State-imposed delays on reactor operations, and in one case, a finished power plant apparently will be torn down before it ever operates." The commenters also expressed the view that these difficulties could engender frictions which if left unresolved could defeat the avowed purpose of the Commission's policy to enhance cooperation with the States.

Claiming that the policy statement does not appear to address any clear need and that its implementation is unlikely to result in any significant benefits other than greater coordination of Federal/State activities, the commenters pointed out that arrangements for State participation in NRC inspections under instruments of cooperation would be expensive and would likely result in efficient utilization of rate payer resources. For example, NRC personnel would be required to devote time and resources to training, qualifying, managing and communicating with State personnel and to overseeing the State's program. In addition to paying for time billed by NRC, NRC licensees would likely be called upon to provide on-site facilities and services for State personnel participating in nuclear power plant inspections comparable to those provided to NRC resident inspectors. States would be required to bear the direct costs, e.g., hiring expenses, salaries, employment benefits, of hiring and maintaining a cadre of individuals qualified to conduct inspections of commercial nuclear power plants. In the opinion of one commenter, it would be less wasteful and more cost effective to have a few NRC inspectors with appropriate training and expertise than to have many States acquire these capabilities. In this connection, the commenter questioned whether NRC would be able, in view of continuing budget constraints, to give State inspectors proper training and maintain an appropriate level of oversight of State inspectors and State inspection programs.

Several commenters criticized the policy statement because it failed to address such practical problems as how the NRC will judge the adequacy of a State inspection program and how the NRC will assure the competence of State inspectors and whether these determinations will be made by the Regions or at NRC Headquarters. In the opinion of the commenter, uniform interpretation of the policy statement could best be assured by including a detailed description of an adequate State program and specifying minimum qualifications for State inspectors.

One commenter recommended that the policy statement provide for arbitration as a method of resolving problems in those instances in which a State representative or State inspector is less than fully qualified. Another commenter requested that NRC licensees be informed whenever a State initiatives negotiations with NRC regarding an instrument of cooperation so that the licensees could participate in the process.

One commenter noted that in the case of a particular facility, it might be necessary for the Commission to deal with the concerns of several States, for example, States located within 50 miles of the ingestion pathway, instead of limiting Commission consideration to the concerns of the State within which the facility site is located. Another commenter had no objection to keeping appropriate representatives of neighboring States apprised of regulatory activities at a specific facility

but urged that the on-site presence of State personnel be limited to representatives of the State in which the facility is located.

Three commenters expressed the view that the NRC should closely monitor and periodically evaluate the implementation of whatever policy is finally adopted and any instruments of cooperation executed thereunder to assure that the program is effective, that there is no misapplication of authority, and that the best interests of the Nation are being served.

In addition, the industry commenters recommended that the policy statement be revised in the following respects:

- The policy statement should provide specifically that no State radiological health and safety inspections of NRC-licensed commercial nuclear power reactors will be permitted, independent or otherwise.
- The policy statement should strictly limit the role of State representatives to observation of, or participation in, NRC entrance and exit meetings. The additional qualifications applicable to State representatives as currently incorporated in the policy statement (e.g., that State representatives should be knowledgeable) should be retained.
- The policy statement should provide that State representatives may participate in NRC inspections only as observers, and may not alone inspect NRC-regulated activities (even if those inspections would be conducted with the cooperation of the NRC and in accordance with NRC inspection procedures).

The policy statement should prohibit State disclosure of inspection findings both before and after release of the NRC inspection report.[6]

- The policy statement should apprise potentially affected licensees and applicants that their State is pursuing an instrument of cooperation with the NRC and provide for these licensees and applicants an opportunity to comment on drafts of instruments of cooperation during negotiations between the NRC and the State.
- The policy statement should specify how the NRC will enforce its authority should a State representative exceed the scope of his/her authority under an instrument of cooperation.
- The policy statement should provide for renegotiation of existing instruments of cooperation between the NRC and the States at the earliest opportunity, to bring the existing agreements into conformance with the policy statement.
- The policy statement should explicitly limit any "on-site" presence of State personnel to representatives of the State in which the facility is located.

NRC Response

Introduction

As the preceding summary indicates, the commenters offered several suggestions for modifying the policy statement and expressed concerns on a variety of matters, including, among others: legal issues; the effect which implementation of the policy statement could have on NRC licensees; the use of State Liaison Officers as the preferred channel of communication between the States and NRC; the nature of State participation in NRC inspections, including the advisability or inadvisability of State participation, the qualifications of State representatives, the status to be accorded representatives of adjacent States, and the handling and use of information obtained during an NRC inspection. The commenters also expressed concerns regarding the role, if any, to be accorded applicants for or holders of NRC licenses for commercial nuclear power reactors and other nuclear production and utilization facilities during ongoing negotiations between NRC and a State regarding the terms of a NRC/State instrument of cooperation.

Legal Issues

We turn first to the commenters' legal concerns that the portions of the policy statement which provide for State participation in NRC inspections at commercial nuclear power plants and in NRC inspection entrance and exit meetings in accordance with the provisions of an NRC/State instrument of cooperation are contrary to law because such activities are precluded by the doctrine of Federal preemption and beyond the scope of section 274 of the Atomic Energy Act of 1954, as amended.

Section 161 of the Atomic Energy Act of 1954, as amended, sets forth the general powers of the Commission in licensing or regulating any of the activities authorized by the Act, including the licensing and regulation of utilization and production facilities. Section 161f (42 U.S.C. 2201(f)) which is identical to section 12(a) of the Atomic Energy Act of 1946 and has remained unchanged since February 17, 1954 when it was reenacted into public law (Pub. L. 703, 68 Stat. 949) provides:

> Sec. 161. General Provisions.—In the performance of its functions the Commission is authorized to—
>
> * * * * *
>
> f. with the consent of the agency concerned, utilize or employ the services or personnel of any Government agency or any State or local government, or voluntary or uncompensated personnel, to perform such functions on its behalf as may appear desirable;
>
> * * * * *

This provision, standing alone, gives the Commission broad discretionary authority to enter into arrangments with States respecting inspections at nuclear power plants, including arrangements pursuant to instruments of cooperation as described in the policy statement.

In 1959, at the time of the enactment of the Federal/State Amendment which added section 274 to the Atomic Energy Act of 1954, Congress clarified this authority in section 161f by providing in the first sentence of section 274i that

> The Commission *in carrying out its licensing and regulatory responsibilities under this Act* is authorized to enter into agreements with any State, or group of States, to perform inspections or other functions on a cooperative basis as the Commission deems appropriate. (Emphasis supplied.)

The legislative history of section 274[7] contains no evidence that the first sentence in section 274i was intended to limit the broad scope of the Commission's authority in section 161f to those matters over which the States were authorized to assume regulatory authority in accordance with the provisions of section 274b agreements. The legislative history merely indicates that one permissible way in which the Commission may exercise its authority under section 161f is "* * * to enter into agreements with any State, or group of States, to perform inspections or other functions on a cooperative basis as the Commission deems appropriate." For the foregoing reasons, the Commission disagrees with the conclusion of the commenters that section 274i does not provide an independent legal basis for entering into agreements with States.

The commenters' objections that the provisions of the policy statement relating to State participation in NRC inspections at commercial nuclear power plants pursuant to an NRC/State instrument of cooperation are contrary to law by reason of the doctrine of Federal preemption are equally without merit.

Federal preemption, which is based on the Supremacy Clause of the Constitution, resolves controversies which arise as a result of the conflicting demands of Federal and State laws.

[6] This recommendation was based on the commenter's view that the release by a State of underlying inspection data, notes, observations and findings even after release of an NRC inspection report could be prejudicial to the NRC's inspection and enforcement process, particularly if the information released by the State appeared on its face to be inconsistent in any way with the ultimate findings of the NRC inspection report. Another commenter stated that State observers should be required not to divulge any information obtained without prior clearance by the NRC.

[7] For an account of the legislative history of section 274, *see* NUREG 0388, Final Task Force Report on the Agremeent States Program, December 1977, Appendix A, especially pp. A-3—A-6.

Here there is no conflicting State law. The only document of concern is a policy statement prepared by a Federal agency which states in the clearest possible terms that it will be implemented at both the State and Federal level in strict accordance with applicable law.[8] Since, as the above analysis shows, the policy statement is within NRC's statutory authority, there is no preemption issue.

A related concern expressed by a State commenter was that any formal acknowledgement by a state of NRC's legal authority, as recited in the first of the six conditions enumerated in the policy statement, might be viewed as a relinquishment by a State of some part of the State's rightful authority to protect the health, welfare and environment of its citizens. It is not the purpose of the policy statement to alter the respective responsibilities of the Federal government and the States or to require the States to concede to the Federal government any areas of the legitimate State responsibility. The only purpose of the policy statement is to describe the ground rules under which representatives of States can participate in NRC inspections and related meetings, a Federal function. Accordingly, it is both reasonable and appropriate that the Commission should identify in the text of the policy statement the legal authority on which its policies and regulatory activities are based, and to ask the States to recognize that the inspections which they will be participating in are Federal, not State, inspections. As further evidence of the fact that it is not the purpose of the policy statement to encroach on the lawful exercise of State prerogatives, the Commission will continue its prior practice of including a general provision in agreements entered into with States under section 274i of the Atomic Energy Act of 1954, as amended, which states that nothing in the agreement is intended to restrict or expand the statutory authority of either NRC or the State.

Implementation of Policy Statement—Effect on NRC Licensees; Costs

According to industry commenters, implementation of the provisions of the policy statement respecting the use of State inspectors at nuclear power plants in accordance with NRC/State instruments of cooperation is likely to have a negative effect on public health and safety. In the opinion of these commenters, permitting States to participate in NRC inspections would not only create the appearance of dual regulation but would also greatly increase the likelihood of divergent Federal and State interpretations of regulatory requirements. The resulting uncertainty and confusion would inject an unsettling and destabilizing element into the regulatory process and could significantly delay efforts to resolve specific problems identified during an inspection.

State commenters expressed contrary views. In the opinion of these commenters, implementation of the NRC policy statement would foster uniformity, strengthen Federal-State cooperation, reduce duplication of effort, encourage the development of a unified NRC/State position on matters of joint concern, avoid the perception of dual regulation and improve nuclear safety.

Based on its experience with State resident inspectors at the Trojan Nuclear Power Plant in Oregon, which has demonstrated that complementary State-Federal interaction on plant safety issues can be productive, the Commission believes that the concerns expressed by the industry commenters may be unwarranted. The Commission reiterates its commitment, as stated in the Implementation section of the policy statement, to perform a formal review of a memorandum of understanding (MOU) between NRC and a State relating to State involvement in NRC inspections

> * * * not less than six months after the effective date [of the MOU] * * * to evaluate implementation of the MOU and resolve any problems identified. Final agreements will be subject to periodic reviews and may be amended or modified upon written agreement by both parties and may be terminated upon 30 days written notice by either party.

In view of this commitment, as well as the Commission's announced intent that activities undertaken to implement the policy statement shall be carried out in close cooperation with and be subject to oversight by the NRC, the Commission has concluded that these provisions in the policy statement address the concerns raised by the industry commenters and that at this time no change in the policy statement is warranted.

State and industry commenters also expressed concerns regarding the costs of implementing the policy statement. Noting that States might experience difficulty in obtaining needed funds, one State recommended that the policy statement include suggested means of funding State inspections. Industry commenters were concerned that implementation of the policy statement would result in the assessment of higher regulatory fees.

The Commission does not intend to charge licensees additional fees for regulatory activities because those activities are conducted in accordance with the provisions of the policy statement. Nor does the Commission expect or intend any increase in regulatory costs as a result of adopting and promulgating the policy statement. In view of these circumstances, the concerns expressed by the industry commenters do not appear to be well founded.

Although requested to do so, the Commission has declined to revise the policy statement in order to address the topic of possible sources of State funds. This position is consistent with the underlying policy of the 1959 Federal-State amendment to the Atomic Energy Act of 1954, as amended, which makes no provision for the expenditure of Federal funds for the purpose of administering State regulatory programs.

Communication through State Liaison Officers

Several States objected to that portion of the policy statement which would channel all communication between NRC and a State through the State Liaison Officer on the grounds that this procedure is too restrictive. Noting the needs of various State agencies to maintain a continuing relationship and ongoing dialogue with NRC, these States recommended that the policy statement be modified to allow for more than one State contact.

The Commission is well aware of the varying interests of States in the activities of commercial nuclear power plants and of the number of different State agencies with direct responsibility for various aspects of those activities. It is precisely because this situation exists that the Commission has adopted a policy which requires that all inquiries and requests from States respecting observations and inspections at commercial nuclear power plants and all information from NRC to States respecting these matters be channeled

[8] For example, the policy statement affirmatively "[r]ecognizes the Federal Government, primarily NRC, as having the exclusive authority and responsibility to regulate the radiological and national security aspects of the construction and operation of nuclear production or utilization facilities, except for certain authority over air emissions granted to States by the Clean Air Act; * * *" the policy statement also identifies six elements which must be included in a state proposal for an instrument of cooperation in order to assure the proposal's consistency with the provisions of section 274c of the Atomic Energy Act of 1954, as amended. Section 274c provides in part that "[n]o agreement entered into pursuant to subsection b. shall provide for discontinuance of any authority and the Commission shall retain authority and responsibility with respect to regulation of—(1) the construction and operation of any production or utilization facility; * * *"

through a single point, namely the office of the State Liaison Officer. This arrangement not only assures the Commission that NRC information of interest to the States will be sent forward to those State agencies that need to know, it also assures interested State agencies that their requests and inquiries will be handled in a uniform and businesslike manner. Since the primary purpose of the policy statement is to articulate the manner in which the Commission plans to conduct its business in this area and to provide guidance to NRC Regional Offices which will assure that these matters are handled uniformly, it is neither necessary nor appropriate to modify the policy statement to elaborate further on the differing nature or wide variety of State responsibilities.

For the foregoing reasons, the Commission has made no change in the provisions of the policy statement which relate to communication through State Liaison Offices. The Commission has also concluded that the policy statement adequately reflects the complementary interests and responsibilities of the States and that no changes relating to this matter are needed.

State Attendance at and Participation in NRC Inspections

Citing the likelihood of increased complexity, confusion and uncertainty in the regulatory process and the possibility of an attendant reduction in the safety of nuclear power plants, most of the industry commenters opposed allowing State representatives to participate in NRC inspections and stated that in no event should State representatives be allowed to perform independent inspections or reviews.

As noted earlier, the Commission believes that the concerns of the industry commenters regarding a possible decrease in nuclear safety may be unwarranted. At the same time, the Commission wishes to make quite clear that the policy statement does not contemplate and should not be interpreted as authorizing States, using State radiological health and safety standards, to conduct independent health and safety inspections of commercial nuclear power plants.

As explained in the policy statement, the NRC inspections and associated entrance and exit meetings which State representatives will be permitted to attend as observers or as participants, for the purpose of assisting NRC, will be conducted under the close and continuing surveillance of the NRC and in strict accordance with Federal standards and regulations. The presence of the NRC is essential not only because all communications with the licensee must be made through the NRC but also because the NRC is solely responsible for taking any needed enforcement action. If information relevant to an NRC enforcement matter is obtained by a State representative during an inspection and subsequently made available to the NRC, it is expected that the State representative would be invited to attend the enforcement conference. Moreover, State assistance, including testimony at any enforcement hearing, may be needed to carry out NRC's enforcement program.

A related matter concerns the role to be accorded State representatives who wish to attend or participate in entrance and exit meetings and inspections of nuclear power reactors located in adjacent States. Despite disagreements on the criteria to be used to identify adjacent States, there was a general consensus among commenters who addressed this issue that representatives from adjacent States should be permitted to attend meetings and inspections subject to the same conditions that apply to representatives from the host State.

The Commission believes that interstate cooperation should be encouraged and will endeavor to do so. After the Commission has gained some practical experience in implementing the present policy which is limited to cooperation between NRC and "host" States, i.e., States in which an NRC licensed facility is located, the Commission may reconsider the question of whether and to what extent the policy statement should be broadened to encompass cooperative arrangements between NRC and "adjacent" States.

The policy statement makes clear that State representatives must be properly qualified to undertake their assigned roles, whether as participants or observers. Although State representatives who only observe need not be as knowledgeable technically as State representatives who actively participate in inspections, they must have some general understanding of the nature of nuclear power for the observation to be meaningful. Consistent with those provisions of the policy statement which contemplate that State representatives will be qualified to perform any tasks they may be assigned, it is the expectation of the Commission that, subject to specific guidelines contained in the formal instrument of cooperation entered into between NRC and a particular State, the extent to which State representatives may be permitted to participate in an NRC inspection will be determined in each instance by the NRC representative authorized to conduct the inspection in light of the particular qualifications of the State representative accompanying the NRC inspection team. While the Commission recognizes the importance of specifying minimum qualifications for State inspectors, as suggested by one of the commenters, it is of the opinion that this matter can best be dealt with in the context of each NRC/State instrument of cooperation when the qualifications of individuals who may be able to perform this function for the State are likely to be better known. In its present form, the policy statement provides adequate general guidance on this matter. For these same reasons, the Commission has also declined to adopt the suggestion of a State commenter to add an additional sentence concerning State inspectors to the second paragraph of the Implementation section. Accordingly, the Commission has made no changes in the policy statement in response to these comments.

Several commenters expressed the view that the policy statement should prohibit State disclosure of inspection findings after as well as before the NRC inspection report is publicly released. Commenters also expressed concern about the disclosure by State representatives of any underlying data obtained or any notes or observations made while attending or participating in an NRC inspection. The Commission is of the opinion that insofar as State representatives are apprised of this information as a result of their involvement in NRC's regulatory activities, that State representatives should be required to meet the same standards as their NRC counterparts regarding information disclosure.

Opportunity for Public Comment on NRC-State Instruments of Cooperation Relating to Inspections at Commercial Nuclear Power Plants

The Commission has given considerable thought to the suggestion of some of the industry commenters that potentially affected applicants for NRC licenses and NRC licensees should be notified that their State is pursuing an instrument of cooperation with NRC and be accorded an opportunity, during ongoing negotiations between NRC and the State, to submit public comments on the draft instrument of cooperation before it is finally agreed to by NRC and the State. The Commission recognizes that the subject matter of these instruments of cooperation is of great interest to nuclear power plant applicants and licensees, who are, of

course, the entities that will be inspected.

Consistent with Commission practice respecting other types of Federal/State agreements, any proposed agreement negotiated by NRC and a State under the provisions of this policy statement will be published in the **Federal Register** for public comment. At that time, licensees and other interested persons will have an opportunity to comment on the proposed Memorandum of Understanding or Subagreement before it is executed by NRC and the State in final form.

Conclusion

For the foregoing reasons and after careful consideration of the comments submitted, the Commission has concluded not to change the text of the policy statement as published for comment on June 13, 1988 (53 FR 21981). Accordingly, the Commission hereby adopts and republishes that policy statement as a final statement of policy. The Commission further declares that the final statement of policy in its entirety is effective immediately.

III. Statement of Policy

It is the NRC's policy to cooperate fully with State governments as they seek to respond to the expectations of their citizens that their health and safety be protected and that there be minimal impact on the environment as a result of activities licensed by the NRC. The NRC and the States have complementary responsibilities in protecting public health and safety and the environment. Furthermore, the NRC is committed to the full and timely disclosure of matters affecting the public and to the fair and uniform handling of all agency interactions with the States, the public, and NRC licensees.

Accordingly, the NRC will continue to keep Governor-appointed State Liaison Officers routinely informed on matters of interest to the States. The NRC will respond in a timely manner to a State's requests for information and its recommendations concerning matter within the NRC's regulatory jurisdiction. If requested, the NRC will routinely inform State Liaison Officers of public meetings between NRC and its licensees and applicants in order that State representatives may attend as observers. Additionally, at the State's request, State representatives will be able to observe specific inspections and/or inspection entrance and exit meetings where State representatives are knowledgeable in radiological health and safety matters.

The Commission recognizes that the involvement of qualified State representatives in NRC radiological health and safety programs has the potential for providing additional safety benefit. Therefore, the NRC will consider State proposals to enter into instruments of cooperation for State participation in inspections and inspection entrance and exit meetings. State participation in NRC programs would allow qualified State representatives, either individually or as a member of a team, to conduct specific inspection activities in accordance with NRC standards, regulations, and procedures in close cooperation with the NRC. State activities will normally be conducted under the oversight of an authorized NRC representative with the degree of oversight dependent upon the activity involved. In the proposal to enter into an instrument of cooperation, the State must identify those activities for which cooperation with the NRC is desired. The State must propose a program that: (1) Recognizes the Federal Government, primarily NRC, as having the exclusive authority and responsibility to regulate the radiological and national security aspects of the construction and operation of nuclear production or utilization facilities, except for certain authority over air emissions granted to States by the Clean Air Act; (2) is in accordance with Federal standards and regulations; (3) specifies minimum education, experience, training, and qualifications requirements for State representatives which are patterned after those of NRC inspectors; (4) contains provisions for the findings of State representatives to be transmitted to NRC for disposition; (5) would not impose an undue burden on the NRC and its licensees and applicants; and (6) abides by NRC protocol not to publicly disclose inspection findings prior to the release of the NRC inspection report.

Consistent with section 274c of the Act, the NRC will not consider State proposals for instruments of cooperation that do not include the elements listed above, which are designed to ensure close cooperation and consistency with the NRC inspection program. As a practical matter, the NRC is concerned that independent State inspection programs could direct an applicant's or licensee's attention to areas not consistent with NRC safety priorities, misinterpret NRC safety requirements, or give the perception of dual regulation. For purposes of this policy statement, an independent State inspection program is one in which State representatives would conduct inspections and assess NRC-regulated activities on a State's own initiative and authority without close cooperation with, and oversight by, an authorized NRC representative.

Instruments of cooperation between the NRC and the States, approved prior to the date of this policy statement will continue to be honored by the NRC. The NRC strongly encourages those States holding these agreements to consider modifying them, if necessary, to bring then into conformance with the provisions of this policy statement.

IV. Implementation

As provided in the policy statement the NRC will routinely keep State Liaison Officers informed on matters of interest to the States. In general, all State requests should come from the State Liaison Officer to the appropriate NRC Regional Office. The NRC will make every effort to respond as fully as possible to all requests from States for information on matters concerning nuclear production or utilization facility safety within 30 days. The NRC will work to achieve a timely response to State recommendations relating to the safe operation of nuclear production or utilization facilities. State representatives are free to attend as observers any public meeting between the NRC and its applicant and licensees. The appropriate Regional Office will routinely inform State Liaison Officers of the scheduling of public meetings upon request. State requests to observe inspections and/or inspection entrance and exit meetings conducted by the NRC require the approval of the appropriate Regional Administrator.

NRC will consider State participation in inspections and the inspection entrance and exit meetings, where the State-proposed agreement identifies the specific inspections they wish to assist NRC with an provides a program containing those elements as described in the policy statement. NRC may develop inspection plans along with qualified State representatives using applicable procedures in the NRC Inspection Manual. Qualified State representatives may be permitted to perform inspections in cooperation with, and on behalf of, the NRC under the oversight of an authorized NRC representative. The degree of oversight provided would depend on the activity. For instance, State representatives may be accompanied by an NRC representative initially, in order to assess the State inspectors' preparedness to conduct the inspection individually. Other activities may be conducted as a team with NRC taking the lead. All enforcement action will be undertaken by the NRC.

The Commission will decide policy matters related to agreements proposed under this policy statement. Once the Commission has decided the policy on a specific type of agreement, similar State-proposed agreements may be approved, consistent with Commission policy, by the Executive Director for Operations in coordination with the Office of Governmental and Public Affairs. A State-proposed instrument of cooperation will be documented in a formal MOU signed by NRC and the State.

Once the NRC has decided to enter into an MOU for State involvement in NRC inspections, a formal review, not less than six months after the effective date, will be performed by the NRC to evaluate implementation of the MOU and resolve any problems identified. Final agreements will be subject to periodic reviews and may be amended or modified upon written agreement by both parties and may be terminated upon 30 days written notice by either party.

Additionally, once State involvement in NRC activities at a nuclear production or utilization facility is approved by the NRC, the State is responsible for meeting all requirements of an NRC licensee and applicant related to personal safety and unescorted access of State representatives at the site.

Dated at Rockville, Maryland, this 15th day of February 1989.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 89-4032 Filed 2-21-89; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 146

[DoD Directive 5525.9]

Compliance of DoD Members, Employees, and Family Members Outside the United States With Court Orders

AGENCY: Department of Defense.

ACTION: Final rule.

SUMMARY: This document adopts the interim final rule 32 CFR Part 146 as published on January 5, 1989 (54 FR 298). This rule implements section 721 of the "National Defense Authorization Act, 1989; Pub. L. 100-456." It establishes policy and uniform procedures for the return of Service members overseas to the United States, pursuant to 10 U.S.C. 814, when they have been charged with, or convicted of, felonies or contempt in a Federal or State court and promulgates uniform procedures for other actions regarding overseas civilian personnel of the Department of Defense and family members accompanying civilian and military personnel overseas who have been charged with, or convicted of, felonies or contempt. In covering civilian personnel and family members accompanying Department of Defense overseas, the Departments acts by authority of 5 U.S.C. 301 and 10 U.S.C. 113.

EFFECTIVE DATE: December 27, 1988.

FOR FURTHER INFORMATION CONTACT: Mr. P. Koffsky, Office of the Assistant General Counsel (Personnel and Health Policy), Department of Defense, the Pentagon, Room 3E999, Washington, DC 20301-1600, telephone 202-695-3657.

SUPPLEMENTARY INFORMATION: In FR Doc. 89-113 (54 FR 298, January 5, 1989), the Office of the Secretary of Defense published an interim final rule for public notice and comment. No public comments were received.

List of Subjects in 32 CFR Part 146

Courts, Government employees.

Accordingly, the Department of Defense, Office of the Secretary, hereby adopts the interim final rule published at 54 FR 298, January 5, 1989, as a final rule.

Accordingly, Title 32, Chapter I, Subchapter B, is amended to add Part 146.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer Department of Defense.

February 15, 1989.

[FR Doc. 89-3909 Filed 2-21-89; 8:45 am]

BILLING CODE 3810-01-M

32 CFR Parts 217, 232, 233, 234, and 265

[DoD Directive 4700.4]

Natural Resources Management Program

AGENCY: Department of Defense.

ACTION: Final rule.

SUMMARY: This document removes 32 CFR Parts 217, 232, 233, and 234. It promulgates policies and procedures governing the management of natural resources (land, water, and their associated flora and fauna) on military installations in the United States and its territories and possessions. These Defense Department (DoD) bases occupy over 25 million acres of public lands. Specific instructions are included for various aspects of DoD's program, i.e., land, forest, fish and wildlife, agricultural outleases, and outdoor recreation management. This part calls for all aspects of the program to be integrated in natural resources management plans for the installations. The planning process invites participation from affected and interested agencies and the public.

EFFECTIVE DATE: January 24, 1989.

ADDRESS: Office of the Assistant Secretary of Defense (Production and Logistics), the Pentagon, Washington, DC 20301.

FOR FURTHER INFORMATION CONTACT: Ms. C. Ramsey, telephone 202-325-2215.

SUPPLEMENTARY INFORMATION: .

List of Subjects in 32 CFR Parts 217, 232, 233, and 234, 265

Federal buildings and facilities; Fish; Reporting and recordkeeping requirements; Wildlife.

Accordingly, Title 32, Chapter I is amended as follows:

PARTS 217, 232, 233, 234—[Removed]

1. Parts 217, 232, 233, and 234 are removed.

2. Part 265 is added to read as follows:

PART 265—NATURAL RESOURCES MANAGEMENT PROGRAM

Sec.
265.1 Purpose.
265.2 Applicability and scope.
265.3 Definitions.
265.4 Policy.
265.5 Responsibilities.
265.6 Procedures.
265.7 Information requirements.

Appendix-Integrated Natural Resources Management

Authority: 16 U.S.C. 1531 et seq., 16 U.S.C. 670 et seq., 10 U.S.C. 2665, 10 U.S.C. 2667(d), 10 U.S.C. 2671 and 16 U.S.C. 460(l).

§ 265.1 Purpose.

This part.

(a) Replaces DoD Directive 4700.1.[1]

(b) Supersedes 32 CFR Parts 232, 233, 234, and 217.

(c) Implements 16 U.S.C. 1531 et seq., 16 U.S.C. 670 et seq., 10 U.S.C. 2665, 10 U.S.C. 2667(d), 10 U.S.C. 2671, and 16 U.S.C. 460(l).

(d) Prescribes policies and procedures for an integrated program for multiple-use management of natural resources on property under DoD control.

[1] Copies may be obtained, if needed, from the U.S. Naval Publications and Forms Center, Attn: Code 1062, 5801 Tabor Avenue, Philadelphia, PA 19120.

§ 265.2 Applicability and scope.

This part:

(a) Applies to the Office of the Secretary of Defense (OSD), the Military Departments (including their National Guard and Reserve components), the Joint Staff, the Unified and Specified Commands, and the Defense Agencies (hereafter referred to collectively as "DoD Components"). The term "Military Services," as used herein, refers to the Army, Navy, Air Force, and Marine Corps.

(b) Governs DoD management of natural resources in the United States and its territories and possessions for both appropriated and nonappropriated fund activities.

(c) Does not govern natural resources management at State-owned National Guard installations. Nothing contained in this part nor in implementing documents or agreements shall modify rights granted by treaty to Indian tribes or their members.

(d) Does not apply to the civil works functions of the Army.

§ 265.3 Definitions.

Agricultural Outlease. Use of DoD lands under a lease to an agency, organization, or person for growing crops or grazing animals.

Carrying Capacity (Outdoor Recreation). The maximum amount of recreation activity and number of participants that a land or water area can support in manner compatible with the objectives of the natural resources management plan and without degrading existing natural resources.

Carrying Capacity (Wildlife). The maximum density of wildlife that a particular area or habitat will support on a sustained basis without deterioration of the habitat.

Conservation. Wise use and management of natural resources to provide the best public benefits and continued productivity for present and future generations.

Cooperative Plan. The component of the natural resources management plan that describes how fish and wildlife resources at an installation shall be managed and that has been coordinated with U.S. Fish and Wildlife Service and the appropriate State agency. It provide for:

(a) Fish and wildlife habitat improvements or modifications.

(b) Range rehabilitation where necessary for support of wildlife.

(c) Control of off-road vehicle traffic.

(d) Specific habitat improvement projects and related activities and adequate protection for species of fish, wildlife, and plants considered threatened or endangered.

Critical Habitat. A specific designated area declared essential for the survival of a protected species under authority of the Endangered Species Act.

Endangered or Threatened Species. A species of fauna of flora that has been designated by the U.S. Fish and Wildlife Service for special protection and management pursuant to the Endangered Species Act.

Forest Products. All plan materials in wooded areas that have commercial value.

Game Species. Fish and Wildlife that may be harvested in accordance wtih Federal and State laws.

Grounds. All land areas not occupied by buildings, structures, pavements, and railroads.

Habitat. An area where a plant or animal species lives, grows, and reproduces, and the environment that satisfies any of their life requirements.

Multiple-Use. The use of natural resources for the best combination of purposes to meet the needs of the military and the public.

Natural Resources. Land, water, and their associated flora and fauna.

Natural Resources Management Professional. Individual with an undergraduate or graduate degree in a natural resources-related science and who has responsibility for managing natural resources on a regular basis.

Nongame Species. Species not harvested for recreation or subsistence purposes.

Noxious Weeds. Plant species identified by Federal or State Agencies as requiring control or eradication.

Off-road Vehicle. A vehicle designed for travel on natural terrain. The term excludes a registered motorboat confined to use on open water and a military, emergency, or law enforcement vehicle during use by an employee or agent of the Government or one of its contractors in the course of employment or agency representation.

Outdoor Recreation. Program, activity, or opportunity dependent on the natural environment. Examples are hunting, fishing, trapping, picnicking, birdwatching, off-road vehicle use, hiking and interpretive trails, wild and scenic river use, and underdeveloped camping areas. Developed or constructed facilities such as golf courses, tennis courts, riding stables, lodging facilities, boat launching ramps, and marinas are not included.

Sustained Yield. Production of renewable natural resources at a level when harvest or consumptive use does not exceed net growth.

§ 265.4 Policy.

(a) The Department of Defense shall act responsibly in the public interest in managing its lands and natural resources. There shall be a conscious and active concern for the inherent value of natural resources in all DoD plans, actions, and programs.

(b) Natural resources under control of the Department of Defense shall be managed to support the military mission while practicing the principles of multiple use and sustained yield, using scientific methods and an interdisciplinary approach. The conservation of natural resources and the military mission need not and shall not be mutually exclusive.

(c) Watersheds and natural landscapes, soils, forests, fish and wildlife, and protected species shall be conserved and managed as vital elements of DoD's natural resources program.

(d) DoD actions that affect natural resources in the United States shall comply with the policy and requirements of 32 CFR Part 214 and the more stringent of applicable Federal or local laws. DoD actions that influence natural resources in foreign countries or global commons shall conform to requirements of 32 CFR Part 197 applicable laws, treaties, and agreements.

(e) Integrated natural resources management plans that incorporate applicable provisions of the Appendix to this part shall be maintained for DoD lands.

(f) DoD decisionmakers and commanders shall keep informed of the conditions of natural resources, the objectives of natural resources management plans, and potential or actual conflicts between DoD actions and management plans and the policies and procedures herein.

(g) DoD lands shall be available to the public and DoD employees for enjoyment and use of natural resources, except when a specific determination has been made that a military mission prevents such access for safety or security reasons or that the natural resources will not support such usage. The determination shall be addressed in the applicable natural resources management plan. To assist in the management, study, or monitoring of natural resources, Federal, State and local officials and natural resources management professionals shall be permitted access to natural resources after proper safety and security measures are taken.

(h) The management and conservation of natural resources under DoD

stewardship is an inherently governmental function. Therefore, 32 CFR Part 169 does not apply to the management, implementation, planning, or enforcement of DoD natural resources programs. However, support to the natural resources program when it is severable from management of natural resources may be subject to 32 CFR Part 169.

(i) If natural resources under DoD control are damaged by a hazardous substance released by another party, that party is potentially liable. The funds recovered by the Department of Defense as a result of natural resources damage claims shall be used for restoration, replacement, or acquisition of equivalent natural resources.

(j) Enforcement of laws primarily aimed at protecting natural resources and recreation activities that depend on natural resources is an integral part of a natural resources progam and shall be coordinated with or under the direction of the natural resources manager for the affected area.

§ 265.5 Responsibilities.

(a) The *Assistant Secretary of Defense (Production and Logistics)* (ASD(P&L)) shall:

(1) Establish and monitor implementation of natural resources management policies for DoD properties and actions.

(2) Coordinate the DoD natural resources program with other Federal Agencies.

(3) Maintain the Secretary of Defense Natural Resources Conservation Awards Program established herein and described in DoD Instruction 4700.2 [2]

(4) Designate a chairperson for the DoD Natural Resources Council (DNRC) established in paragraph (b) of this section.

(5) Establish policy and direction for the DoD reserve account established by 10 U.S.C. 2665.

(b) The *Director, Defense Research and Engineering,* through the *Deputy Under Secretary of Defense (Research and Advanced Technology)* (DUSD(R&AT)), shall conduct appropriate research, development, tests, and evaluations to support integrated natural resources management programs.

(c) The *Heads of the Military Services and Directors of Defense Agencies delegated land management responsibilities* shall:

(1) Maintain an organizational capability and program resources necessary to establish and maintain integrated natural resources management programs as prescribed in this part.

(2) Maintain at all levels of command the interdisciplinary natural resources expertise necessary to implement this program and provide for their continued professional training.

(3) Ensure that effective natural resources management is an identifiable function and is specifically accountable in performance evaluations at each command level.

(4) Provide for technical reviews and onsite assessments of installations' natural resources programs at least each 3 years by natural resources management professionals, take necessary corrective actions, and include natural resources programs in management reviews.

(5) Develop criteria and procedures for cooperative planning and integrated natural resources management planning processes.

(6) Act as trustees for natural resources under their jurisdiction.

(7) Maintain records necessary to monitor and evaluate natural resources under their management and provide requested information to the ASD(P&L), other agencies with jurisdiction, and the public.

(d) The *Heads of DoD Components* shall coordinate proposals for new and continuing actions that affect natural resources with the managers of those resources.

(e) *Installation Commanders* shall:

(1) Conduct integrated natural resources management programs to comply with this part.

(2) Enter into cooperative plans that may be developed on behalf of the Secretary of Defense pursuant to the Sikes Act.

§ 265.6 Procedures.

(a) Procedures shall be established by DoD Components to ensure that current and planned mission activities (e.g., master planning, construction requests, site approval requests, and training exercise plans) are effectively coordinated in a timely manner with appropriate natural resources managers.

(b) The DNRC shall advise the ASD(P&L) regarding natural resources issues and shall meet at least quarterly. DoD Components shall participate to carry out this Directive and goals of the DoD natural resources program. The Heads of the Military Services each shall appoint one representative and one alternate to the DNRC. The DNRC shall:

(1) Provide technical support to the ASD(P&L) in natural resources areas.

(2) Recommend policy and program improvements.

(3) Assist in conducting the Secretary of Defense Natural Resources Conservation Awards Program.

(4) Coordinate the natural resources management program among DoD Components.

(5) Conduct periodic natural resources conferences or training opportunities for DoD employees.

(6) Identify and coordinate natural resources research activities and needs and present them to the DUSD(R&AT) each year.

§ 265.7 Information requirements.

Information requirements of the ASD(P&L) shall be met by the Heads of the Military Services each year by January 15 under Report Control Symbol DD-P&L(A)1485.

Appendix—Integrated Natural Resources Management

A. Integrated Planning

1. Integrated natural resources management plans shall be maintained for properties under DoD control. These plans shall guide planners and implementors of mission activities as well as natural resources managers.

2. The plans shall be coordinated with appropriate Federal, State, and local officials with interest or jurisdiction in accordance with 32 CFR Part 243 and with planners of DoD activities that impact on the natural resources. Conversely, new and continuing mission activities that impact on natural resources shall be coordinated with appropriate natural resources managers.

3. Natural resources management plans shall be continually monitored, reviewed annually, and revised by DoD natural resources management professionals. They shall be approved in accordance with DoD Components' procedures at least every 5 years.

4. The natural resources management planning process shall invite public participation.

5. An integrated natural resources management plan shall meet the following criteria:

a. Natural resources and areas of critical or special concern are adequately addressed from both technical and policy standpoints.

b. The natural resources management methodologies shall sustain the capabilities of the natural resources to support military requirements.

c. The plan includes current inventories and conditions of natural resources; goals; management methods; schedules of activities and projects; priorities; responsibilties of installation planners and decisionmakers; monitoring systems; protection and enforcement systems; and land use restrictions, limitations, and capabilities.

d. Each plan segment or component (i.e., land, forest, fish and wildlife, and outdoor recreation) exhibits compatible methodologies and goals.

e. The plan is compatible with the installation's master plan and pest

[2] See footnote 1 to § 265.1(a).

management program under DoD Directive 4150.7.[1]

6. A determination that the public may not have access to use natural resources under DoD control shall be included and explained in the applicable integrated natural resources management plan.

7. The environmental impact analysis for any proposed activity or project shall include an analysis of the compatibility of the proposal's impacts with affected natural resources management plans and objectives. Only after necessary revisions to management plans are made shall the new activity begin.

8. The planning requirements of DoD Directive 4710.1 [2] may be met within the integrated natural resources plan.

9. Integrated natural resources management plans shall be a primary consideration during the master planning process and for land use and development decisions.

B. Natural Resources Management Plan

The integrated natural resources plan shall implement the following policies and requirements for each applicable program area:

1. Land Management

a. DoD lands shall be managed to support military activities, improve the quality of land and water resources, protect wetlands and floodplains and their functions, abate nonpoint sources of water pollution, conserve lands suitable for agriculture, control noxious weeds, and control erosion.

b. Costs for maintaining grounds shall be minimized by providing the least amount of mowed areas and special plantings necessary to accomplish management objectives and by the use of low maintenance species, agricultural outleases, wildlife habitat, and tree plantings.

c. Land management is an important use of appropriated funds. Also, pursuant to 10 U.S.C. 2667(d) revenues from the agriculture and grazing outlease program are available for:

(1) Administrative expenses of agricultural leases.

(2) Initiation, improvement, and perpetuation of agricultural outleases.

(3) Preparation and revisions of natural resources management plans.

(4) Implementation of integrated natural resources management plans.

d. When appropriate, land management plans shall address soils, water resources, soil and water conservation, wetlands and floodplains, grounds maintenance, landscaping, agricultural uses and potential, fire management, rangeland conditions and trends, areas of special interest, and management for multiple use.

e. Soil capabilities, water management, landscaping, erosion control, and conservation of natural resources shall be included in all site feasibility studies and in project planning, design, and construction. Appropriate conservation work and associated costs shall be included in project proposals and construction contracts and specifications. Such studies and work shall be coordinated with appropriate natural resources management professionals and plans.

f. Irrigation shall be limited to areas where it is essential to establish and maintain required vegetation or when an agricultural outlease contract allows it.

g. Appropriate natural resources conservation measures shall be included in outlease provisions.

h. Landscaping shall be functional in nature, simple and informal in design, compatible with adjacent surroundings, and complimentary to the overall natural setting of the area.

i. Land conditions, soil capability, and erosion status shall be monitored for all lands subject to disturbance (e.g., maneuver areas, commercial forest areas, and agricultural outleased areas). The data and analyses obtained shall be used in planning, environmental analyses, and decisionmaking at all levels of command.

2. Forest Management

a. DoD forest lands shall be managed for sustained yield of quality forest products, watershed protection, wildlife habitat, and other uses that can be made compatible with mission activities.

b. Commercial forestry activities shall be commensurate with potential financial returns.

c. Forest products shall not be given away, abandoned, carelessly destroyed, used to offset costs of contracts, or traded for products, supplies, or services. Forest products may be used for military training. Individuals may be allowed to collect noncommercial or edible forest products if that use is addressed in the management plan for the areas involved. Forest products may be harvested to generate electricity or heat only if the Military Department's forestry account is paid fair market value.

d. Planned forest products sales shall continue on land reported as excess until actual disposal or transfer occurs. When forested areas are slated to be public parks or used for outdoor recreation, clearcutting is prohibited. However, thinning, intermediate cuttings, and salvage cuttings shall be accomplished if the management plan calls for such activity within the next 5 years. That portion of the proceeds from sales of land that is attributable to the value of standing timber on the land sold shall be deposited in the Military Department's forestry account.

e. Accounting and reporting for the proceeds and costs of the commercial forestry program are contained in DoD Instruction 7310.5.[3] Costs associated with management of all forested areas (noncommercial and commercial) are valid uses of appropriated funds as well as proceeds from agricultural outleases and forest product sales.

f. When appropriate, natural resources management plans shall include current forest inventories, conditions, trends, and potential uses; analysis of soil data for forest potential; goals; protection and enforcement methods; maintenance of forested areas and access roads; improvement methods; harvesting and reforestation methods and schedules; and management for multiple use.

3. Fish and Wildlife Management

a. Lands and waters suitable for management of fish and wildlife resources shall be managed to conserve wildlife resources for the benefit of the public. Nongame as well as game species shall be considered when planning activities.

b. Endangered and threatened species and their habitats shall be protected and managed according to the Endangered Species Act and implementing U.S. Fish and Wildlife Service (FWS) regulations and agreements. Management plans for installations with endangered species shall include:

(1) Coordinated protection and mitigation measures.

(2) Appropriate affirmative methods and procedures necessary to enhance the population of endangered species.

(3) Procedures and responsibilities for consulting with the FWS prior to funding or conducting any action likely to affect a listed species or its critical habitat.

c. The Sikes Act provides a mechanism whereby the Departments of Defense and the Interior and host States cooperate to plan, maintain, and manage fish and wildlife on military installations. Agreement by all 3 parties regarding the fish and wildlife management plan for an installation makes that plan a cooperative plan pursuant to 16 U.S.C. 670 *et seq.* A cooperative plan shall be adopted by an installation commander only after ensuring its compatibility with the rest of the integrated natural resources management plan.

d. Hunting, fishing, and trapping may be permitted within the carrying capacity of wildlife habitats. Harvesting of wildlife from DoD installations or facilities shall be done according to the fish and game laws of the State or territory in which it is located and under 10 U.S.C. 2671. Special permits shall be issued, in addition to required State and Federal permits or licenses, for fishing, hunting, or trapping on DoD property.

e. Hunting, fishing, and trapping fees may be collected under the authority of the Sikes Act to recover expenses of implementing a cooperation plan. The same Sikes Act fee shall be charged for a particular use to all users at a particular installation except senior citizens, children, and the physically handicapped. Exceptions to this policy may be granted by the Heads of Military Services. Additional recreation fees may be collected under policies in DoD Directive 1015.6 [4] and DoD Instruction 1015.2.[5]

f. Criteria and procedures for hunting, fishing, and trapping permits and fees shall be included in management plans. Fees collected under the authority of 16 U.S.C. 670 *et seq.* shall be used only to defray the costs of the fish and wildlife management program

[1] Copies may be obtained, if needed, from the U.S. Naval Publications and Forms Center, Attn: Code 1062, 5801 Tabor Avenue, Philadelphia, PA 19120.

[2] See footnote 1 to paragraph A.2.

[3] See footnote 1 to paragraph A.2.

[4] See footnote 1 to paragraph A.2.

[5] See footnote 1 to paragraph A.2.

at the installation collecting the fees. Collected fees shall be accounted for and reported according to instructions from the Comptroller, Department of Defense (C, DoD), under a special fund entitled "Wildlife Conservation"—X5095. Unobligated balances shall be accumulated with current fee collections, and the total amount accumulated at an installation shall be available for obligation as apportioned by the Office of Management and Budget (OMB).

g. Whenever hunting, fishing, or trapping is allowed on DoD installations, enforcement of wildlife laws shall be addressed in the fish and wildlife management plan and carried out by trained enforcement officials under the direction of or in coordination with the wildlife manager.

h. The suitability of a military installation for fish and wildlife management shall be determined after consulting with the FWS and host State. Each installation shall be classified as one of the following:

(1) Category I—Installations with land and water resources suitable for fish and wildlife conservation. Each Category I installation shall maintain a wildlife management plan according to this part.

(2) Category II—Installations that lack adequate land and water resources for feasible fish and wildlife conservation.

i. The number of users of fish and wildlife resources may be limited on a daily or seasonal basis. Membership in an organization, including rod and gun clubs, shall not be a prerequisite for or get priority in receiving permits.

j. Habitat management is the basic means of improving wildlife resources. Introduction and reintroduction of species shall occur only in coordination with appropriate agencies and in accordance with a cooperative plan. When predator or animal damage control is a necessary part of natural resources management or mission performance, it shall be accomplished according to the cooperative plan, relevant laws and regulations, and in coordination with adjoining land managers.

k. Fish and wildlife conservation shall be considered in all site feasibility studies and project planning, design, and construction. Appropriate conservation work and associated funding shall be included in project proposals and construction contracts and specifications.

l. Priority shall be given to entering into contracts for services that implement wildlife management or enforce wildlife laws with Federal and State Agencies with responsibility for wildlife conservation.

m. Where appropriate, natural resources management plans shall address habitat management and enhancement, current wildlife and fish inventories and population trends, endangered and other special species management, game and nongame species management, access policy and user program, administration of user fee program, law enforcement, cooperating agencies' responsibilities, and multiple use management.

4. Outdoor Recreation

a. Whenever practicable, DoD lands with suitable resources shall be managed to conserve and use natural resources for the outdoor recreation opportunities of present and future generations. The policies and procedures herein apply to outdoor recreation programs as defined in § 265.3 and supersedes those in DoD Directive 1015.6 and DoD Instruction 1015.2.

b. Conservation of outdoor recreation resources shall be considered in all plans, programs, site feasibility studies, and project planning and design.

c. Installations having resources suitable for outdoor recreation other than hunting, fishing, and trapping are encouraged to develop cooperative agreements or plans with other Federal Agencies and appropriate State Agencies to facilitate the development and management of those programs.

d. Public access to DoD properties for outdoor recreation shall be allowed whenever compatible with public safety and mission activities. User fees may be collected to recover expenses of managing natural resources for outdoor recreation, and access quotas may be established to reflect the carrying capacity of the areas involved. Public outdoor recreation opportunities shall be equitably distributed by impartial procedures, such as a first-come, first-served basis or by drawing lots. When public access must be withheld, that determination shall be explained in the natural resources management plan.

e. Off-road vehicle use shall be managed to protect natural resources, promote safety, and avoid conflicts with other uses of DoD properties. Use of off-road vehicles shall be monitored and evaluated regularly by natural resources management professionals. All land and water areas shall be closed to such use unless an environmental impact analysis in accordance with 32 CFR Part 214 has been completed and the use is specifically approved and regulated. Specific areas that shall not be used by recreational off-road vehicles are those:

(1) Restricted for security or safety purposes.

(2) Containing fragile geological and soil conditions, flora or fauna, or other natural characteristics.

(3) With significant archeological, historical, paleontological resources.

(4) Designated as wilderness or scenic areas.

(5) Where noise would adversely affect other users, wildlife, or adjacent communities.

f. Whenever appropriate, outdoor recreation plans shall address inventories, trends, and management of resources suitable for outdoor recreation; aesthetics; development of opportunities and potential uses; potential user groups and access policy; user fee program; user ethics programs; and multiple use management.

5. Special Areas

Areas on DoD installations that contain natural resources that warrant special conservation efforts shall be identified. After appropriate study and coordination, such areas may be designated as Special Interest Areas. Upon such designation, the integrated natural resources management plan for the installation shall address the special management necessary for the area.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

February 15, 1989.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL-3516-5]

Approval and Promulgation of Implementation Plans; Ohio

AGENCY: U.S. Environmental Protection Agency (USEPA).

ACTION: Final rulemaking.

SUMMARY: USEPA is disapproving a revision to the Ohio State Implementation Plan (SIP) for Ozone. This revision request is for an alternative emission reduction plan (bubble) with an extended compliance schedule for eight flexographic printing lines for Champion International Corporation's DairyPak Division in Olmsted Falls, Ohio.

As a result of today's disapproval of the revision for DairyPak, the source remains subject to the control requirements of the Ohio Administrative Code (OAC) Rule 3745-21-09(Y) and Rule 3745-21-04(C)(32).

EFFECTIVE DATE: This final rulemaking becomes effective on March 24, 1989.

ADDRESSES: Copies of the SIP revision and other materials relating to this rulemaking are available for inspection at the following addresses: (It is recommended that you telephone Debra Marcantonio, at (312) 886-6088, before visiting the Region V Office.)

U.S. Environmental Protection Agency, Region V, Air and Radiation Branch, 230 South Dearborn Street, Chicago, Illinois 60604

Ohio Environmental Protection Agency, Office of Air Pollution Control, 361 East Broad Street, Columbus, Ohio 43216.

FOR FURTHER INFORMATION CONTACT: Debra Marcantonio, Air and Radiation Branch (5AR-26), U.S. Environmental Protection Agency, Region V, Chicago, Illinois 60604, (312) 886-6088.

SUPPLEMENTARY INFORMATION: On August 29, 1983, the Ohio Environmental Protection Agency (Ohio EPA) submitted a SIP revision request to USEPA for Champion International Corporation's DairyPak Division, which

is located in Cuyahoga County. On September 1, 1983, USEPA returned to Ohio EPA as incomplete a number of draft and final SIP revision requests for sources which are located in urban nonattainment areas lacking current attainment demonstrations. The DairyPak revision request was included among those returned to the State. Because these were requests to change applicable SIP requirements in areas lacking current attainment demonstrations, the requests were considered incomplete.

In a letter dated February 28, 1985, USEPA requested that Ohio EPA notify the Region V office of its preferred disposition of each submittal within two weeks. If the Ohio EPA elected to withdraw the revisions, USEPA stated it would take no further action on them. If, on the other hand, the State did not withdraw them, USEPA stated that it would have to propose disapproval because they were requests to relax applicable SIP requirements in areas lacking current attainment demonstrations. On April 4, 1985, the State notified USEPA that it still considered each of these SIP revision requests pending and requested USEPA to approve them. As discussed further below, USEPA subsequently proposed to disapprove the DairyPak revision.

Summary of SIP Revision

Champion International Corporation, DairyPak Division, operates eight flexographic printing lines in Olmsted Falls (Cuyahoga County). The lines are used for the printing of polyethylene-coated paper milk cartons. Because DairyPak has chosen to pursue a waterborne ink conversion program, it is subject to the control requirements of the Ohio Administrative Code (OAC) Rule 3745-21-09(Y)(1)(a)(ii) [1] which requires that the VOC content of each coating and ink employed in the printing lines not exceed 25 percent by volume of the volatile content. In addition, DairyPak is also subject to the December 31, 1982, compliance date contained in OAC Rule 3745-21-04(C)(32). In lieu of the requirements mentioned above, Ohio EPA has submitted an alternative emission reduction plan (bubble)[2] and an extended compliance date to December 31, 1987, for DairyPak.

DairyPak has employed solvent-based coatings and inks in the printing lines. During 1981, the base year, the VOC emissions from these sources were approximately 261 tons, or 2.96 pounds of VOC per pound of coating and ink solids delivered to the lines. Under the proposed bubble, DairyPak will convert to waterborne coatings and inks in order to obtain an emission reduction of 196 tons/year from the facility. This overall reduction in 1981 base year emissions will result in a VOC emission rate of 0.74 pounds of VOC per pound of coating and ink solids. This limit is generally equivalent to the 75 percent overall reduction requirement that would be achieved if DairyPak were to strictly comply with the requirements of OAC Rule 3745-21-09(Y)(1)(a)(ii). It should be noted that a September 9, 1987, policy memorandum titled "Alternative Compliance for Graphic Arts RACT" states that USEPA will accept an emission limit of 0.5 pounds of VOC per pound of solids in the ink as an alternative emission limit which is essentially equivalent to the Reasonable Available Control Technology (RACT) level recommended in the Graphic Arts Control Technique Guideline (CTG), "Control of Volatile Organic Emissions From Existing Sources Volume VIII: Graphic Arts, Rotogravure, and Flexography." Because the State submitted the requested SIP revision for DairyPak before the above cited memorandum, USEPA is determining that 0.74 pounds of VOC per pound of coating and ink solids constitutes RACT for DairyPak. RACT determinations in the future, however, may generally not consider an alternative pounds VOC per pound of ink solids limit above 0.5 to constitute RACT.

Under this bubble, some of the printing lines would be able to emit above the 0.74 limitation, and others would be below it. The variance would permit compliance with this limit to be determined on a monthly basis.[3]

In the effort to ensure reasonable progress in achieving the alternative emission limitation, minimum reductions in the monthly average VOC content of all coatings and inks have been specified in the variances. In addition, the variances contain recordkeeping and reporting requirements.

If compliance with the alternative limitation of 0.74 pound of VOC per pound of coating and ink solids cannot be achieved solely through the use of waterborne coatings and inks, the variance requires the installation of add-on control equipment, as necessary, to achieve compliance with the requirements of OAC Rule 3745-21-09(Y)(1)(b) by December 31, 1987.

On September 9, 1985 (50 FR 36633), USEPA proposed to disapprove the Champion International Corporation's DairyPak Division SIP revision for the following reasons:

(1) The revision request does not contain adequate support that the compliance date extension to December 1987 is expeditious.

(2) The source is located in an area (Cuyahoga County) which lacks both an approved 1982 Ozone SIP and an approved attainment demonstration. Under USEPA's policy,[4] sources which are located in areas which lack an approved SIP cannot be considered for longer averaging periods or compliance date extensions.

(3) The revision request also lacked adequate support for the monthly averaging compliance method specified in the revision request.

USEPA's Bubble Policies

On April 7, 1982 (47 FR 15076), USEPA issued a proposed Emissions Trading Policy Statement (ETPS) which sets forth general principles for the creation, banking and use of emission reduction credits (Bubble). This statement indicates that it is USEPA's policy to encourage use of emission trades to achieve more flexible, rapid and efficient attainment of national ambient air quality standards (NAAQS). It describes emissions trading, sets out general principles that USEPA will use to evaluate emissions trades under the Clean Air Act, and expands opportunities for States and industry to use these less costly control approaches. The April 7, 1982, notice stated that until USEPA took final action on its policy statement, State actions involving emission trades would be evaluated under the provisions set forth in the proposed statement. On December 4, 1986 (51 FR 53814), USEPA issued its final ETPS, which contains the criteria by which emission trades will be evaluated.

This bubble is based on a weighted average emission limit for the eight printing lines. The limit is 0.74 pound of

[1] If the source had chosen a low-solvent conversion program it would be subject to 3745-21-09(Y)(1)(a). If the source complied by the use of add-on control equipment, it would be subject to OAC Rule 3745-21-09(Y)(1)(b).

[2] On April 7, 1982 (47 FR 15076), USEPA issued a proposed Emissions Trading Policy Statement, and on December 4, 1986 (51 FR 43814), USEPA issued a final Emissions Trading Policy Statement. These policy statements set forth general principles for the creation, banking and use of emission reduction credits.

[3] Ohio SIP Rule 3745-21-09(B) requires compliance to be determined on a daily basis.

[4] USEPA's policy regarding longer averaging periods is specified in a memorandum dated January 20, 1984, from: John R. O'Connor, Acting Director, Office of Air Quality Planning and Standards, to: Director, Air Management Division, Regions I-X, entitled "Averaging Times for Compliance With VOC Emission Limits—SIP Revision Policy."

VOC per pound of coating and ink solids, which is a 75 percent reduction from the 1981 emission rate of 2.96 pounds of VOC per pound of coating and ink solids. This limit is generally equivalent to RACT-level control. The reductions are to be achieved through the use of waterborne coatings and inks. The actual and allowable emissions are summarized in the following table:

EMISSIONS (TONS/YEAR)

Sources	Actual		Allowable	
	Before bubble	After bubble	Before bubble	After bubble
8 flexographic printing lines	261	65	65	65

The "after bubble" emissions are based on a 75 percent reduction from the 1981 level. Because the source must only meet a limit of 0.74 pound of VOC per gallon of coating and ink solids, it is possible for both actual and allowable emissions to increase if production increases.

DairyPak's proposed bubble is considered a "pending bubble application" because it was submitted to Ohio in 1982 and had been pending at USEPA. The technical issues document of the bubble policy states the following:

> In primary nonattainment areas needing but lacking demonstrations, these bubbles should contribute to progress towards attainment. "Progress towards attainment" means some extra reduction beyond equivalence, with the lowest-of-actual-SIP-allowable-or-RACT-allowable emissions baseline applied as of the time applicants originally sought credit."

The December 4, 1986 emission trade policy states that "Pending bubbles may undergo limited modification by the States or sources which submitted them in order to meet the new requirements outlined in the bubble policy above." Thus, if the only major deficiency with the bubble is that it does not meet the requirement "to contribute with progress toward attainment," the State may add new controls in order to show progress toward attainment, and the bubble would retain its "pending" status. However, if other major requirements have not been met by the bubble that were required prior to the December 4, 1986 policy (such as failure to justify long-term averaging), the State would need to resubmit the bubble, and it would lose its pending status.

This bubble merely complies with a level of control generally equivalent to the SIP approved emission limits and does not provide "progress towards attainment," which is a requirement for areas that lack an approved attainment demonstration. This requirement is applicable to VOC sources in the Cleveland demonstration area.[5] The emission rate factor for such baselines is based on the actual emission rate, the SIP or other Federally enforceable emission limit, or a RACT emission limit, whichever is lower, as of the Source's application to trade. Therefore, because the bubble was submitted in September, 1982, the emission rate factor must be consistent with the lowest of actual or allowable emission rate in September 1982, not 1981.

USEPA's Policy for Relaxing Emissions in Nonattainment Areas

As discussed below, the extended averaging time requested by Ohio for DairyPak constitutes a relaxation from current requirements applicable to the source.

Under U.S. EPA policy, as indicated in a July 29, 1983, memorandum from Sheldon E. Myers, former Director of the Office of Air Quality Planning and Standard, USEPA will not approve a SIP revision allowing relaxed emission standards in a nonattainment area, unless the State demonstrates that the SIP as a whole, as revised, will result in attainment by the applicable date. This requirement has not been met here. Cuyahoga County is an ozone nonattainment area and, as such, must be subject to an USEPA-approved SIP demonstrating attainment as expeditiously as practicable, but no later than the end of 1987. At the time this SIP revision was submitted (August 29, 1983) this area did not have an approved 1982 Ozone SIP. The State submitted a revised SIP, but, until very recently, this submission lacked certain RACT rules, and thus could not be approved. On May 26, 1988, USEPA notified the Governor of Ohio, through issuance of a SIP call, that the Cuyahoga County ozone SIP is substantially inadequate to assure the attainment of the ozone NAAQS. The State has very recently submitted the required RACT rules. However, in light of the SIP call, the SIP submitted to date is not approvable. In a separate notice, USEPA will be addressing the deficiencies associated with the State of Ohio's proposed 1982 Ozone SIP revision. Accordingly, at no time since the State submitted the DairyPak SIP revision to EPA has the area had an approved 1982 Ozone SIP.

Public Comments

During the public comment period, USEPA received one set of comments submitted on behalf of Champion International Corporation during the public comment period and another set of comments submitted on behalf of Champion after the close of the comment period. Because these comments generally address the SIP deficiencies discussed in the notice of proposed rulemaking, a brief discussion of each deficiency is provided, along with the comment and USEPA's response. For a more detailed discussion of each deficiency, see USEPA's proposed rulemaking (September 9, 1985, 50 FR 36633).

1. SIP Deficiency: Compliance Date Extension

The revision request does not contain adequate support that the compliance date extension to December 1987 is expeditious. In addition, USEPA cannot approve a compliance date extension in an area that lacks an approvable attainment demonstration, because without such a demonstration it is impossible for USEPA to determine whether the requested SIP variance will interfere (1) with attainment and maintenance of the ozone NAAQS and (2) with the requirement that nonattainment areas demonstrate "Reasonable Further Progress" (RFP) toward the goal of attainment prior to the final attainment date.

Comment. The commenter submitted documentation to support its position that its low solvent conversion program is expeditious. Additionally, after the close of the comment period the commenter submitted additional information. The commenter referenced USEPA's notice of proposed rulemaking proposing to disapprove a revision for the Van Leer Containers, Inc. facility (December 2, 1986, 51 FR 43387). The revision requested a permanent relaxation of the emission limits for Van Leer's interior drum coatings. DairyPak states that, "Unlike the Van Leer's revision, which would authorize a permanent relaxation of emission requirements, the Champion revision provides for an extended time in which overall emissions from its flexographic printing lines can be reduced to a level equivalent to that provided for under the applicable Ohio SIP provision, OAC 3745-21-09(Y). The purpose of the

[5] USEPA recognizes that these reasons for disapproval were not noted in the September 9, 1985 proposal (because it arose from changes embodied in the December 4, 1986, final ETPS). However, USEPA is disapproving the DairyPak revision request primarily because of the reasons listed in the September 9, 1985, proposal which have not changed, but notes that its failure to meet the requirements of the December 4, 1986, ETPS is an additional reason why the DairyPak revision is not approvable.

extended time was to provide sufficient time for the full development of waterbased inks conversion and VOC emission reduction." The commenter makes reference to an April 25, 1980, policy memorandum from USEPA entitled "Compliance Schedules for Low Solvent Technology Programs for the Graphic Arts CTG Category." The commenter states that this memorandum recognizes the need for additional time to develop water-based inks for conversion and VOC emission reduction. The commenter states that complying inks are not and have never been "reasonably available."

USEPA's Response: USEPA is not evaluating whether USEPA's Compliance Date extension policies are met in this notice because there are other grounds for disapproving the State's proposed revision. This approach is being taken to enable USEPA to act quickly on the State's submittal. If the State submits another proposed compliance extension for this source, it will, of course, have to meet USEPA's compliance date extension policy to be approvable.

Comment: The supplemental comments submitted after the close of the comment period also discussed another test set forth in USEPA's proposal to disapprove the Van Leer Containers revision request. The commenter stated that the second prong of the test set forth in the Van Leer proposal is whether, if compliance materials (coatings, or in the case of Champion, inks) are not available, the materials used result in reduced emissions given customer demands. The commenter believes Champion's proposed revision also meets this test. The commenter states that in the Champion revision, in contrast to the Van Leer revision, there is no element of permanent use of higher solvent inks; rather, the essence of the Champion program is a continuing, and progressive search for compliance inks which meet customers' needs.

USEPA's Response: It is not necessary to respond to this comment because USEPA is not relying on the compliance date extension policies to disapprove this SIP revision.

Comment: The commenter states that the uncertainty of the effectiveness of add-on controls plus the greater reduction in emissions required by the SIP variance adequately demonstrates that Champion's requested variance guarantees more RFP than would otherwise occur.

USEPA's Response: USEPA does not agree with the commenter's conclusion that, because a successful low solvent conversion program would result in a greater reduction than add-on controls, this time extension would not interfere with RFP. USEPA disagrees for two reasons. First, DairyPak's variance does not require its final emission limitation to be more stringent than Ohio's SIP limit (contained in OAC Rule 3745-21-09(Y)(1)(a)). In fact, Ohio EPA states in its June 20, 1983, draft variance fact sheet that "the 75 percent overall reduction is equivalent to the reductions that would be achieved if DairyPak were to strictly comply with the requirements of OAC Rule 3745-21-09(Y)(1)(a) (ii) * * *." In addition, without an approved attainment demonstration, it is not possible to make a determination of what quantity of emissions would interfere with RFP. That is, there is no yardstick by which to judge DairyPak's emissions in excess of the allowable for the years 1983 through 1987.

Comment: The commenter makes reference to an April 11, 1985, letter from Ohio EPA to USEPA which is intended to confirm "that Ohio EPA does not intend to seek any reductions from the Flexographic Printing Industry or other RACT-Category II sources beyond our current rules, or, in the case of DairyPak, the 1983 variances." This letter is cited to show that Ohio does not intend to require DairyPak to reduce emissions further when it develops a revised SIP for Cuyahoga County.

USEPA's Response: Ohio EPA's decision as to how it plans to achieve compliance with the ozone NAAQS in Cuyahoga County is speculative, and cannot be relied upon until such time as there is an approved 1982 ozone SIP, and attainment demonstration, for the Cleveland demonstration area. USEPA cannot approve a relaxation in an area that lacks an approved attainment demonstration because without such a demonstration it is impossible for USEPA to determine whether or not the requested SIP variance will interfere with attainment and maintenance of the ozone NAAQS and with the requirement that nonattainment areas demonstrate RFP prior to the final attainment date. USEPA's policy is set forth in a July 29, 1983, memorandum from Sheldon Meyers, former Director of the Office of Air Quality Planning and Standards, to the Regional Offices. On July 25, 1984 (49 FR 29973), USEPA proposed to disapprove the Ohio 1982 ozone SIP for the Cleveland ozone nonattainment area, which includes Cuyahoga County, based on measured violations of the ozone NAAQS in 1983. Therefore, because the State of Ohio does not yet have an approved attainment demonstration, USEPA cannot approve relaxations (e.g., monthly averaging) for sources in Cuyahoga County.

2. SIP Deficiency: Monthly Averaging in Areas Lacking an Approved SIP

The DairyPak facility is located in an area (Cuyahoga County) which lacks both an approved 1982 ozone SIP and an approved attainment demonstration. Under USEPA's SIP revision policy, sources which are located in such areas cannot be considered for longer averaging periods until an approvable attainment demonstration is provided showing timely attainment and maintenance of the ozone standard, and with the requirement that areas demonstrate "reasonable further progress" toward the goal of attainment.

Comment: The commenter cites the following portion of the January 20, 1984, policy memorandum on extended averaging:

> Regulatory actions that incorporate longer term averages to circumvent the installation of overall RACT level controls cannot be allowed.

The company claims that its variance achieves greater emission reductions than RACT and questions USEPA's position in light of the present status of its low solvent conversion program. The company states that it is converting to low solvent coatings as expeditiously as possible, given inherent testing delays and customer satisfaction requirements.

USEPA's Response: The deficiency cited in the Notice of Proposed Rulemaking is based upon the provision in the January 20, 1984, policy memorandum which states that "sources in areas lacking approved SIP's * * * cannot be considered for longer term averages until the SIP has been revised demonstrating ambient standards attainment and maintenance of RFP." Extended averaging cannot be considered for the Cleveland demonstration area until there is an approved 1982 ozone SIP for this area. The commenter's response is not relevant to the stated deficiency. Furthermore, as discussed previously, the variance for DairyPak is not "better than RACT" because it does not require a more stringent limitation than what is contained in the SIP for a low solvent conversion program.

Comment: The commenter states that, except for the lack of an approved attainment demonstration, Champion's proposal conforms to all of the other guidelines developed in the January 20, 1984 policy memorandum.

USEPA's Response: The lack of an approved attainment demonstration is sufficient reason to disapprove a request

for extended averaging. Without an approved attainment demonstration it is impossible to determine the extent to which emissions in excess of those allowed by the SIP can occur without interfering with ambient standards attainment and RFP.

The infeasibility of daily averaging must also be supported in order to approve a request for extended averaging. This issue is discussed further below.

Comment: The commenter believes that the flexographic emission limit rule has little, if any, logical relation to compliance on a short-term basis. It also states that, due to the 100-ton exemption in the rule, a flexographic facility can emit 100 tons per year, all on a single day, in one week or, in one month.

USEPA Response: The Champion International Corporation, DairyPak is subject to Rule OAC 3745-21-09(B) which requires compliance on a daily basis. The provisions in the January 20, 1984, policy memorandum are necessary because the ozone NAAQS is a short-term standard and the use of monthly averaging could allow the daily emissions to significantly exceed the allowable level under the SIP.

Although it is theoretically possible for a source to emit its total annual emissions of 100 tons per year in one day, this occurrence is implausible. In any case, the 100-ton exemption for graphic arts sources, does not constitute justification of extended averaging.

Comment: The commenter references deposition testimony by a USEPA engineer in a pending enforcement action against Champion pursuant to section 113(b) of the Clean Air Act, 42 U.S.C. 7413(b). It then makes the claim that 24-hour average compliance can be determined from long-term data and that daily emissions vary about the mean by only a few percentage points.

USEPA Response: The commenter appears to have misunderstood USEPA's testimony. There is no USEPA approved procedure which can be used to calculate actual daily VOC emissions from long-term data. However, even if such a procedure existed, it would not prevent emissions from exceeding the daily allowable emission level in Ohio's existing SIP. In addition, there is no way of ensuring that, on any given day, the VOC emissions from a source will deviate from the mean by only a few percentage points. The commenter's hypothesis would not satisfy the stated deficiency even if it were true, because daily emissions could still exceed the SIP allowable.

3. SIP Deficiency: Inadequate Documentation To Support Extended Averaging

According to the Agency's January 20, 1984, SIP revision policy mentioned earlier, a demonstration to support extended averaging must show that either the source operations are such that daily VOC emissions cannot be determined or the application of RACT is not economically or technically feasible on a daily basis.

Comment: The commenter submitted an "ink usage study" developed over a two-week period at its operation in Fort Worth, Texas. This study develops the "current annual costs of daily monitoring at a flexographic facility whose operations are nearly identical to those at Olmsted Falls based on the average man-hours expended, costs incurred, and recordkeeping requirements involved in daily monitoring. The final annual operating cost of over $216,000 does not include the capital cost of the scales necessary to accomplish the nearly 500 weighing operations which would be required on each shift." This study was based upon daily line-by-line monitoring of ink and solvent usage on each flexographic printing line. The commenter also submitted an analysis of the number and size of production runs over a six-month period. During the six-month period, Champion filled 22,354 customer job orders for a total production of 757,343,708 cartons. The company keeps virtually no inventory and must be able to meet its customers' short-notice requirements. The commenter claims that as a result of these restrictions it is impossible for it to schedule its production in such a fashion as to assure VOC emission compliance on a short-term basis. Champion's order analysis for April 1985 through September 1985, appears to reference 29 different products.

USEPA Response: The commenter's cost analysis is based upon a recording of the amount of ink and solvent used on every job, on every line throughout the day. However, because Ohio EPA is requesting a bubble for DairyPak, there is no apparent reason to determine the ink and solvent usage for each line. The commenter has not explained why an inventory of inks and solvents performed once per day, or some other recordkeeping system less burdensome than the one it described, would not be sufficient to determine daily emissions. A potential alternative method for determining daily compliance could be for the source to determine the quantity of ink and solvent associated with each product. Daily emissions could then be obtained by considering the ink usage associated with its daily production.

Longer-term averaging can be justified by a demonstration that the application of RACT for each emission point is not economically or technically feasible on a daily basis. However, DairyPak has not provided sufficient information demonstrating that, upon completion of its conversion program, it will be infeasible to convert a sufficient number of solvent-based inks and coatings to allow DairyPak to comply on a daily basis. For these reasons, it is USEPA's view that DairyPak has not adequately demonstrated that it should be allowed to determine compliance with VOC emission limits on a monthly basis.

4. Additional Comments

Comment: USEPA has no discretion or authority to disapprove the SIP revision if it complies with the criteria set forth in section 110(a)(2) of the Clean Air Act. Because the revision satisfies section 110(a)(2), USEPA must approve it.

Response: As discussed earlier in this notice, since the State has not demonstrated that the SIP revision for DairyPak will assure attainment and maintenance of the ozone standard as required by section 110(a)(2) of the Clean Air Act, USEPA must disapprove it.

Comment: The commenter suggests that USEPA was required under section 110(a)(2) of the Clean Air Act to act within four months of the submission of the variance. The company further states that policies developed after the four month period would not be applicable.

USEPA Response: Although section 110(a)(2) of the Clean Air Act establishes a four-month requirement for original State plans submitted pursuant to section 110(a)(1), subsequent revisions are governed by section 110(a)(3)(A), which imposes no statutory deadline. In light of the absence of a mandatory review deadline for such revisions, the Agency contends that its obligation under the Act is to act within a reasonable time, as determined by the Administrator. Because the four-month time period raised by the commenter is not applicable, the issue of policy developed after that period is not relevant. In any case, USEPA clarification of current Agency policy generally are applicable to all SIP revision requests on which USEPA has not yet taken final action.

Comment: The commenter believes that the conversion program embodied in the proposed SIP revision is the only feasible alternative for insuring appropriate reductions in VOC

emissions at Champion's DairyPak Facility.

The commenter claims that use of add-on control is both technically infeasible and economically unreasonable at its plant. This conclusion is based on a report which states an "inability to capture anywhere near the requisite 65 percent of VOC emissions."

Champion claims add-on control to be economically unreasonable because a report by a consultant estimated the cost of control equipment between $3,210 and $10,709 per ton of VOC controlled.

USEPA Response: Because USEPA's proposed disapproval was not based upon an evaluation of the feasibility of add-on control for the DairyPak plant, Champion's comment is not relevant to this rulemaking.

SIP Deviations

This notice specifies major deficiencies which render this proposed revision to be unapprovable. However, it should be noted that if Ohio corrects the deficiencies cited in this notice, it should also ensure conformance with the USEPA requirements specified in Appendix D of the Post-1987 Ozone Policy, titled "Discrepancies and Inconsistencies Found in Current SIP's", and in the "SIP Approvability Checklist—Enforceability", which is attached to the September 23, 1987, policy memorandum titled "Review of State Implementation Plans and Revisons for Enforceability and Legal Sufficiency", before resubmitting the DairyPak SIP revision to USEPA for its approval. These two documents contain USEPA requirements, largely dealing with enforceability, which must be met for a site-specific SIP revision to be approved.

Final Action

Based upon a review of the SIP revision request and each of the public comments raised on behalf of Champion International Corporation, USEPA is taking final action to disapprove the SIP revision for Champion International Corporation's DairyPak Division in Olmsted Falls, Ohio for the following reasons:

(1) The source is located in an area (Cuyahoga County) that lacks an approved 1982 ozone SIP and an approved attainment demonstration. Under USEPA's SIP revision policy and the CAA, sources that are located in areas lacking an approved SIP cannot be considered for longer averaging periods. Until an approvable attainment demonstration is provided and approved by USEPA, the Agency cannot evaluate whether granting a relaxation will interfere with attainment of the ozone standard or with the requirement of RFP.

(2) The source has failed to demonstrate that it is not feasible for it to determine VOC emissions on a daily basis or that the application of RACT is economically or technically infeasible on a daily basis.

(3) The revision request does not comply with the provisions of the December 4, 1986, ETPS. This bubble request does not provide "progress towards attainment" which is a requirement for pending bubbles in nonattainment areas that lack an approved attainment demonstration. In addition, Ohio has not documented the lowest-of-actual-SIP-allowable-or-RACT allowable emissions baseline as of the time the bubble was submitted to Ohio.

Under Executive Order 12291, today's action is not "Major". It has been submitted to the Office of Management and Budget (OMB) for review.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 24, 1989. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Hydrocarbons.

This notice is issued under authority of sections 110 and 172 of the Clean Air Act, as amended (42 U.S.C. 7410 and 7502).

Date: February 1, 1989.

Jack Moore,

Administrator.

Title 40 of the Code of Federal Regulations, Chapter I, Part 52, is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Ohio—Subpart KK

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

Authority: 42 U.S.C. 7401–7642.

2. Section 52.1885 is amended by adding new paragraph (i) to read as follows:

§ 52.1885 Control strategy: Ozone.

* * * * *

(i) *Disapproval.* On August 29, 1983, the Ohio Environmental Protection Agency submitted a revision to the Ozone State Implementation Plan (SIP) for Volatile Organic Compounds (VOC). This revision request is for an alternative emission reduction plan (bubble), a monthly averaging compliance method, and an extended compliance schedule for eight flexographic printing lines for Champion International Corporation's DairyPak Division in Olmsted Falls, Ohio. As a result of USEPA's disapproval, the source remains subject to the control requirements of the Ohio Administrative Code (OAC) Rule 3745-21-09(Y) and Rule 3745-21-04(C)(32).

[FR Doc. 89-3076 Filed 2-21-89; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 300

[FRL-3524-5]

National Oil and Hazardous Substances Contingency Plan; National Priorities List Update

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of deletion of a site from the national priorities list.

SUMMARY: The Environmental Protection Agency (EPA) announces the deletion of the Cooper Road site (Voorhees, Township, New Jersey) from the National Priorities List (NPL). The NPL is Appendix B to the National Oil and Hazardous Substances Contingency Plan (NCP), which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended. EPA and the State of New Jersey have determined that all appropriate Fund-financed responses under CERCLA have been implemented and that no further cleanup by responsible parties is appropriate. Moreover, EPA and the State have determined that remedial actions conducted at the site have been protective of public health, welfare, and the environment.

EFFECTIVE DATE: February 22, 1989.

FOR FURTHER INFORMATION CONTACT: Ms. Tamara Rossi, U.S. Environmental Protection Agency, Region II, 26 Federal Plaza, Room 710, New York, NY 10278, (212) 264-4593.

SUPPLEMENTARY INFORMATION: As stated above, the site EPA deletes from the NPL is: Cooper Road, Voorhees Township, New Jersey.

A Notice of Intent to Delete for this site was published October 19, 1988 (53 FR 40910). The closing date for comments on the Notice of Intent to Delete was November 18, 1988. EPA received no comments.

The EPA identifies sites which appear to present a significant risk to public health, welfare, or the environment and it maintains the NPL as the list of those sites. Sites on the NPL may be the subject of Hazardous Substance Superfund (Fund-) financed remedial actions. Any site deleted from the NPL remains eligible for Fund-financed remedial actions in the unlikely event that conditions at the site warrant such action. Section 300.66(c)(8) of the NCP states that Fund-financed actions may be taken at sites deleted from the NPL. Deletion of a site from the NPL does not affect responsible party liability or impede agency efforts to recover costs associated with response efforts.

List of Subjects in 40 CFR Part 300

Hazardous waste.

PART 300—[AMENDED]

1. The authority citation for Part 300 continues to read as follows:

Authority: Section 105, Pub. L. 96-510, 94 Stat. 2764, 42 U.S.C. 9605 and sec. 311(c)(2), Pub. L. 92-500 as amended, 86 Stat. 865, 33 U.S.C. 1321(c)(2); E.O. 12316, 46 FR 42237; E.O. 11735, 38 FR 21243.

Appendix B—[Amended]

2. The NPL Part 300; Appendix B is amended as follows: In Group 10, remove the following entry and move up the entries accordingly:

Cooper Road, Voorhees Township, New Jersey.

Date: February 6, 1989.

William J. Muszynski,

Acting Regional Administrator U.S. EPA, Region II.

[FR Doc. 89-3891 Filed 2-21-89; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 300

[FRL-3524-4]

National Oil and Hazardous Substances Contingency Plan; National Priorities List Update

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of deletion of a site from the national priorities list.

SUMMARY: The Environmental Protection Agency (EPA) announces the deletion of the Krysowaty Farm site (Hillsborough, Township, New Jersey) from the National Priorities List (NPL). The NPL is Appendix B to the National Oil and Hazardous Substances Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended. EPA and the State of New Jersey have determined that all appropriate Fund-financed responses under CERCLA have been implemented and that no further cleanup by responsible parties is appropriate. Moreover, EPA and the State have determined that remedial actions conducted at the site have been protective of public health, welfare, and the environment.

EFFECTIVE DATE: February 22, 1989.

FOR FURTHER INFORMATION CONTACT: Mr. Ronald Borsellino, U.S. Environmental Protection Agency, Region II, 26 Federal Plaza, Room 711, New York, NY 10278, (212) 264-1870.

SUPPLEMENTARY INFORMATION: As stated above, the site EPA deletes from the NPL is:

Krysowaty Farm, Hillsborough Township, New Jersey. A Notice of Intent to Delete for this site was published October 19, 1988 (53 FR 40910). The closing date for comments on the Notice of Intent to Delete was November 18, 1988. EPA received no comments.

The EPA identifies sites which appear to present a significant risk to public health, welfare, or the environment and it maintains the NPL as the list of those sites. Sites on the NPL may be the subject of Hazardous Substance Superfund (Fund-) financed remedial actions. Any site deleted from the NPL remains eligible for Fund-financed remedial actions in the unlikely event that conditions at the site warrant such action. Section 300.66(c)(8) of the NCP states that Fund-financed actions may be taken at sites deleted from the NPL. Deletion of a site from the NPL does not affect responsible party liability or impede agency efforts to recover costs associated with response efforts.

List of Subjects in 40 CFR Part 300

Hazardous waste.

PART 300—[AMENDED]

1. The authority citation for Part 300 continues to read as follows:

Authority: Section 105, Pub. L. 96-510, 94 Stat. 2764, 42 U.S.C. 9605 and sec. 311(c)(2), Pub. L. 92-500 as amended, 86 Stat. 865, 33 U.S.C. 1321(c)(2); E.O. 12316, 46 FR 42237; E.O. 11735, 38 FR 21243.

Appendix B [Amended]

2. The NPL Part 300; Appendix B is amended as follows: In Group 3, remove the other following entry and move up the entries accordingly: Krysowaty Farm, Hillsborough Township, New Jersey.

Date: February 6, 1989.

William J. Muszynski,

Acting Regional Administrator, U.S. EPA, Region II.

[FR Doc. 89-3892 Filed 2-21-89; 8:45 am]

BILLING CODE 6560-50-M

Proposed Rules

Federal Register
Vol. 54, No. 34
Wednesday, February 22, 1989

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

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 917

Kentucky Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSMRE), Interior.

ACTION: Proposed rule; Reopening and extension of public comment period.

SUMMARY: OSMRE is announcing the reopening of the public comment period on proposed amendments to the Kentucky permanent regulatory program (hereinafter referred to as the Kentucky Program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendments, submitted by Kentucky on January 18, 1989 (Administrative Record No. KY-848) are intended to make the Commonwealth's regulations consistent with revised Federal regulations contained in 30 CFR Chapter VII.

OSMRE published a notice in the August 29, 1988, **Federal Register** (53 FR 32922-32924) announcing receipt of these amendments and inviting public comment on their adequacy. The public comment period ended on September 28, 1988. Review of the proposed amendments identified several apparent deficiencies. OSMRE identified these deficiencies in a letter to Kentucky dated October 13, 1988 (Administrative Record No. KY-836).

On January 18, 1989 (Administrative Record No. KY-848), Kentucky responded to OSMRE's letter of October 13, 1988, by submitting additional information pertaining to these proposals.

In view of the additional information submitted by Kentucky, OSMRE is reopening the public comment period on the proposed amendments. This action is being taken to afford the public an opportunity to again review these proposals in light of the additional information provided by Kentucky.

DATES: Written comments must be received on or before 4:00 p.m. on March 9, 1989. Comments received after that date will not necessarily be considered in the Director's decision to approve or disapprove these amendments.

ADDRESSES: Written comments should be mailed or hand delivered to W. Hord Tipton, Director, Lexington Field Office, Office of Surface Mining Reclamation and Enforcement, 340 Legion Drive, Suite 28, Lexington, Kentucky 40504.

Copies of the Kentucky program, proposed amendments and all written comments received in response to this notice will be available for review at the locations listed below during normal business hours Monday through Friday, excluding holidays. Each requestor may receive, free of charge, one single copy of the proposed amendment by contacting the OSMRE Lexington Field Office.

Office of Surface Mining Reclamation and Enforcement, Lexington Field Office, 340 Legion Drive, Suite 28, Lexington, Kentucky 40504, Telephone (606) 233-7327.

Office of Surface Mining Reclamation and Enforcement, Administrative Record Office, Room 5315, 1100 "L" Street NW., Washington, DC 20240, Telephone (202) 343-5492.

Office of Surface Mining Reclamation and Enforcement, Eastern Field Operations, Ten Parkway Center, Pittsburgh, Pennsylvania 15220, Telephone: (412) 937-2828.

Department for Surface Mining Reclamation and Enforcement, #2 Hudson Hollow Complex, Frankfort, Kentucky 40601, Telephone (502) 564-6940.

FOR FURTHER INFORMATION CONTACT: W. Hord Tipton, Director, Lexington Field Office, Telephone (703) 523-4303.

SUPPLEMENTARY INFORMATION:

I. Background

The Secretary of the Interior conditionally approved the Kentucky regulatory program effective May 18, 1982. Information pertinent to the general background and revisions to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval can be found in the December 14, 1981 **Federal Register** (47 FR 21404-21435). Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 917.11, 30 CFR 917.15, 917.16, and 917.17.

II. Discussion of Amendments

A discussion of the original proposed amendments is contained in the August 29, 1988, **Federal Register** (53 FR 32922-32924). The additional information submitted by Kentucky on January 18, 1989, would modify the following proposed Kentucky Administrative Regulations (KAR).

KAR Title 405 Chapter 7—General Provisions for KAR Title 405 Chapters 8 through 24.
7:020 Definitions and Abbreviations
7:090 Hearing
KAR Title 405 Chapter 8—Permits
8:010 General Provisions for Permits
KAR Title 405 Chapter 10—Bond and Insurance Requirements
10:030 Types, Terms and conditions of Performance Bonds and Liability Insurance
10:040 Procedures, Criteria and schedule for release of Performance Bond
10:050 Bond Forfeiture
KAR Title 405 Chapter 16 Performance Standards for Surface Mining Activities
16:080 Diversions
16:100 Permanent and Temporary Impoundments
16:110 Surface and Ground Water Monitoring
16:190 Backfilling and grading
KAR Title 405 Chapter 18 Performance Standards for Underground Mining Activities
18:080 Diversions
18:100 Permanent and Temporary Impoundments
18:110 Surface and Ground Water Monitoring
18:190 Backfilling and grading

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSMRE is now seeking comment on whether the amendments proposed by Kentucky satisfy the applicable program approval criteria of 30 CFR 732.15. If the amendments are deemed adequate, they will become part of the Kentucky program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations.

Comments received after the time indicated under "DATES" or at locations other than the Lexington Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

IV. Procedural Determinations

1. Compliance with the National Environmental Policy Act

The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. Executive Order No. 12291 and the Regulatory Flexibility Act

On July 12, 1984, the Office of Management and Budget (OMB) granted OSMRE an exemption from sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule would not have a significant ecomonic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule would not impose any new requirements; rather, it would ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. Paperwork Reduction Act

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 946

Coal mining, Intergovernmental relations, Surface mining, and Underground mining.

Date: February 13, 1989.

Carl C. Close,

Assistant Director, Eastern Field Operations.

[FR Doc. 89-4012 Filed 2-21-89; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 230

[DoD Instruction 1000.12]

Procedures Governing Banking Offices on DoD Installations

AGENCY: Department of Defense.

ACTION: Proposed rule.

SUMMARY: This document proposes to revise 32 CFR Part 231 to: accommodate changes made in response to the comments received on the previous proposed revision; eliminate reference to risk management standards; authorize commanders with available funds to consider proposals to acquire ATMs; eliminate the 25 year limitation on leases covering land for bank-constructed buildings; provide for outleases of land at nominal cost; and confirm that Exchange Services may distribute literature on affinity credit cards.

DATE: Comments should be received by March 24,1989.

ADDRESS: Office of the Comptroller of the Department of Defense, Room 1A658, The Pentagon, Washington, DC 20301.

FOR FURTHER INFORMATION CONTACT: Dr. R. Adolphi, telephone (202) 697-8281.

SUPPLEMENTARY INFORMATION: The Department of Defense last published a proposed amendment on Tuesday, September 13, 1988 (53 FR 35331).

List of Subjects in 32 CFR Part 230

Armed forces, Banks, Banking, Federal buildings and facilities, Savings and loan associations.

Accordingly, 32 CFR Part 230 is proposed to be revised as follows:

PART 230—PROCEDURES GOVERNING BANKING OFFICES ON DOD INSTALLATIONS

Sec.

230.1 Purpose.
230.2 Applicability and scope.
230.3 Definitions.
230.4 Responsibilities.
230.5 General operating policies and procedures.
Appendix A—Procedures for Establishing, Supporting, and Terminating Onbase Banking Offices.
Appendix B—Operating of Onbase Banking Offices.

Authority: 10 U.S.C. 136.

§ 230.1 Purpose.

This document revises 32 CFR Part 230 and provides procedural guidance to supplement 32 CFR Part 231 concerning relations with banking offices serving on DoD installations.

§ 230.2 Applicability and scope.

(a) This part applies to the Office of the Secretary of Defense (OSD), the Military Departments, the Joint Chiefs of Staff (JCS), the Joint Staff and supporting Joint Agencies, the Unified and Specified Commands, the Inspector General of the Department of Defense (IG, DoD), the Uniformed Services University of the Health Sciences (USUHS), the Defense Agencies, and the DoD Field Activities (hereafter referred to collectively as "DoD Components").

(b) Its provisions also pertain to all banking institutions and military exchange outlets that operate on DoD installations.

§ 230.3 Definitions.

Terms used in this part are defined at 32 CFR Part 231 (§ 231.3).

§ 230.4 Responsibilities.

(a) The *Comptroller of the Department of Defense* (C, DoD) or designee, the Deputy Comptroller (Management Systems) (DC(MS)), shall:

(1) Coordinate the DoD domestic and overseas banking programs, consulting on aspects that pertain to the morale and welfare of DoD personnel with the Assistant Secretary of Defense (Force Management and Personnel).

(2) In coordination with affected DoD Components, authorize the specific types of banking services that will be provided by overseas banking facilities and specify the charges or fees, or the basis for these, to be levied on users of these services.

(3) Coordinate with the Fiscal Assistant Secretary of the Treasury on the designation of domestic and overseas banking facilities as depositaries and financial agents of the U.S. Government.

(4) Maintain liaison, as necessary, with Federal and equivalent State bank regulatory agencies as defined at 32 CFR Part 231 (§ 231.3).

(5) Designate a technical representative to provide policy direction for the procuring and administrative contracting officer(s) responsible under the Federal Acquisition Regulation (FAR) for acquiring banking services required at overseas DoD installations.

(6) Serve as principal liaison with banking institutions having offices on overseas DoD installations. In this capacity, monitor banking facility managerial and operational policies, procedures, and operating results and take action as appropriate.

(7) Coordinate on DoD Component actions that contemplate a banking institution's removal for cause from an installation before final decision and referral to the appropriate regulatory agency.

(8) As necesssry, negotiate government-to-government agreements for the provision of banking services on

overseas DoD installations, in accordance with DoD Directive 5530.3.[1]

(9) Take final action on requests for exception to the provisions of this Instruction.

(b) The *Assistant Secretary of Defense (Production and Logistics)* (ASD(P&L)) shall carry out responsibilities outlined in § 231.6(b) of 32 CFR Part 231.

(c) The *Assistant Secretary of Defense (Force Management and Personnel)* (ASD(FM&P)) shall carry out responsibilities outlined in 231.6(b) of 32 CFR Part 231.

(d) The *Secretaries of the Military Departments and Directors of Defense Agencies* shall:

(1) Prescribe procedures for soliciting banking institutions to establish banking offices on respective domestic DoD installations. Such procedures shall prohibit DoD personnel from subjecting banking institutions to any form of coercion either while banking arrangements are under consideration or after banking offices are established.

(2) Review proposals to establish banking offices on respective domestic DoD installations, select the banking institution making the best offer and recommend designation of that institution to the appropriate regulatory agency.

(3) Forward proposals to establish banking facilities to the DC(MS) for determination in conjunction with the Fiscal Assistant Secretary of the Treasury.

(4) Provide for liaison to banking institutions operating banking offices on respective domestic DoD installations.

(5) Supervise the use of banking offices on respective DoD installations within the guidance contained herein and in 32 CFR Part 231.

(6) Evaluate the services provided by banking offices to ensure that they fulfill the requirements upon which establishment and retention of those services were justified.

(7) Monitor practices and procedures of respective onbase banking offices to ensure that the welfare and interests of DoD personnel as consumers are protected.

(8) Assist respective onbase banking offices in developing and expanding necessary services for DoD personnel consistent with the provisions stated herein.

(9) Determine the level of logistic support to be provided to respective domestic banking institutions that submit reports reflecting nonself-sustaining status.

(10) Encourage the conversion of existing domestic banking facilities on respective installations to independent or branch bank status where feasible.

(11) Provide logistic support to overseas banking facilities under terms and conditions identified in respective contracts.

(12) Ensure that the recommendations of the Unified or Specified Command concerned are considered before processing requests for overseas banking service or related actions emanating from Component commands overseas.

(13) Refer matters requiring policy decisions or proposed amendments to this part or 32 CFR Part 231 to the DC(MS).

(e) *The Commanders of Unified and Specified Commands*, or designees, shall:

(1) Ensure the appropriate coordination of requests to:

(i) Establish banking offices in countries not presently served. Such requests shall include a statement that the requirement has been coordinated with the U.S. Chief of Diplomatic Mission or U.S. Embassy and that the host country will permit the operation.

(ii) Totally eliminate banking offices in a country. Such requests shall include a statement that the U.S. Chief of Diplomatic Mission has been informed and that appropriate arrangements to coordinate local termination announcements and procedures have been made with the U.S. Embassy.

(2) Monitor and coordinate military banking operations within the command area. Personnel assigned to security assistance positions shall not perform this function without the prior approval of the Director, Defense Security Assistance Agency (DSAA).

§ 230.5 General Operating Policies and Procedures.

(a) *Limitation on Service.* Under singular circumstances, more than one banking institution may be permitted to operate on a DoD installation to ensure that personnel on the installation receive adequate financial services.

(1) If a particular installation demonstrably needs more services, the existing banking office shall first be given the opportunity to meet those needs.

(2) When conditions warrant consideration of a second banking institution on the installation, a request providing full details shall be forwarded through channels to the DoD Component headquarters concerned for evaluation and appropriate action. The Head of the DoD Component or designee may approve and forward such requests to the appropriate regulatory agency after coordination with the DC(MS).

(b) *Uniformity of Service.* Financial services provided on DoD installations shall be as uniform as possible for all DoD personnel. Similarly, service charges and fee schedules shall, wherever possible, be uniform at overseas DoD installations.

(c) *Establishing Banking Offices.* (1) Banking offices on domestic DoD installations shall be established only with prior approval of the DoD Component concerned and the appropriate regulatory agency. Specific procedures are identified at Appendix A of this part. No commitment may be made to any banking institution regarding its proposal until a designation is made by the appropriate regulatory agency.

(2) Only banking institutions insured by the Federal Deposit Insurance Corporation (FDIC) or the Federal Savings and Loan Insurance Corporation (FSLIC) shall operate on domestic DoD installations.

(3) Except under singular circumstances, DoD Components may establish banking facilities only overseas and in those states that prohibit branch banking.

(4) Where domestic DoD installations are unable to obtain onbase banking services, the DoD Component concerned may contact the financial community about installing automated teller machines (ATMs).

(i) Proposals that offer shared-access ATMs shall receive preference.

(ii) The financial institution selected must secure regulatory agency approval, where necessary, before commencing ATM service.

(iii) Action taken in response to such proposals shall be exempt from the limitation in § 230.5(a). The availability of ATM service shall not preclude the later establishment of a banking office if conditions on an installation should change.

(5) The provision of banking services by means other than duly chartered public sector banking offices or ATM service is subject to prior review and approval by the DC(MS).

(d) *Operating Agreements.* An operating agreement, conforming to the guidelines set forth herein, shall be executed and maintained between each installation (community) commander and onbase banking institution. A sample format is contained in DoD

[1] Copies may be obtained, if needed, from the U.S. Naval Publications and Forms Center, Attn: Codes 1062, 5801 Tabor Avenue, Philadelphia, PA 19120.

4000.19-R.[2] At a minimum, each agreement shall include the following provisions:

(1) Services to be rendered and the conditions therefor. To the extent feasible, full financial services shall be provided; however, agreements entered into under this provision may not restrict the banking institution's right to adjust services and fees to maintain consistency with competing institutions or the banking institution's branch-wide service offerings and fee schedules.

(2) Banking institution agreement to:

(i) Comply with this part, 32 CFR Part 231, DoD Component regulations that implement these issuances;

(ii) Indemnify and hold harmless the U.S. Government from (and against) any loss, expense, claim, or demand to which the Government may be subjected as a result of death, loss, destruction, or damage in conjunction with the use and occupancy of premises of the DoD Component caused in whole or in part by agents or employees of the banking institution; and

(iii) Accommodate, whenever possible, local command requests for lecturers and printed materials for consumer credit education programs. Banking office personnel invited to participate in such programs shall not use the occasion to promote the exclusive services of a particular financial institution.

(3) Agreement that neither the DoD Component concerned nor its representatives will be responsible or liable for the financial operation of the banking office or for any loss (including criminal losses), expense, or claim for damages arising from banking office operation.

(4) Installation (community) commander's agreement to provide support as specified at Appendix A of this part.

(e) *Liaison Officers.* In the interest of maintaining effective lines of communication, each commander of an installation with an onbase banking office shall appoint a bank liaison officer as defined at 32 CFR Part 231 (§ 231.3).

(1) The bank liaison officer's name and duty telephone number shall be displayed in the lobby of each onbase banking office.

(2) The liaison officer shall maintain regular contact with the banking office manager to confer, help resolve customer complaints, and discuss quantitative and qualitative improvements in the services provided. However, neither liaison officers nor their superiors shall become involved in the internal operations of the banking office.

(3) No one on the board of directors or serving the banking institution in another official capacity may serve as bank or credit union liaison officer.

(f) *DoD Personnel as Directors of Banking Institutions* (1) DoD personnel may not serve as directors of banking institutions that operate on installations where they are currently assigned.

(2) Members of DoD reserve components called to active duty while serving as directors of banking institutions with onbase banking offices need not resign those directorships because of their changed status.

(g) *Complaints Processing*—(1) *Discrimination.* Any installation commander who suspects or receives complaints of discrimination by the onbase banking institution shall try to resolve any such problem by negotiation. Failing this, in accordance with implementing DoD Component regulations, a written request for investigation shall be forwarded to the appropriate regulatory agency. The request must document the problem and command efforts toward resolution. Information copies of all related correspondence shall be sent through channels to the DoD Component concerned for transmittal to the DC(MS).

(2) *Malpractice.* The installation commander shall report to the appropriate regulatory agency evidence suggesting malpractice by banking office personnel, in accordance with implementing DoD Component regulations.

(3) *Follow-up.* A DoD Component unsatisfied with action taken by the appropriate regulatory agency shall submit a full report with recommendations to the DC(MS). The DC(MS) shall pursue the matter with the appropriate regulatory agency and apprise the respective DoD Component of progress or resolution.

(h) *Logistic Support*—(1) *Categories of Domestic Banking Offices.* For the purpose of authorizing logistic support, banking offices are categorized either as self-sustaining or nonself-sustaining.

(i) A domestic banking office is considered to be self-sustaining until, based upon financial data provided by the banking institution, the DoD Component concerned determines it to be nonself-sustaining. Payment of rent for space and reimbursement for utilities furnished shall be required from self-sustaining banking offices. Nonself-sustaining banking offices may receive building space and utilities free of charge under procedures prescribed by the DoD Component concerned.

(ii) Normally, a domestic banking office shall have nonself-sustaining status for at least four consecutive calendar quarters before qualifying for logistic support. Conversely, a nonself-sustaining banking office would not be designated as self-sustaining until it had experienced four consecutive quarters of profitable operation.

(2) *Detailed Procedures.* Details of required and authorized support for onbase banking offices are provided at Appendix A of this part.

(i) *Termination of Banking Service*—(1) *Termination of Operations by the Banking Institution.* An onbase banking office planning to terminate its operations should notify the installation commander at least 90 days before the closing date. This notification should precede any public announcement of the planned closure. When appropriate, the commander shall attempt to negotiate an agreement permitting the banking office to continue operations until the installation has made other arrangements. Immediately upon notification of a closing, the commander shall advise the DoD Component headquarters concerned. If it is determined that continuation of banking services is justified, action to establish another banking office shall be taken in accordance with § 230.5(c).

(2) *Termination for Cause.* If, after discussion with banking institution officials, the installation commander determines that the operating policies of the banking office are inconsistent with this Instruction, a recommendation for termination of logistic support and space arrangements may be made through DoD Component channels. Removal of a banking office from the installation shall be made only with approval by the DoD Component headquarters, after coordination with the DC(MS) and the appropriate regulatory agency.

Appendix A—Procedures for Establishing, Supporting, and Terminating Onbase Banking Offices

A. Establishing Banking Offices

1. *General.* DoD Components shall review banking institution proposals and recommend selections in accordance with § 230.5(c) of this part. Banking institutions selected for domestic onbase operations must obtain authority from the appropriate regulatory agency before commencing such operation.

a. In the case of State-chartered institutions that are members of the Federal Reserve System, approval shall also be obtained from the Federal Reserve Bank for the district in which the proposed banking office is located.

[2] Copies may be obtained, at cost, from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

b. In the case of State-chartered savings associations, approval shall be obtained from appropriate State regulatory agencies.

c. In the case of federally chartered savings associations, the determination shall be made by the Federal Home Loan Bank Board or its principal supervisory agent for the district in which the association does business.

2. *Domestic Banking Offices.*

a. Each DoD Component shall develop internal instructions that govern the submission and justification of requests to establish banking facilities on respective installations. The following information shall be included in requests to the DoD Component headquarters for banking facility establishment:

(1) Justification for establishment of a banking facility as opposed to another type of banking office.

(2) Such other supporting data as deemed necessary by the DoD Component concerned.

b. Proposals received by installation commanders to establish an independent or branch bank or a savings association office shall be forwarded through channels to the DoD Component headquarters concerned, together with recommendations for acceptance or rejection.

c. The DoD Component headquarters concerned shall evaluate each proposal to establish such offices and, if acceptable, recommend designation by the appropriate regulatory agency.

(1) If there is no existing banking office on the installation and it is determined that one is needed, the DoD Component concerned shall solicit proposals from other nearby banking institutions before making a determination.

(2) If a banking office other than a banking facility already is operating on the DoD installation, the provisions of § 230.5(a)(1) of this part apply.

(3) If the proposal offers to replace an existing banking facility with an independent or branch bank, the DoD Component concerned shall offer the banking institution currently operating the facility an opportunity to submit a proposal to convert the facility.

(4) With respect to a proposed independent or branch bank, preference shall be given to the banking institution that has operated the banking facility, provided that prior banking service has been satisfactory and that the institution's proposal is deemed adequate.

(5) Proposals to establish new banking facilities shall be forwarded to the DC(MS) for determination in conjunction with the Fiscal Assistant Secretary of the Treasury.

3. *Conversions of Domestic Banking Facilities to Independent or Branch Banks.* DoD Components shall encourage banking institutions that operate banking facilities to convert them to independent or branch banks, if consistent with State law. Proposals from a banking institution to convert an existing banking facility to an independent or branch bank shall be forwarded to the DoD Component headquarters concerned for its approval after coordination with the DC(MS) and Treasury Department.

4. *Domestic Automated Teller Machine (ATM) Service—*

a. ATMs may be used to augment service provided by an onbase banking office.

(1) An onbase banking facility may be authorized to site ATMs on the installation if it conforms to the following requirements. Further approval by the Treasury Department is not required.

(2) An onbase branch or independent bank may site ATMs on the installation after obtaining the approval of the appropriate regulatory agency, if required to do so by the regulations of that agency, and by conforming to the following requirements.

(3) Within resource constraints, installation commanders may consider banking office proposals for the command to bear some or all of the cost of installing onbase ATMs.

b. A banking institution proposing to augment onbase banking office service by installing one or more ATMs shall:

(1) Coordinate the ATM proposal through the installation commander according to DoD Component regulations;

(2) Provide a statement that the cost of ATM installation (unless funded under subparagraph a.3., above) and maintenance shall be borne by the banking institution alone or in conjunction with other financial institutions; and

(3) Provide for access through debit transaction cards, rather than restricting access to holders of a financial institution's credit cards.

c. Upon approval, appropriate leases shall be negotiated in accordance with this part.

(1) No lease is needed to site an ATM within the existing banking office.

(2) When a banking office requests up to 100 square feet of additional floor space in an existing structure, and the banking office agrees to bear all expenses for modifying the structure, a lease providing for an annual rental fee of $1.00 shall be locally negotiated and approved. This lease provision also shall be offered if the banking office requests up to 250 square feet of land to construct, at its expense, a kiosk or other structure to house an ATM. In either case, the cost of any maintenance, utilities, and services provided by the installation shall be borne by the banking office.

(3) Leases pertaining to other situations shall be negotiated in accordance with section C., below.

5. *Overseas Banking Facilities Operated under Contract—*

a. In implementing this part, each DoD Component shall develop internal instructions governing the submission of requests justifying the need for banking facilities proposed for particular overseas installations. Upon favorable review by the DoD Component headquarters concerned, such requests shall be submitted to the DC(MS) with a recommendation for inclusion in the appropriate contract, subject to the conditions set forth below.

b. As a general rule, banking facilities may be established when the installation (community) population meets the following criteria:

(1) *Full Time Banking Facility.* Except in unusual circumstances, a total of at least 1,000 permanent party military personnel and DoD civilian employees is necessary to qualify for a full-time banking facility.

(2) *Part-Time Banking Facility.* Except in unusual circumstances, a total of at least 250 permanent party military personnel and DoD civilian employees is necessary to qualify for a part-time banking facility.

c. If the population at certain remote areas is not sufficient to qualify under the criteria for full- or part-time banking facilities, the installation (community) commander shall explore all other alternatives for acquiring limited banking services (such as check-cashing and accommodation exchange service by disbursing officers and their agents) before requesting establishment of a banking facility as an exception to these provisions.

d. The data used to justify establishment of overseas banking facilities shall include but not be limited to:

(1) The approximate number of DoD personnel at the installation and any other persons who may be authorized to use the banking facility.

(2) The distances between the installation and the nearest banking facility and credit union offices, the operators of those institutions, and the installations (military communities) at which they are located.

(3) The availability of official and public transportation between the installation and the nearest banking facility and credit union office.

(4) The approximate loss of duty time as a result of DoD personnel leaving the installation to obtain banking services.

(5) The number of DoD personnel in duty assignments that confine them to the installation or who cannot obtain transportation (such as hospital patients).

(6) Source(s) from which the military disbursing officer presently obtains operating and payroll cash, the frequency of these cash acquisitions, and the approximate dollar value obtained monthly.

(7) The name and location of the depositary now being used by the military disbursing officer to make official deposits for credit to the U.S. Treasury's General Account.

(8) The estimated savings to the military disbursing officer if a banking facility is established on the installation.

(9) A list of organizational and nonappropriated fund accounts, the name(s) and location(s) of the banking institution where presently deposited, and the average daily activity and balance of each account.

(10) A written description and photographs or drawings of the space proposed for banking facility use. The extent and approximate cost of required alterations, including the construction of counters and teller cages, shall be included.

(11) A statement detailing the requirements of the proposed banking facility for safes, a vault, or both; appropriate alarm systems; and camera surveillance equipment, where deemed necessary. The statement shall include the costs of such equipment and the manner in which it will be acquired.

(12) In countries without U.S.-operated banking facilities, a statement as required by § 230.4(e)(1) of this part.

e. Establishment of an overseas banking facility is predicated upon:

(1) Designation of the facility contractor as a depositary and financial agent of the U.S.

Government by the Fiscal Assistant Secretary of the Treasury;

(2) The availability of proposed banking contractors able and willing to bid for the operation of the facility, and the reasonableness of such proposals; and

(3) The availability of appropriated funds to underwrite such banking services.

6. *Other Overseas Banking Offices.* The banking and currency control laws of certain host countries do not permit U.S. banking institutions to operate banking facilities on DoD installations.

a. Commanders of installations (communities) in such countries where there is a demonstrated need for additional banking service and the population meets the above criterion shall forward requests for banking services, or unsolicited proposals from local banks, through command channels with supporting data as required in paragraph A.5.d., above.

b. If the DoD Component concerned concurs in the request, it shall be forwarded to the DC(MS) for approval and coordination with the Fiscal Assistant Secretary of the Treasury for designation of the parent banking institution as a depositary and financial agent of the U.S. Government.

c. Banking offices in this category shall become operational only after Treasury designation of the parent banking institution and an indication of the institution's willingness and ability to provide collateral backing for any official and nonappropriated fund U.S. dollar deposits in a form acceptable to the DC(MS) and the Fiscal Assistant Secretary of the Treasury.

B. Support of Onbase Banking Offices

1. *General.* DoD Component regulations that implement this part shall provide for installation support to all onbase banking offices, including:

a. Military or civilian guards (the latter to be used within the installation only), military police, or other protective services to accompany shipments of money from the parent banking institution or other source when such monies are primarily for use by the military disbursing officer, on paydays and when required to avoid undue risks or insurance costs on the part of the onbase banking office. In this regard, overall security precautions normally present shall be considered.

b. Central locator service, under conditions identified at Appendix to 32 CFR Part 231, when requested by onbase banking offices. This service shall be provided at no cost in accordance with 32 CFR Part 288.

c. Debt processing assistance in accordance with 32 CFR Part 43a, as limited by the Privacy Act guidelines set forth in Appendix to 32 CFR Part 231. If delinquent loans or dishonored checks are not recouped within 48 hours, banking institutions operating on DoD installations may bring them to the attention of the local commander, bank liaison officer or other designee, for assistance in effecting restitution of the amount due, if not otherwise prohibited by law.

d. Clearance procedures for military personnel departing their installations which provide the onbase banking office with adequate notice of its customers' impending departure. Clearance involves reporting a change of address, reaffirming allotments or notes payable and arranging for counseling, if appropriate. Clearance shall not be denied to facilitate the collection of debts or the resolution of disputes between the financial institution and its departing customers. Where administratively feasible, similar clearance procedures shall be used for departing DoD civilian personnel.

e. Prohibition of traveler's check and money order sales by organizations other than the onbase banking office, post office, and credit union during times when the banking office is open for business.

2. *Domestic Nonself-Sustaining Banking Offices.* When a DoD Component determines that a banking office has nonself-sustaining status, it may furnish logistic support, as provided herein, without charge.

a. Through no-cost permits or licenses, a nonself-sustaining banking office may be provided space on a DoD installation at one or more locations for up to 5 years, as prescribed in DoD Directive 4165.6.[3] The cumulative total of space authorized for one or more locations is subject to the limitations contained in MIL-HDBK-1190.

b. All space assigned by the GSA, whether leased or in Federal office buildings, is reimbursable to the GSA at the standard level user charge, under Pub. L. 92-313. Consequently, the GSA shall charge the benefiting DoD Component for any GSA space assigned for banking office operations.

c. In those exceptional cases when a nonself-sustaining banking office is authorized to construct its own building or use its funds to expand, modify, or renovate Government-owned space, a no-cost permit or license may be provided. Duration of the permit or license shall be commensurate with the extent of the improvements as determined by the DoD Component concerned. It shall be effective until the agreed date of expiration or until the banking office is determined to be self-sustaining, whichever occurs first. The provisions of section C., below, apply in the latter case.

d. The term "logistic support" shall include:

(1) Customer and work areas, in accordance with MIL-HDBK-1190. It is important that the banking office be housed in a building accessible to most DoD personnel on the installation, in a location permitting maximum security.

(2) Steel bars, grillwork, security doors, a vault or safe (or both), burglar alarm system, other security features normally used by banking institutions, construction of counters and teller cages, and other necessary modifications and alterations to existing buildings delimited in DoD Directive 4270.24.[4]

(3) Utilities, custodial and janitorial services, and intrastation telephone service. The banking office shall pay costs for long-distance toll calls, however.

(4) Air-conditioning, which is considered a normal utility for banking offices located on installations qualifying for air-conditioning under DoD Component regulations. Banking space is classified as administrative space on DoD installations.

(5) When available from local stock, lease of the following at nominal cost, i.e., $1.00 per year, under authority of 10 U.S.C. 2667: typewriters, adding machines, other office equipment, and office furniture.

e. All maintenance, repair, rehabilitation, alterations, or construction for onbase banking offices shall comply with DoD Instruction 4165.64.[5]

f. Upon determination that a banking office has become self-sustaining, its no-cost lease or permit shall be canceled and a lease negotiated in accordance with section C., below.

3. *Additional Support in Overseas Areas—*

a. *Banking Facilities Operated Under Contract.* In addition to the logistic support identified above, the following shall be made available to banking facilities operating under DoD contract at overseas installations:

(1) U.S. Military Postal Service under DoD Directive 4525.6.[6] Use of the free intra-theater delivery system (IDS) is authorized for all routine mail sent and received between APOs/FPOs within a theater.

(2) AUTOVON and AUTODIN as approved on a case-by-case basis.

(3) Certificates of nonavailability, if required by the designated property administrator, when items of office equipment or furniture requested by the banking facility are unavailable for loan on memorandum receipt.

(4) Vehicle registration and purchase of fuel from Government-owned facilities for bank-operated vehicles if not in conflict with host country agreements. Vehicle registrations shall be subject to normal fees.

(5) Public quarters to key banking facility personnel unable to find suitable, reasonably priced housing in the vicinity of the DoD installation. Rent charged shall be in accordance with 32 CFR Part 288.

(6) Travel of U.S.-based banking institution officials to their overseas onbase offices as set forth in DoD Directive 4000.6.[7] Invitational travel orders that authorize travel at no expense to the U.S. Government may be issued by the local commander for official onsite visits.

(7) Other support as required under the terms and conditions established during annual contract negotiations and confirmed in respective contracts. Suggestions for change may be forwarded through military channels to the DC(MS).

b. *Other Overseas Banking Offices—*

(1) Logistic support shall be negotiated with the parent banking institution and the resulting provisions incorporated into written operating agreements.

(2) Logistic support should not exceed that provided to banking offices in the United States. Whenever possible, parent banking institutions shall reimburse the DoD Component concerned for logistic support.

C. Leases of Government Real Property

1. *Government-Owned Buildings.* The lease of an existing structure to house a self-sustaining banking office shall be at

[3] See footnote 1 to § 230.4(a)(8).

[4] See footnote 1 to § 230.4(a)(8).

[5] See footnote 1 to § 230.4(a)(8).

[6] See footnote 1 to § 230.4(a)(8).

[7] See footnote 1 to § 230.4(a)(8).

appraised fair market rental value under the following terms and considerations:

a. The lease term shall not exceed 5 years, subject to renewal by mutual agreement, with the head of the DoD Component concerned reserving the right to terminate the lease under conditions specified in paragraph C.2.a., below. The banking institution shall reimburse the DoD Component concerned for GSA-assigned space at the standard level user charge.

b. When the banking institution uses its own funds to modify or renovate government building space, a lease may be negotiated for a period not to exceed 25 years. Duration of the lease shall be commensurate with the extent of the improvements as determined by the DoD Component concerned.

c. The lessee shall perform any required interior alteration and maintenance and shall pay for utilities and custodial, janitorial, and other services furnished.

2. *Government-Owned Land*—

a. Except as provided in paragraph B.2.c., above, land required for approved building construction at bank expense shall be made available by real estate lease, at minimal charge, e.g., $1.00 per year. Once determined, the charges shall be applicable for the term of the lease.

b. When a banking institution participates in the construction of a complex, such as an installation shopping mall, it shall be provided a lease covering only underlying land for the specific space to be occupied by the banking office.

c. If determined, in accordance with 10 U.S.C. 2667 to be in the Government's interest, an existing lease of land may be extended prior to expiration of its term. Passage of title to facilities will be deferred until all extensions have expired. Such extensions shall be for periods not to exceed five years. The banking institution will continue to maintain the premises and pay for utilities and services furnished in accordance with 32 CFR Part 288.

d. On a one-time basis, installation commanders may renegotiate existing leases priced at fair market value, provided consideration flows to the Government in the form of real property improvement.

e. When, under the terms of a lease, title to improvements passes to the Government, arrangements shall normally be made:

(1) By no-cost permit or license for the continued occupancy of those improvements by a nonself-sustaining banking office if it continues to be nonself-sustaining. When the square footage involved exceeds that authorized in MIL-HDBK-1190, the banking office shall be given first choice to continue occupying the excess space under a lease that provides for fair market rental for the land underlying that excess space; or

(2) By lease for continued occupancy of those improvements by a self-sustaining banking office at fair market rental value only for the land associated therewith. The lessee shall continue to maintain the premises and pay the cost of utilities and services furnished, in accordance with 32 CFR Part 288.

3. *Other Lease Considerations*—

a. The term of a lease may exceed 5 years only when a Military Department Secretary, or designee, determines that such an extended term will promote the national defense or be in the public interest, per 10 U.S.C. 2667(b)(1).

b. Leases shall include the provision that, in the event of national emergency or the following events, at the option of the Government, structures and other improvements erected thereon shall be conveyed to the Government without reimbursement or removed and the land restored to its original condition:

(1) Installation inactivation, closing, or other disposal action; or

(2) Termination of the banking institution's lease under § 230.5(i) of this part.

c. Leases executed before this part takes effect shall not be altered unless a lessee specifically requests a renegotiation under these provisions. No lease contract may be negotiated or renegotiated, nor may any rights thereunder be waived or surrendered, without compensation to the Government, except as provided in § 230.5(h) of this part.

D. Construction of Bank Buildings

Banking institution proposals to finance construction of buildings on domestic DoD installations must be processed in accordance with DoD Instruction 7700.18.[8] In support of each construction proposal, the banking institution shall provide written assurance that:

1. Management understands its potential loss of the building in the event of installation closure or other delimiting condition identified in paragraph C.3.b., above;

2. The proposed building will serve only the needs of the banking office and will not be used to house other activities; and

3. Management accepts financial responsibility for and will reimburse the U.S. Government for all costs of construction and maintenance, utilities, and other services furnished. Rates shall be established per DoD Directive 4000.6 and confirmed by a written agreement between the DoD installation and the banking institution.

E. Banking Office Termination

1. *Domestic Banking Facilities*—

a. The installation commander shall notify the DoD Component headquarters concerned when a banking facility has been placed in an inactive status and when personnel reductions at the DoD installation have reduced banking facility operations to below a justifiable level. The DoD Component shall advise the DC(MS) and the Fiscal Assistant Secretary of the Treasury so that the banking institution's authority to operate the banking facility may be terminated.

b. In general, the parent banking institution may close a banking facility after sending written notification to the Treasury Department and the installation commander not less than 90 days before the closing date. The Treasury Department will then terminate the banking institution's authority to operate the banking facility, and the DoD Component concerned shall determine the feasibility of requesting another banking institution to operate at the installation.

2. *Other Domestic Banking Offices*—

a. Requests for termination for cause shall be processed in accordance with § 230.5(i)(2) of this part.

b. Banking offices other than banking facilities may be terminated by the parent banking institution provided written notice is furnished to the installation commander not less than 90 days before the closing date.

3. *Overseas Banking Facilities Operated Under Contract*—

a. The installation (community) commander shall, through DoD Component channels, notify the DC(MS) when personnel reductions or other situations at the DoD installation (military community) have reduced banking facility activity to below a level justifying continued operation.

b. Such notifications shall indicate whether a part-time facility should be established and the number of hours and days per week that such an operation is justified.

4. *Other Overseas Banking Offices.* Terminations shall be be effected under termination clauses in respective operating agreements. Notice of intent to terminate, including the closing date, shall be forwarded by the overseas component commander per DoD Component implementing instructions. The DoD Component shall so notify the DC(MS) and Fiscal Assistant Secretary of the Treasury so that the banking institution's authority as a depositary and financial agent of the U.S. Government may be revoked.

F. Notification of Banking Offices

Each DoD Component shall ensure that every banking institution with an office at its installations receives a copy of the document that implements this 32 CFR Part 231.

Appendix B—Operations of Onbase Banking Offices

A. Services Rendered

1. *To Individuals and Nonappropriated Fund Instrumentalities*—

a. Normally, banking offices shall provide the same services at DoD installations as available locally. Service charges or fees levied for such services may not exceed those customary for the banking institution that operates the banking office, with the following exceptions:

(1) Treasury checks shall be cashed for all DoD personnel and there will be no charge to the banking office's accountholders.

(2) A reasonable charge may be made for cashing personal checks; however, checks drawn on the banking institution operating the banking office shall be cashed without charge provided sufficient collected funds are on deposit to cover such checks.

b. Counseling service shall be made available without charge to individual accountholders. Such services shall include helping customers to budget and solve financial problems. Military members in junior enlisted grades or newly married couples who apply for loans shall receive special attention and counseling.

c. In accordance with accepted banking practice, policies on loans to individuals are expected to be as liberal as possible while remaining consistent with the overall interests of the banking institution and its stockholders.

[8] See footnote 1 to § 230.4(a)(8).

(1) Onbase banking offices must strive to provide the best possible service to all customers. Offices that evidence a policy of discrimination in their loan services are in violation of this Instruction. In resolving complaints of discrimination, the installation commander shall follow procedures specified in § 230.5(g)(1) of this part.

(2) Onbase banking offices shall conform to the Standards of Fairness principles as set forth in 32 CFR Part 43a before executing loan or credit agreements. Should an onbase banking office refer a prospective borrower to an offbase office of the same institution, it shall advise the latter office that the DoD requires compliance with the Standards of Fairness before executing the loan or credit agreement.

2. *To Disbursing Officers*—

a. Banking offices are expected to provide payroll cash to military disbursing offices, upon request. Local operating funds may be expended if the banking office requests reimbursement for costs incurred.

b. When so authorized, banking offices shall accept deposits for credit to the Treasury's General Account.

B. Staffing

1. Onbase banking offices are expected to be adequately staffed commensurate with banking industry standards for similar numbers of accountholders and financial services rendered. Staffing at overseas banking facilities operated under contract shall be maintained within negotiated ceilings.

2. Remote service locations at the same installation may be staffed with one person alone, provided that there is a direct courier or message service to the main onbase banking office.

3. All staffing shall fully comply with the spirit and intent of the DoD equal employment opportunity policies and programs, in accordance with 32 CFR Part 191.

4. Neither active duty military personnel nor DoD civilian employees may be detailed to duty or employment with an onbase banking office. However, off-duty DoD personnel may be employed by a banking office if approved by the installation commander following a determination that such employment will not interfere with the full performance of the individual's official duties.

C. Hours of Operation

1. *General.* Onbase banking offices may conduct operations during normal duty hours provided they do not disrupt the performance of official duties. Banking offices should set operating hours that meet the needs of all concerned. ATMs may be used to provide expanded service and operating hours.

2. *Overseas Banking Facilities Operated Under Contract.* Although respective contracts limit the number of operating hours per week, installation (community) commanders and banking facility managers are encouraged to agree on the specific days and hours of operation that best meet local needs.

a. Operating days negotiated locally may include Saturdays and operating hours may include evening hours when necessary to complement or parallel other retail services available to DoD personnel, provided the contractor agrees to provide such service at no additional cost to the Government.

b. When cost implications are involved, the installation (community) commander shall forward his request for expanded or modified days or hours of operation, with a justification therefor, through military channels for consideration by the DC(MS).

D. Deposit Insurance

Domestic onbase banking offices must provide insurance coverage by the FDIC (for commercial banks and certain savings banks) or FSLIC (for certain savings banks and all other savings associations as defined in 32 CFR Part 231. A banking office not maintaining such insurance shall be suspended from onbase operation.

E. Allotments of Pay

DoD personnel may use their allotment of pay privileges as authorized by 32 CFR Parts 59 and 89 to establish sound credit and savings practices through onbase banking offices.

1. The banking institution shall credit customer accounts not later than the value date of the allotment check or electronic funds transfer.

2. Under no circumstances shall the initiation of an allotment of pay become a prerequisite for loan approval or disbursement to the banking office's customer. Allotments voluntarily consigned to a banking office shall continue at the option of the allotter.

F. Advertising

1. Advertising of onbase banking services shall be in harmony with applicable policies continued in 32 CFR Part 43.

2. Advertising in official Armed Forces newspapers and periodicals (32 CFR Parts 297 and 248) is prohibited with the exception of insert advertising in the *Stars and Stripes* overseas.

3. 32 CFR Part 37a precludes use of the Armed Forces Radio and Television Service to promote a specific financial institution.

4. An onbase banking office may use the unofficial section of that installation's daily bulletin, provided space is available, to inform DoD personnel of financial services and announce seminars, consumer information programs, and other matters of broad general interest. Announcements of free financial counseling services are encouraged. Such media may not be used for competitive or comparative advertising of, for example, specific interest rates on savings or loans.

5. An onbase banking office may use that installation's information bulletin boards for announcements of a broad general nature that complement the installation's financial counseling and thrift promotion programs. An onbase banking office may, with moderation, use that installation's message center services to distribute, announcements for display on informational bulletin boards, provided this does not overburden the distribution system.

6. Installations, to include military exchange outlets or concessionaires, shall not permit the distribution of competitive literature from other banking institutions at locations served by onbase banking offices. This does not preclude:

a. A banking institution from using mail, telecommunications or commercial advertising to serve its customers.

b. Exchange Services from distributing literature on affinity credit cards centrally acquired through competitive solicitation.

G. Supplemental Conditions for Overseas Operation

1. *General.* Overseas banking facilities shall operate under terms and conditions established at the time of annual contract negotiations and confirmed in respective contracts or contracting officer determinations.

2. *Authorized Customers.* Respective banking contracts specify personnel authorized to receive service. Additionally, overseas major commanders may approve banking services for other individuals and organizations that qualify for individual logistic support under the regulations of the DoD Component concerned, provided that use of banking services is not precluded by status of forces agreement, other intergovernmental agreement, or local law.

3. *Services Rendered.* Services to be rendered and related charges shall be specified in respective contracts. Suggestions for expansion or modification of authorized services, fees, or charges may be forwarded through military channels to the DC(MS). Proposals for any new service must be coordinated with the appropriate Unified Commander and U.S. Chief of Diplomatic Mission or U.S. Embassy to make certain that the proposal does not conflict with status of forces agreements or host-country law.

4. *Acceptance of Services Rendered.* DoD Component regulations implementing this Instruction shall require each commander of an installation (military community) with a banking facility, or designee, to:

a. Review monthly income, expense, and activity statements provided by full-time banking facilities.

b. Report to the banking facility manager within 7 calendar days of discovery, and deficiency in the delivery of contractual banking services. If the deficiency is not remedied within 30 calendar days, the commander shall report the matter through military channels to the DC(MS).

5. *Other Operating Conditions*—

a. Both the banking facility contractor and DoD disbursing officers shall ensure that cash management practices minimize the cash required to conduct business.

b. Banking facility provision of foreign currencies shall be in accordance with DoD Directive 7360.11.[9]

c. When military payment certificates are prescribed for the area in which the overseas banking facility is operating, they shall be used in accordance with DoD Directive 7360.5 [10] and any DoD Component regulations implementing that issuance.

[9] See footnote 1 to § 230.4(a)(8).

[10] See footnote 1 to § 230.4(a)(8).

d. Overseas major commanders shall cooperate with banking facility contractors in planning for the provision or termination of banking services in the event of hostilities or other emergencies.

6. *Other Overseas Banking Offices*—

a. Operating agreements executed under § 230.5(d) of this part shall specify authorized customers, services rendered and related charges, and conditions of operation. To the extent feasible, services and charges shall be negotiated to parallel those provided by banking facilities operated under the DoD banking contracts.

b. Before such agreements are executed, they shall be coordinated with the Unified Commander, or designee and the DoD Component concerned. Upon approval, copies shall be provide to the DC(MS).

P.H. Means,

OSD Federal Register Liaison Officer. Department of Defense.

February 14, 1989.

[FR Doc. 89-4070 Filed 2-21-89; 8:45 am]

BILLING CODE 3810-01-M

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32 CFR Part 231

[DoD Directive 1000.11]

Financial Institutions on DoD Installations

AGENCY: Department of Defense.

ACTION: Proposed rule.

SUMMARY: This document proposes to revise 32 CFR Part 231 to: Accommodate changes made in response to the comments received on the previous proposed revision; eliminate reference to risk management standards; require the proposals by institutions off-base to offer services available at on-base institutions be elevated to Component headquarters level; establish policy supporting networked automated teller machines; and add cash operations to the definition of "full-service" credit unions overseas.

DATE: Comments should be received by March 24, 1989.

ADDRESS: Office of the Comptroller of the Department of Defense, Room 1A658, The Pentagon, Washington, DC 20301.

FOR FURTHER INFORMATION CONTACT: Dr. R. Adolphi, telephone (202) 697-8281.

SUPPLEMENTARY INFORMATION: The Department of Defense last published a proposed amendment on Tuesday, September 13, 1988 (53 FR 35331).

List of Subjects in 32 CFR Part 231

Armed forces, Banks, Banking, Federal buildings and facilities, Savings and loan associations.

Accordingly, 32 CFR Part 231 is proposed to be revised as follows:

PART 231—FINANCIAL INSTITUTIONS ON DOD INSTALLATIONS

Sec.
231.1 Purpose.
231.2 Applicability.
231.3 Definitions.
231.4 Objectives.
231.5 Policies.
231.6 Responsibilities.
Appendix—Guidelines for Application of the Privacy Act to Financial Institutions on DoD Installations.

Authority: 10 U.S.C. 136.

§ 231.1 Purpose.

This document revises 32 CFR Part 231. It establishes policies for financial institutions that serve DoD personnel on DoD installations worldwide. Associated procedures are contained in 32 CFR Parts 231a and 230.

§ 231.2 Applicability.

This Part applies to the Office of the Secretary of Defense (OSD), the Military Departments, the Joint Chiefs of Staff (JCS), the Joint Staff and the supporting Joint Agencies, the Unified and Specified Commands, the Inspector General of the Department of Defense (IG, DoD), the Uniformed Services University of the Health Sciences (USUHS), the Defense Agencies, and the DoD Field Activities (hereafter referred to collectively as "DoD Components").

§ 231.3 Definitions.

Automated Teller Machine (ATM). An electronic machine that dispenses cash, accepts deposits, and transfers funds among a customer's various accounts. Equipment generally is activated by a plastic debit card in combination with pushbuttons and a personal identification number (PIN). Also known as a customer-bank communication terminal. Shared access to ATMs refers to the customer's ability to use the ATM of more than one cooperating institution.

Bank/Credit Union Liaison Officer. A commissioned officer or DoD civilian employee of equivalent grade appointed by an installation (military community) commander to work with officials of the servicing financial institution and its clients. A noncommissioned officer may be appointed if he or she is the senior financial management official at the installation.

Banking Facility. A banking office located on a DoD installation and operated by a banking institution that the Treasury Department has specifically authorized, under its designation as a "depository and financial agent of the U.S. Government," to provide certain banking services at the installation. Such offices may be either self-sustaining or nonself-sustaining. Also known as a military (or community) banking facility.

Banking Institution. The organization that is chartered to operate a banking office on a DoD installation. For purposes of this Part and 32 CFR Parts 231a and 230, the term also includes savings associations as defined herein.

Banking Office. A banking facility, branch bank, or independent bank operated by a banking institution on a DoD installation. Also includes savings associations and their branches operated on a DoD installation.

Branch Bank. A separate unit chartered to operate at an on-base location geographically remote from its parent banking institution.

Credit Union. A cooperative nonprofit association, incorporated under the Federal Credit Union Act, 12 U.S.C. 1751 et seq., or similar state statute, for the purposes of encouraging thrift among its members and creating a source of credit at a fair and reasonable rate of interest.

Credit Union Branch. A subsidiary office of an existing full-service credit union.

Credit Union Facility. A facility employing a communications system with the parent credit union to conduct business at remote locations where a full-service credit union or credit union branch is impractical. Credit union facilities need not provide cash transaction services, but must disburse loans and shares via check or draft and provide competent financial counseling during normal working hours.

Defense Credit Union. A state or federally chartered credit union with a field of membership composed primarily of DoD personnel.

Discrimination. Any differential treatment in provision of services, including loan services, by a financial institution to DoD personnel and their dependents on the basis of race, color, religion, national origin, sex, marital status, age, rank, or grade. However, if uniformly applied, the amount of credit extended may be directly based upon an applicant's total income.

DoD Personnel. All military personnel; civil service employees; other civilian employees, including special Government employees of all offices, agencies, and departments performing functions on a DoD installation (including nonappropriated fund instrumentalities); and their dependents. On domestic DoD installations, retired U.S. military personnel and their dependents are included.

Domestic DoD Installation. A military installation located within a state of the

United States, the District of Columbia, or the Commonwealth of Puerto Rico.

Fair Market Rental. A reasonable charge for onbase land, buildings, or building space (i.e., property). Rental is determined by a Government appraisal, based on comparable properties in the local civilian economy. However, the appraiser shall consider that onbase property may not always be comparable to similar property in the local commercial geographic area: for example, limitation of usage and access to the financial institution by persons other than those on the installation, proximity to the community center or installation business district, the Government's right to terminate the lease or take title to improvements constructed at the financial institution's expense, and the limited consumer environment of a DoD installation.

Federal Credit Union. A credit union established and operated under authority granted by the Federal Credit Union Act, 12 U.S.C. 1751 et seq. and chartered, supervised, and periodically examined by the National Credit Union Administration.

Field of Membership. The group of people entitled to credit union membership because of a common bond of occupation or association; or employment or residence within a well-defined neighborhood, community, or rural district. The field of membership is defined in the credit union's charter by the Federal or State regulatory agency.

Financial Institution. This term encompasses any banking institution, credit union, and subordinate office or facility, each as separately defined herein.

Financial Services. Those services commonly associated with financial institutions in the United States, such as checking, share and savings accounts; funds transfers; sales of official checks, money orders, and travelers checks; loan services; safe deposit boxes; trust services; sale and redemption of U.S. Savings Bonds; and acceptance of utility payments.

Full-Service Credit Union. A credit union that provides full-time counter transaction services, to include cash operations, and is staffed during normal working hours by a loan officer, a person authorized to sign checks, and a qualified financial counselor. In overseas areas, "full service" includes cash operations where not precluded by (a) host country law or regulation, or (b) physical security requirements that cannot be resolved by the credit union or local command.

Full-Time. Refers to a banking facility or credit union branch that operates at least 5 days a week.

Independent Bank. A bank specifically chartered to operate on a DoD installation, whose directors and officers usually come from the local business and professional community. Such operations are thus differentiated from countywide or statewide branch systems consisting of a head office and one or more geographically separate branch offices.

Malpractice. Any unreasonable lack of skill or fidelity in fiduciary duties, or the intentional violation of an applicable law or regulation, or both, that governs the operations of the financial institution. A violation shall be considered intentional if the responsible officials know that an action or inaction violated a law or regulation.

National Bank. An association approved and chartered by the Comptroller of the Currency to operate a banking business.

Onbase. Refers to physical presence on a domestic or overseas DoD installation.

Operating Agreement. A mutual agreement between the DoD installation commander and onbase financial institution regarding their relationships.

Overseas DoD Installation. A military installation (or community) located outside the states of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

Part-Time. Refers to a banking facility or credit union branch that operates fewer than 5 days a week, exclusive of additional payday service.

Regulatory Agency. Includes the Office of the Comptroller of the Currency; the Federal Deposit Insurance Corporation; the Federal Home Loan Bank Board; the several Federal Reserve Banks and the Board of Governors of the Federal Reserve System; the National Credit Union Administration; the various state agencies and commissions that oversee financial institutions; and, for banking facilities, the Fiscal Assistant Secretary of the Treasury.

Savings Association. A state or federally chartered mutual or stock savings institution, to include savings and loan associations, building and loan associations, homestead associations, and savings banks.

Share Draft. A negotiable or nonnegotiable draft or other order prepared by a credit union member and used to withdraw shares from a share draft account, normally through the commercial banking system.

State Bank. An institution, organized and chartered under the laws of a state of the United States, to operate a banking business within that state.

State Credit Union. An institution, organized and chartered under the laws of a state of the United States, that operates under the same general principles as a Federal credit union and is supervised and examined by a state regulatory agency or commission.

§ 231.4 Objectives.

The objectives of this Part are to ensure that:

(a) Arrangements for the provision of services by financial institutions are consistent among the DoD components.

(b) Financial institutions operating on DoD installations provide, and are provided, subpart consistent with the policies stated herein.

§ 231.5 Policies.

(a) Duly chartered financial institutions may be authorized to provide services, where demonstrated and justified needs exist, to facilitate the administration of public and quasi-public monies and enhance the morale and welfare of DoD personnel.

(b) Financial institutions shall be established on DoD installations only after approval by the appropriate regulatory agency and the DoD Component concerned.

(1) Independent or branch banks, full-service credit unions, and savings associations are the preferred sources of onbase service at domestic installations.

(2) Banking facilities shall be established on DoD installations only when a demonstrated and justified need cannot be met through other means. Normally, banking facilities shall be used only at overseas locations and in states that prohibit branch banking. In times of mobilization, it may become necessary to designate additional banking facilities as an emergency measure. Upon recommendation by a DoD Component, banking facilities are designated by the Treasury Department under authority contained in 12 U.S.C. 265.

(3) The extension of banking facility and credit union services overseas is encouraged, consistent with the policies stated herein and with pertinent status of forces agreements, bilateral arrangements, and local laws.

(4) Retail banking operations shall not be performed by DoD activities. DoD Components shall rely on commercially available sources in accordance with 32 CFR Part 169. However, proposals to seek the provision by off-base institutions of financial services available from existing onbase institutions shall be approved by the DoD Component headquarters in consultation with the DoD Comptroller.

(c) Financial institutions authorized to locate on DoD installations shall be

provided logistic support as set forth in 32 CFR Parts 231a and 230.

(d) Military disbursing offices, nonappropriated fund instrumentalities, and other DoD installation activities shall use onbase financial institutions to the maximum extent feasible and consistent with sound management practice.

(e) DoD personnel who tender uncollectible checks, overdraw their accounts or fail to meet their financial obligations in a proper and timely manner damage their credit reputation and affect the public image of all DoD personnel. Furthermore, losses sustained by financial institutions on DoD installations as a result of these actions increase operating costs and may reduce the institutions' viability. Such added operating costs must be borne by other customers and, in some cases, may increase the cost to the Government of providing onbase financial services. Military financial counselors or legal advisors shall recommend workable repayment plans that avoid further endangering credit ratings and careers of affected personnel. Counselors shall ensure that such personnel are aware of the stigma associated with bankruptcy and shall recommend its use only as a last resort, when no other alternative will alleviate the situation.

(f) It is DoD policy to support the delivery of retail financial services on DoD installations via automated teller machines (ATMs) that have connectivity to regional or national networks, e.g., the Armed Forces Financial Network. Unsolicited proposals to install ATMs from other than onbase financial institutions may be considered under the following circumstances:

(1) If the proposal offers ATM service with network connectivity, the installation commander shall determine whether the existing ATM(s) on the installation has network connectivity.

(2) If the existing ATM(s) provides network connectivity, no further action is appropriate. If the existing ATM(s) does not provide network connectivity, the onbase financial institution shall be given a reasonable period of time to provide such connectivity.

(3) If ATM service is unavailable or if existing onbase ATM service does not provide network connectivity after a reasonable period of time, the installation commander may arrange with another financial institution for ATM network connectivity, with lease of space under terms stated in 32 CFR Parts 231a and 230.

(g) The termination of operations by an onbase financial institution shall be initiated by a DoD Component only under one of the following conditions:

(1) The mission of the installation has changed, or is scheduled to be changed, thereby eliminating or substantially reducing the requirement for financial services.

(2) Active military operations preclude continuation of onbase financial services.

(3) The performance of the financial institution in providing services is not satisfactory according to standards ordinarily associated with the financial services industry or is consistent with the procedures prescribed in 32 CFR Parts 231a and 230. Termination actions begun on the basis of inadequate performance shall be substantiated by sufficient evidence. Such actions shall be coordinated with the appropriate regulatory agency and the Comptroller of the Department before being carried out.

§ 231.6 Responsibilities.

(a) The *Comptroller of the Department of Defense* (C, DoD)) shall:

(1) Develop and monitor policies and procedures governing establishment, operation, and termination of financial institutions on DoD installations.

(2) Monitor industry trends, conduct studies and surveys, and facilitate appropriate dialogues on banking and credit union arrangements and cost-benefit relationships, coordinating as necessary with DoD Components, financial institutions, and trade associations.

(3) Maintain liaison, as appropriate, with financial institution regulatory agencies at Federal and State levels.

(4) Maintain liaison with financial institution trade associations, leagues, and councils in order to interpret DoD policies toward respective memberships and to aid in resolving mutual concerns affecting provision of financial services.

(5) Coordinate with the Assistant Secretary of Defense (Force Management and Personnel) on all aspects of morale and welfare and Assistant Secretary of Defense (Acquisition and Logistics) on all aspects of logistic support for onbase financial institutions.

(6) Take final action on requests for exceptions to this Part.

(b) *The Assistant Secretary of Defense (Production and Logistics)* (ASD(P&L)) shall develop and monitor policies and procedures governing logistic support furnished to financial institutions on DoD installations, including the use of DoD real property and equipment.

(c) The *Assistant Secretary of Defense (Force Management and Personnel)* (ASD(FM&P)) shall advise the DoD Comptroller on all aspects of onbase financial institution services that affect the morale and welfare of DoD personnel.

(d) The *Heads of DoD Components* shall:

(1) Take action on requests to establish or terminate financial institution operations on respective installations subject to the provisions of 32 CFR Parts 231a and 230.

(2) Supervise and encourage the use of financial institutions on DoD installations as a means to:

(i) Facilitate convenient, effective management of the appropriated, nonappropriated, and private funds of onbase activities.

(ii) Assist DoD personnel in managing their personal finances by participating in direct deposit programs and regular savings plans. Use of onbase financial institutions shall be on a voluntary basis and should not be urged in preference to, or to the exclusion of, other financial institutions.

(3) Recognize the right of military personnel and civilian employees to organize and join credit unions formed under duly constituted authority, and encourage the application and expansion of the principles of the credit union movement throughout the DoD establishment.

(4) Encourage and assist duly chartered financial institutions to provide complete financial services on DoD installations where there is a demonstrated need for such services.

(5) Establish liaison, as appropriate, with Federal and State regulatory agencies and financial institution trade associations, leagues, and councils.

(6) Provide debt processing to onbase financial institutions inaccordance with the Privacy Act guidelines set forth in the Appendix to this Part.

Appendix—Guidelines For Application of the Privacy Act To Financial Institutions on DoD Installations

A. The following guidelines govern application of 32 CFR Part 286a to those financial institutions that operate under this part.

1. Financial institutions and their branches and facilities operating on DoD military installations do not fall within the purview of 12 U.S.C. 1751 et seq.

a. These financial institutions do not fit the definition of "agency" to which the Privacy Act applies: ". . . any executive department, Military Department, Government corporation, Government-controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or an independent regulatory agency" (5 U.S.C. 552(e) and 552a(a)(1)).

b. Nor are they "government contractors" within the meaning of 5 U.S.C. 552a(m) as

they do not operate a system of records on behalf of an agency ". . . to accomplish an agency function." According to the Office of Management and Budget Privacy Act Guidelines, the provision relating to Government contractors applies only to systems of records ". . . actually taking the place of a Federal system which, but for the contract, would have been performed by an agency and covered by the Privacy Act." Clearly, the subject institutions do not meet these criteria.

c. Since the Act does not apply to them, these financial institutions are not required to comply with the provision of 5 U.S.C. 552a(e)(3) in obtaining and making use of personal information in their relationships with personnel authorized to use such institutions. Thus, these institutions are not required to inform individuals from whom information is requested of the authority for its solicitation, the principal purpose for which it is intended to be used, the routine uses that may be made of it, or the effects of not providing the information. There also is no requirement to post information of this nature within onbase banking and credit union offices.

2. The financial institutions concerned hold the same position and relationship to their accountholders and members and to the Government as they did before enactment. Within their usual business relationships, they still are responsible for safeguarding the information provided by their accountholders or members and for obtaining only such information as is reasonable and necessary to conduct business. This includes credit information and proper identification, which may include social security number, as a precondition for the cashing of checks.

3. Financial institutions may incorporate the following conditions of disclosure of personal identification in all contracts, including loan agreements, account signature cards, certificates of deposit agreements, and any other agreements signed by their accountholders or members:

I hereby authorize the Department of Defense and its various Departments and Commands to verify my social security number or other identifier and disclose my home address to authorized (name of financial institution) officials so that they may contact me in connection with my business with (name of financial institution). All information furnished will be used solely in connection with my financial relationship with (name of financial institution).

When the financial institution presents such signed authorizations, the Military Commands or installations shall provide the appropriate information.

4. Even though the agreement described in subsection A.3., above, has not been obtained, the Department of Defense may provide these financial institutions with salary information and, when pertinent, the length or type of civilian or military appointment, consistent with the Privacy Act and Freedom of Information Act, 32 CFR Parts 286a and 285. Some examples of personal information pertaining to DoD personnel that can normally be released without creating an unwarranted invasion of personal privacy are name, rank, date of rank, salary, present and past duty assignments, future assignments that have been finalized, office phone number, source of commission, and promotion sequence number.

5. When DoD personnel with financial obligations are reassigned and fail to inform the financial institution of their whereabouts, they should be located by contacting the individual's last known commander or supervisor at the official position or duty station within that particular DoD Component. That commander or supervisor shall either furnish the individual's new official duty location address to the financial institution, or shall forward, through official channels, any correspondence received pertaining thereto to the individual's new commander or supervisor for appropriate assistance and response. Correspondence addressed to the individual concerned at his or her last official place of business or duty station shall be forwarded as provided by postal regulations to the new location, but the individual may choose not to respond. However, once an individual's affiliation with the Department of Defense is terminated through separation or retirement, the locator assistance the Department may render in the disclosure of home address is severely curtailed unless the public interest dictates disclosure of the last known home address. The Department of Defense may, at its discretion, forward correspondence to the individual's last known home address. The individual may choose not to respond; and the Department may not act as an intermediary for private matters concerning former DoD personnel who are no longer affiliated with it.

B. Questions concerning this guidance should be forwarded through channels to the Deputy Comptroller (Management Systems) (DC(MS)), Office of the Comptroller of the Department of Defense, The Pentagon, Washington, DC 20301-1100.

L.M. Bynum,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

February 14, 1989.

[FR Doc. 89-4071 Filed 2-21-89; 8:45 am]

BILLING CODE 3810-01-M

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32 CFR Part 231a

[DoD Instruction 1000.10]

Procedures Governing Credit Unions on DoD Installations

AGENCY: Department of Defense.

ACTION: Proposed rule.

SUMMARY: This document proposes to revise 32 CFR Part 231a to: Accommodate changes made in response to the comments received on the previous proposed revision; eliminate proposed definition of ATMs as credit union (CU) facilities; delete proposed use of "active duty" in the 95 percent rule; authorize commanders with available funds to consider proposals to acquire ATMs; eliminate the 25 year limitation on leases covering land for credit union-constructed buildings; provide for outleases of land at nominal cost; and confirm that Exchange Services may distribute literature on affinity credit cards.

DATE: Comments should be received by March 24, 1989.

ADDRESS: Office of the Comptroller of the Department of Defense, Room 1A658, The Pentagon, Washington, DC 20301.

FOR FURTHER INFORMATION CONTACT: Dr. R. Adolphi, telephone (202) 697-8281.

SUPPLEMENTARY INFORMATION: Department of Defense last published a proposed amendment on Tuesday, September 13, 1988 (53 FR 35331).

List of Subjects in 32 CFR Part 231a

Armed forces; Banks, Banking, Federal buildings and facilities, Savings and loan associations.

Accordingly, 32 CFR Part 231a is proposed to be revised as follows:

PART 231a—PROCEDURES GOVERNING CREDIT UNIONS ON DOD INSTALLATIONS

Sec.
231a.1 Purpose.
231a.2 Applicability and scope.
231a.3 Definitions.
231a.4 Responsibilities.
231a.5 General operating policies and procedures.

Appendix-Operations of Defense Credit Unions

Authority: 10 U.S.C. 136.

§ 231a.1 Purpose.

This document revises 32 CFR Part 231a and provides procedural guidance to supplement 32 CFR Part 231 concerning relations with credit unions serving on DoD installations.

§ 231a.2 Applicability and scope.

(a) This part applies to the Office of the Secretary of Defense (OSD), the Military Departments, the Joint Chiefs of Staff (JCS), the Joint Staff and the supporting Joint Agencies, the Unified and Specified Commands, the Inspector General of the Department of Defense (IG, DoD), the Uniformed Services University of the Health Sciences (USUHS), the Defense Agencies, and the DoD Field Activities (hereafter referred to collectively as "DoD Components").

(b) Its provisions also pertain to all credit unions and military exchange outlets that operate on DoD installations.

§ 231a.3 Definitions.

Terms used in this part are defined in 32 CFR § 231.3.

§ 231a.4 Responsibilities.

(a) The Comptroller of the Department of Defense (C, DoD) or designee, the Deputy Comptroller (Management Systems) (DC(MS)), shall:

(1) Coordinate the DoD credit union program, consulting on apsects that pertain to the morale and welfare of DoD personnel with the Assistant Secretary of Defense (Force Management and Personnel).

(2) Maintain Liaison, as necessary, with the National Credit Union Administration (NCUA) and equivalent State regulatory agencies.

(3) Coordinate on DoD Component actions that propose a credit union's removal for cause from an installation before final decision and referral to the appropriate regulatory agency.

(4) Take final action on requests for exception to the provisions of this part.

(b) The Assistant Secretary of Defense (Production and Logistics) (ASD(P&L)) shall carry out responsibilities outlined in § 231.6(b) of 32 CFR Part 231.

(c) The Assistant Secretary of Defense (Force Management and Personnel) (ASD(FM&P)) shall carry out responsibilities outlined in § 231.6(c) of 32 CFR Part 231.

(d) The Secretaries of the Military Departments and Director of Defense Agencies shall:

(1) Supervise the use of credit unions on respective DoD installations within the guidance contained herein and in 32 CFR Part 231.

(2) Assist respective onbase credit unions in developing and expanding necessary services for DoD personnel, consistent with the provisions stated herein.

(3) Encourage DoD personnel to serve on credit union boards and committees on a voluntary basis, without compensation, when neither conflict of duty nor conflict of interest is involved, as stated in 32 CFR Part 40. Such personnel may be allowed to attend credit union conferences and meetings in accordance with DoD Directive 1327.5,[1] Civilian Personnel Manual (CPM) Supplement 990-2, and CompGen Decision B-212457.

(4) Ensure that the recommendations of the Unified of Specified Command concerned are considered before processing requests for overseas credit union service or related actions emanating from overseas component commands.

(5) Refer matters requiring policy decisions or proposed changes to the provisions of this Part or 32 CFR Part 231 to the DC(MS).

(e) The Commanders of Unified and Specified Commands, or designees, shall:

(1) Ensure the appropriate coordination of requests to:

(i) Establish credit union service in countries not presently served. Such requests shall include a statement that the requirement has been coordinated with the U.S. Chief of Diplomatic Mission or U.S. Embassy and that the host country will permit the operation.

(ii) Totally eliminate credit union service in a country. Such requests shall include a statement that the U.S. Chief of Diplomatic Mission has been informed and that appropriate arrangements to coordinate local termination announcements and procedures have been made with the U.S. Embassy.

(2) Monitor and coordinate credit union operations within the command area. Personnel assigned to security assistance positions shall not serve in this capacity without the prior approval of the Director, Defense Security Assistance Agency (DSAA).

§ 231a.5 General operating policies and procedures.

(a) *General.* Given their unique role in promoting morale and welfare, credit unions operating on DoD installations shall be recognized and assisted by DoD Components at all echelons. These credit unions shall provide services to DoD personnel of all ranks and grades within their respective fields of membership.

(b) *Limitation on service.* (1) Only one credit union shall establish a branch or facility on a DoD installation, and its field of membership normally shall include all assigned DoD personnel. On installations where more than one credit union already exists, each is entitled to the benefits defined in this part.

(2) As described in section G., Appendix to this part, commanders of installations served by onbase credit unions shall ensure that installation activities do not disseminate literature from competing credit unions.

(c) *Establishing domestic credit union service.* (1) A demonstrated need for credit union services may be addressed by establishing a new full-service credit union or by opening a branch office or facility of an existing credit union under the common bond principle.

(2) Each DoD Component shall develop internal instructions, consistent with the following, that govern the submission and justification of requests to establish credit unions on respective installations.

(i) DoD personnel seeking to establish a new full-service credit union or a branch or facility of an existing credit union shall submit a proposal to the installation commander. Such proposals shall be forwarded through channels to the DoD Component headquarters concerned, together with recommendations for acceptance or rejection.

(ii) The DoD Component shall notify credit unions that operate on DoD installations of the need for service; review the specific proposals of interested credit unions; coordinate with its field commands as appropriate; and recommend for approval the designation of a credit union to the appropriate regulatory agency, providing an information copy to the DC(MS). No specific NCUA approval is required for a Federal credit union to open a branch office.

(iii) No commitment may be made to a credit union regarding its proposal until the appropriate regulatory agency has announced a selection.

(d) *Establishing overseas credit union service.* (1) When the installation (community) commander determines that credit union services are needed at a location within an existing geographic franchise (see paragraph H.2., Appendix to this part), and the DoD Component headquarters concurs, it shall contact the servicing Defense credit union and request that a branch or facility be established. The basic decision concerning such extensions of service rests with the credit unions. If the geographic franchise has not previously been designated by NCUA, the DoD Component shall canvass federally-chartered Defense credit unions for proposals to establish a branch or facility.

(2) In addition to the requirements stated in § 231a.5(b)(2), installation commanders shall provide the following information in support of requests to their DoD Component headquarters for overseas credit union service:

(i) In countries not presently served, a statement concurred in by the Unified Commander that the requirement has been coordinated with the U.S. Chief of Diplomatic Mission or U.S. Embassy and that the host country will permit the operation, with any conditions imposed by the host-country identified.

(ii) The name and location of the nearest credit union branch or facility.

(iii) The distance between the installation and the nearest credit union

[1] Copies may be obtained if needed, from the U.S. Naval Publications and Forms Center, Attn: Code 1062, 5801 Tabor Avenue, Philadelphia, PA 19120.

branch or facility and the availability of any official or public transportation.

(iv) The number of DoD personnel in duty assignments that confine them to the installation, or who cannot obtain transportation (such as hospital patients).

(3) In reviewing proposals received from Federal Defense credit unions under § 231a.5(d)(1), the DoD Component shall give preference to proposals for full-service credit union operations. After coordination with the DC(MS), the DoD Component shall recommend designation of the selected credit union to the NCUA.

(4) Recommendations to the NCUA shall include identification of the primary installation from which the proposed branch would operate and the geographical territory in which any additional branches, facilities, or mobile outlets would operate.

(5) No commitment may be made to a credit union regarding its proposal until the NCUA announces its selection. The DoD Component shall then notify the DASD(MS) of NCUA approval and arrange for operations to begin.

(e) *Operating agreements.* An operating agreement, conforming to the guidelines set forth herein, shall be executed and maintained between each installation (community) commander and the onbase credit union.

(1) Each agreement shall be confined to basic relationships and mutual support activities and may not involve internal operations of the credit union. The installation commander shall agree to provide support as specified in this part. A sample format is contained in DoD 4000.19-R.[2]

(2) Each credit union operating on a DoD installation shall agree to:

(i) Comply with this part, 32 CFR Part 231, and DoD Component regulations that implement these issuances;

(ii) Keep the installation commander advised of credit union operations;

(iii) Give the installation commander a copy of its monthly financial report and other local credit union publications;

(iv) Invite command representatives to attend its annual meetings and other appropriate functions;

(v) Indemnify and hold harmless the U.S. Government from (and against) any loss, expense, claim, or demand to which the Government may be subjected as a result of death, loss, destruction, or damage in conjunction with the use and occupancy of premises of the DoD Component in any way caused by agents or employees of the credit union;

(vi) Maintain physical security of cash and negotiable items in a manner consistent with the requirements of the credit union's fidelity insurer. A copy of these requirements shall be provided to the installation commander upon request.

(vii) Accommodate, whenever possible, local command requests for lecturers and printed materials for consumer credit education programs. Credit union personnel invited to participate in such programs shall not use the occasion to promote the exclusive services of a particular financial institution;

(viii) Provide that neither the DoD Component concerned nor its representatives shall be responsible for the financial operation of a credit union or for any expense, loss (including criminal losses), or claim for damages arising from credit union operations; and

(ix) Operate in accordance with the guidelines at Appendix to this part and comply with other provisions of this part, with 32 CFR Part 231, and with their DoD Component implementing regulations.

(f) *Liaison officers.* To maintain effective lines of communication, each commander of an installation with an onbase credit union shall appoint a credit union liaison officer as defined at Appendix A of 32 CFR Part 231.

(1) The credit union liaison officer's name and duty telephone number shall be displayed in the lobby of each onbase credit union location.

(2) The liaison officer shall maintain regular contact with the credit union manager to confer, help resolve member complaints, and discuss quantitative and qualitative improvements in the services provided. However, neither liaison officers nor their superiors shall become involved in the internal operations of the credit union.

(3) No one on the board of directors serving the credit union in another official capacity may serve as the credit union or bank liaison officer.

(g) *Complaints processing*—(1) *Discrimination.* Any installation commander who suspects or receives complaints of discrimination by the onbase credit union shall try to resolve any such problem by negotiation. The installation commander should consider using the credit union's supervisory committee in resolving the complaint. Failing resolution, and in accordance with DoD Component implementing regulations, a written request for investigation shall be forwarded to the appropriate regulatory agency. The request must document the problem and local command efforts toward resolution. Information copies of all related correspondence shall be sent through channels to the DoD Component concerned for transmittal to the DC(MS).

(2) *Malpractice.* The installation commander shall report to the appropriate regulatory agency any evidence suggesting malpractice by credit union personnel, in accordance with DoD Component regulations.

(3) *Follow-up.* A DoD Component unsatisfied with action taken by the appropriate regulatory agency shall submit a full report with recommendations to the DC(MS). The DC(MS) shall pursue the matter with the appropriate regulatory agency and apprise the respective DoD Component of progress or resolution.

(h) *Logistic support*—(1) *Membership criterion.* (i) In accordance with section 124 of the Federal Credit Union Act, the provision of no-cost office space and other real property is limited to credit unions having a membership at least 95 percent of which is composed of individuals who are, or who were at the time of admission into the credit union, military personnel or Federal employees, or members of their families. This percentage criterion applies to the total credit union membership, not just to members who use the onbase office.

(ii) Prior to renewal of each no-cost lease or license, the credit union shall provide a written certification, prepared on credit union letterhead and signed either by its president or general manager, that the credit union continues to meet the 95 percent criterion. A certification also is required whenever there is a merger, takeover or significant change in a field of membership. This certification shall serve as justification and documentation for the continued allocation of free Government space, and other real property, including space renovated or constructed with credit union funds.

(2) *Criterion for use of space in Government-owned buildings.* (i) A credit union may be provided space on a DoD installation at one or more locations by no-cost permits or licenses for periods not to exceed 5 years, as prescribed in DoD Directive 4165.6.[3] The cumulative total of space authorized at one or more locations is subject to the limitations contained in MIL-HDBK-1190.

(ii) A credit union that fails to meet the 95 percent criterion shall be charged fair market rent for space provided. No credit union whose field of membership excludes any DoD personnel assigned

[2] Copies may be obtained, at cost, from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

[3] See footnote 1 to § 231a.4(d)(3).

on the installation shall receive free Government space. This latter limitation is waived in cases when an installation is served by more than one credit union.

(iii) All space assigned by the GSA, whether leased or in Federal office buildings, is reimbursable to the GSA at the standard level user charge under Pub. L. 92-313. Consequently, the GSA shall charge the benefiting DoD Component for any space assigned for credit union operations. Such space is then subject to the provisions of § 231a.5(h)(2) (i) and (ii).

(iv) When a credit union that meets the 95 percent criterion uses its own funds to expand, modify, or renovate Government-owned space, it may be provided a no-cost permit or license for a period not to exceed 25 years.

Duration of the permit or license shall be commensurate with the extent of the improvements as determined by the DoD Component concerned. It shall be effective until the agreed date of expiration or until the credit union ceases to satisfy the 95 percent criterion. In this latter case, the no-cost permit shall be cancelled in favor of a lease immediately negotiated at fair market value under the provisions of § 231a.5(h)(2)(i). If the credit union desires, this lease at fair market value may extend through the period identified in the original license, or five years, whichever is greater.

(v) Similarly, a credit union not meeting the 95 percent criterion that uses its own funds to expand, modify or renovate Government-owned space, may be provided a lease at the fair market value for a period not to exceed 25 years. Duration of this lease shall be commensurate with the extent of the improvements as determined by the DoD Component concerned.

(3) *Utilities, base services, and equipment.* (i) When available, janitorial services, utilities (such as air-conditioning, heat, and light), fixtures, and maintenance shall be furnished at no cost to a credit union occupying free space in a Government building. The credit union shall pay for other services, such as telephone lines, long-distance toll calls and space alterations. Should a credit union fail to meet the 95 percent membership criterion, any logistic support furnished shall be on a reimbursable basis.

(ii) When available from local stock, typewriters, adding machines, other office equipment and office furniture may be leased to an onbase credit union at nominal cost, i.e., $1.00 per year, under authority of 10 U.S.C. 2667.

(iii) Central locator service shall be provided under conditions identified at Appendix B of 32 CFR Part 231 when requested by Defense credit unions. This service shall be provided at no cost, in accordance with 32 CFR Part 288.

(iv) DoD Components shall provide debt processing assistance to Defense credit unions, in accordance with 32 CFR Part 43a, as limited by the Privacy Act Guidelines set forth in Appendix B of 32 CFR Part 231. Unless otherwise prohibited, Defense credit unions seeking restitution for delinquent loans or dishonored checks may request the assistance of local commanders, credit union liaison officers, or other officials.

(v) DoD Components shall prescribe clearance procedures for departing military personnel which provide the onbase credit union with adequate notice of such membership changes. Clearance involves reporting a change of address, reaffirming allotments or notes payable and arranging for counseling, if appropriate. Clearance shall not be denied to facilitate the collection of debts or the resolution of disputes between the credit union and its departing members. Where administratively feasible, similar clearance procedures shall be used for departing DoD civilian employees.

(4) *Additional support in overseas areas.* In addition to the logistic support identified above, the following may be made available to Defense credit unions operating at overseas installations:

(i) Military postal service may be authorized, in accordance with DoD Directive 4525.6 [4] For full service credit unions, as defined in 32 CFR Part 231, use of the free intra-theater delivery system (IDS) is authorized for all routine mail sent and received between APOs/FPOs within a theater. To qualify, the credit union must certify to the appropriate postal official that all its full-time overseas offices are "full service."

(ii) AUTOVON and AUTODIN may be provided on a case-by-case reimbursable basis.

(iii) Travel of U.S.-based credit union officials to their overseas offices shall be as set forth in DoD Directive 4000.6 [5]. Invitational travel orders that authorize travel at no expense to the U.S. Government may be issued by the local commander for official onsite visits.

(iv) For full service credit unions, as defined in 32 CFR Part 231, logistical support shall include steel bars grillwork, security doors, a vault of safe (or both), burglar alarm system, other security features normally used by credit unions, construction of teller cages, and other necessary modifications and alternations to existing building to facilitate cash operations, under authority of DoD Directive 4270.24 [6].

(i) *Construction of credit union buildings.* (1) Credit union proposals to finance construction of buildings on domestic DoD installations at their own expense must be processed in accordance with DoD Instruction 7700.18 [7]. In support of each construction proposal, the credit union shall provide written assurance that:

(i) Management understands its potential loss of the building in the event of installation closure or other delimiting condition specified in § 231a.5(j)(1).

(ii) The proposed building will serve only the needs of the credit union and will not be used to house other activities; and

(iii) Management accepts financial responsibility and will reimburse the U.S. Government for all costs of construction and any maintenance, utilities and other services furnished. Rates shall be established in accordance with 32 CFR Par 288 and confirmed by a written agreement between the DoD installation and the credit union; and

(2) Credit unions that finance building construction at their own expense do not have to meet the space criteria contained in MIL-HDBK-1190.

(j) *Leases of Government land.* (1) Except as provided in § 231a.5(h)(2)(iv), land required for approved building construction at credit union expense shall be made available by real estate lease, at minimal charge, e.g., $1.00 per year.

(i) Leases shall include the provision that, in the event of national emergency or any other event cited in § 231a.5(k)(3), and at the option of the Government, structures and other improvements erected thereon shall be conveyed to the Government without reimbursement or removed and the land restored to its original condition.

(ii) Once determined, the charges shall be applicable for the term of the lease. On a one time basis, installation commanders may renegotiate existing leases priced at fair market value, provided consideration flows to the Government in the form of real property improvements.

(2) When a credit union participates in the construction of a complex, such as an installation shopping mail, it shall be provided a lease at covering only underlying land for the specific space to be occupied by the credit union.

(3) If determined, in accordance with 10 U.S.C. 2667, to be in the

[4] See footnote 1 to § 231a.4(d)(3).

[5] See footnote 1 to § 231a.4(d)(3).

[6] See footnote 1 to § 231a.4(d)(3).

[7] See footnote 1 to § 231a.4(d)(3).

Government's interest, an existing lease of land may be extended prior to expiration of its term. Passage of title to facilities will be deferred until all extensions have expired. Such extensions shall be for periods not to exceed five years. The credit union will continue to maintain the premises and pay for utilities and services furnished in accordance with 32 CFR Part 288.

(4) When, under the terms of a lease or extension, title to improvements passes to the Government, the credit union shall be given first choice to continue occupying those improvemets under a facility lease.

(i) The lease shall require the credit union to maintain the premises and pay for utilities and services furnished in accordance with 32 CFR Part 288.

(ii) In addition, the lease for a credit union not qualifying under the 95 percent criterion cited in § 231a.5(j)(1), shall require that the credit union pay fair market rental for land underlying the improvements.

(k) *Automated teller machine (ATM) service.* (1) ATMs may be used to augment service provided by an onbase credit union. Within resource constraints, installation commanders may consider credit union proposals for the command to bear some or all of the cost of installing onbase ATMs.

(2) An onbase credit union that proposes to augment its service by installing one or more ATMs shall:

(i) Coordinate the ATM proposal through the installation commander under provisions of applicable DoD Component regulations;

(ii) Provide a statement that the cost of ATM installation (unless funded under paragraph (k)(1) of this section) and maintenance shall be borne by the credit union alone or in conjunction with other financial institutions; and

(iii) Provide for access through debit transaction cards, rather than restricting access to holders of a financial institution's credit cards.

(3) Before service begins, regulatory agency approval, and necessary, must be obtained, and leases must be negotiated in accordance with this part.

(i) No lease is needed to site an ATM within an existing credit union office.

(ii) When a credit union requests up to 100 square feet of additional floor space in an existing structure and the credit union agrees to bear all expenses for modifying to structure, a lease providing for an annual rental fee of $1.00 shall be locally negotiated and approved. This lease provision also shall be offered if a credit union requests up to 250 square feet of land to construct, at its expense, a kiosk or other structure to house an ATM. In either case, the charge for any maintenance, utilities and services shall be consistent with that applied to the onbased credit union office.

(iii) Leases pertaining to other situations shall be negotiated in accordance with § 231a.5(h)(1) and § 231a.5(i) of this part.

(l) *Termination of credit union service*—(1) *Termination of operations by the credit union.* An onbase credit union planning to terminate its operations should notify the installation commander at least 90 days before the closing date. This notification should precede public announcement of the planned closure. When appropriate, the commander shall attempt to negotiate an agreement permitting the credit union to continue operations until the installation has made other arrangements.

Immediately upon notification of a closing, the commander shall adverse the DoD Component headquarters concerned. If it is determined that continuation of credit union services is justified, action to establish another credit union shall comply with § 231a.5 (b) or (c).

(2) *Termination for cause.* If, after discussion with credit union officials, the installation commander determines that the operating policies of the credit union are inconsistent with this part, a recommendation for termination of logistic support and space arrangements may be made through DoD Component channels. A credit union shall be removed from the installation only with approval by the DoD Component headquarters, after coordination with the DC(MS) and the appropriate regulatory agency.

(3) *Termination in interest of national defense.* At the option of the Government, leases may be terminated in the event of national emergency or as a result of installation inactivation, closing, or other disposal action.

Appendix-Operations Of Defense Credit Unions

A. Staffing

1. Full services shall be provided by onbase credit unions that are staffed by:

a. A loan officer authorized to act for the credit committee;

b. An individual authorized to sign checks; and

c. A qualified financial counselor available to serve members during operating hours.

2. Exceptions to A.1., above, may be approved by the DoD Component concerned in the case of newly organized credit unions.

3. When an onbase credit union can support only minimum staffing, one of the other positions required in A.1., above, may be subsumed under the counselor duties.

4. Remote service locations at the same installation may be staffed with one person alone, provided that a direct courier or message service links them to the credit union's onbase main office.

5. All staffing shall fully comply with the spirit and intent of DoD equal employment opportunity policies and programs, in accordance with 32 CFR Part 191.

6. Neither active duty military personnel nor DoD civilian employees may be detailed to duty or employment with an onbase credit union. However, off-duty DoD personnel may be employed by a credit union if approved by the installation commander following a determination that such employment will not interfere with the full performance of the individual's official duties.

B. Counseling

Members of Defense credit unions shall have access to free counseling service. Members (particularly youthful or inexperienced personnel and young married families) shall receive help in budgeting and solving financial problems. Military members in junior enlisted grades who apply for loans shall receive special attention.

C. Lending

1. In accordance with accepted credit union practice, lending policies are expected to be as liberal as possible while remaining consistent with the best interests of the overall credit union membership. Credit unions must strive to provide the best possible service to all members.

2. Defense credit union evidencing a policy of discrimination in their loan services are in violation of this part. In resolving complaints of discrimination, the installation commander shall follow procedures specified in § 231a.5(b)(1) of this part.

3. Defense credit unions shall conform to the Standard of Fairness principles set forth in 32 CFR Part 43a before executing loan or credit agreements. Should an onbase credit union branch refer a prospective borrower to an offbase office of the same credit union, it shall advise the latter office that the Department of Defense requires compliance with the Standards of Fairness.

D. Hours of Operation

Onbase credit unions may conduct operations during normal duty hours provided they do not disrupt the performance of official duties. Credit unions should set operating hours that meet the needs of all concerned. ATMs may be used to provide expanded service and operating hours.

E. Share Insurance

Credit unions serving on DoD installations must maintain adequate share insurance. Any share insurance that is at least equal to that required by the NCUA for Federal credit unions may be obtained through the NCUA, a State-sponsored insurance program, or a private insurance plan to satisfy this requirement. A credit union not maintaining share insurance shall be suspended from onbase operations.

F. Allotments of Pay

DoD personnel may use their allotment of pay privileges as authorized by 32 CFR Part 59 and 32 CFR Part 89 to establish sound

credit and savings practices through Defense credit unions.

1. The credit union shall credit member accounts not later than the value date of the allotment check or electronic funds transfer.

2. Under no circumstances shall the initiation of an allotment of pay become a prerequisite for loan approval or disbursement to credit union member. Allotments voluntarily consigned to a credit union shall continue at the option of the member.

G. Advertising

1. Advertising of onbase credit union services shall be in accordance with policies set forth in 32 CFR Part 43.

2. Advertising in official Armed Forces newspapers and periodicals (32 CFR Parts 297 and 248) is prohibited, with the exception of inserts in the *Stars and Stripes* overseas.

3. 32 CFR Part 372a precludes use of the Armed Forces Radio and Television Service to promote a specific credit union.

4. Onbase credit unions may use the unofficial section of the installation daily bulletins, provided space is available, to inform DoD personnel of financial services and announce membership meetings, seminars, consumer information programs, and other matters of broad general interest. Announcement of free financial counseling services are encouraged. Such media may not be used for competitive or comparative advertising of, for example, specific interest rates on savings or loans.

5. An onbase Defense credit union may use that installation's information bulletin boards for announcements of membership meetings and promotional materials generally complementing the installation's financial counseling and thrift promotion programs. An onbase credit union may, with moderation, use that installation's message center services to distribute announcements for display on informational bulletin boards, provided this does not overburden the distribution system.

6. Installations, to include military exchange outlets or concessionaires, shall not permit the distribution of competitive literature from other credit unions at locations served by onbase credit unions. This does not preclude:

a. A credit union from using mail, telecommunications or commercial advertising to serve its field of membership in another credit union's area, or

b. Exchange services from distributing literature on affinity credit cards centrally acquired through competitive solicitation.

H. Overseas Operations

1. An overseas credit union branch or facility shall be limited to onbase operations. It shall confine its field of membership to individuals or organizations eligible by law or regulation to receive services and benefits from the installation, not precluded from receiving these services by inter-governmental agreement or host-country law.

2. Credit unions serving overseas shall have a prescribed territorial franchise. However, any credit union may continue to serve its members stationed overseas by mail or telecommunications.

3. Any proposal for a new service must be coordinated with the appropriate Unified Commander and U.S. Chief of Diplomatic Mission or U.S. Embassy to ensure that it does not conflict with status of forces agreements or host-country law.

4. *Cash operations.* a. Credit unions that operate full service branches, as defined in 32 CFR Part 231, shall have U.S. currency and coin available for member transactions. In areas served by currency custody accounts, transactional U.S. currency and coins shall be made available from the servicing Military Banking Facility (MBF) with no direct or analysis charge to the credit union, provided settlement is made via a local MBF account or equivalent arrangements are made with the MBF.

b. Credit unions may purchase foreign currency from the servicing MBF at the bulk rate when used for internal vendor of payroll payments. The rate of exchange for sales to individuals must be no more favorable than that available from the MBF, in accordance with DoD Directive 7360.11.[8]

c. Overseas credit unions operating in military payment certificate areas shall comply with DoD 7360.5 [9] and any DoD Component regulations implementing that issuance.

5. In accordance with NCUA rules and regulations, no credit union loans may be made for the purpose of purchasing real property or purchasing or erecting any type of residence in any country outside the United States, its territories and possessions, or the Commonwealth of Puerto Rico.

6. The recommendations and direction of the NCUA through its rules, regulations, procedural forms, reports, and manuals directly apply to all Defense credit union branches and facilities operating overseas.

7. Funds shall be deposited and invested in accordance with the authority applicable to federal credit unions. Overseas Defense credit union branches and facilities shall deposit funds in accordance with instructions issued by the NCUA, giving full consideration to using the servicing MBFs.

8. Operation of overseas Defense credit union branches and facilities shall be reviewed by the NCUA during examination of the parent credit union or as the NCUA determines necessary.

I. Notification of Credit Unions

Each DoD Component shall ensure that every credit union with an office at its installations receives a copy of the document that implements this part and 32 CFR Part 231.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

February 14, 1989.

[FR Doc. 89-4072 Filed 2-21-89; 8:45 am]

BILLING CODE 3810-01-M

[8] See footnote 1 to § 231a.4(d)(3).

[9] See footnote 1 to § 231a.4(d)(3).

32 CFR Part 301

[DoD Directive 1100.16]

Equal Opportunity in Off-Base Housing

AGENCY: Department of Defense.

ACTION: Proposed rule.

SUMMARY: This document proposes to revise 32 CFR Part 301 to reflect revisions covering off-base housing and fair housing enforcement. Additionally, the complaint/investigative procedures are also streamlined. The revision also deletes the requirement for each Military to submit semiannual housing discrimination reports to the Assistant Secretary of Defense (Force Management and Personnel). This part will now require the Military Departments to maintain all completed housing discrimination cases. The part will also emphasize liaison with other government (local, State, and Federal) agencies. Current changes to the Public Law are also reflected in the revision.

DATE: March 24, 1989.

ADDRESS: Office of the Assistant Secretary of Defense (Force Management and Personnel), Room 2A256, The Pentagon, Washington, DC 20301.

FOR FURTHER INFORMATION CONTACT: Major M. Schneider, telephone (202) 697-6381.

SUPPLEMENTARY INFORMATION:

List of Subjects in 32 CFR Part 301

Administrative practice and procedure, Fair housing, Government employees, Military personnel, Reporting and recordkeeping requirements.

Accordingly, 32 CFR Part 301 is proposed to be revised as follows:

PART 301—EQUAL OPPORTUNITY .N OFF-BASE HOUSING

Sec.
301.1 Reissuance and purpose.
301.2 Applicability and scope.
301.3 Definitions.
301.4 Objectives and policies.
301.5 Responsibilities of the service secretaries.
301.6 Procedures and reports.
Appendix A—Checklist for Commanders
Appendix B—Procedures and Reports

Authority: 42 U.S.C. 3601 et seq., Pub. L. 90-285, and Pub. L. 100-430.

§ 301.1 Reissuance and purpose.

This part:

(a) Revises 32 CFR Part 301, the references, policies and procedures covering off-base housing and fair housing enforcement.

(b) Outlines discrimination complaint inquiry/investigative procedures and hearing required.

(c) Deletes the requirement for each Military Department to submit a semiannual housing discrimination report to the Assistant Secretary of Defense (Force Management and Personnel).

(d) Requires each Military Department to maintain all completed/resolved housing discrimination cases.

(e) Emphasizes liaison with other Government (local, State, or Federal) agencies.

§ 301.2 Applicability and scope.

The provisions of this part apply to the Office of the Secretary of Defense, the Military Departments, the Defense Agencies, the Specified and Unified Commands, and other DoD components having members of the Armed Forces assigned. DoD civilian employees (as defined in § 301.3) will be offered the same services that members of the Armed Forces receive.

§ 301.3 Definitions.

Agent. Real estate agency, manager, landlord or owner, as appropriate, of a housing facility doing business with Department of Defense (DoD) personnel or a Housing Referral Office (HRO).

Area Outside the United States An area in which DoD personnel reside but which is not subject to U.S. laws or regulations.

Commander. The military or civilian head of any installation, organization or agency of the DoD who is assigned responsibility for the off-base housing program.

Commuting Area. The administrative area of the installation which can be traversed by privately-owned vehicle in one hour or less during rush hours. Lesser time limits may be applied where clearly warranted by military necessity and approved by the cognizant Military Department of Defense Agency.

Complaint. A member of the Armed Forces (or authorized dependent designated by the military member) or a civilian employer of the DoD (or authorized dependent designated by the civilian employee) who submits a complaint of discrimination.

Discrimination. An act, policy or procedure that arbitrarily denies equal treatment in housing because of race, color, religion, sex, national origin, age, handicap or familial status to an individual or group of individuals.

DoD Personnel.

a. Members of the Armed Forces (and their dependents) authorized to live off-base.

b. DoD civilian employees (and their dependents) who are transferred from one place of residence to another because of job requirements, or recruited for job opportunities away from their current place of residence in the United States, and all DoD U.S. citizen appropriated fund and nonappropriated fund civilian employees and their dependents outside the United States.

Listed Facility. A suitable housing facility (not on restrictive sanction) listed with the HRO as available for occupancy by DoD personnel and whose agent has provided a nondiscriminatory assurance.

Minorities. All persons classified as black (not of Hispanic origin), Hispanic, Asian or Pacific Islander, and American Indian or Alaskan native.

Relief for the Complainant. Action taken by a commander for the benefit of a complainant.

Restrictive Sanctions. Action taken by a commander to preclude military personnel from moving or entering into a rental, lease or purchase arrangement with a housing facility when their agent has been found to have discriminated against DoD personnel. Restrictive sanctions are effective against the agent and the facility.

Survey. The procedure by which the HRO identifies housing resources to ascertain the availability of housing facilities for occupancy by DoD personnel.

Verifiers. Volunteers used by the commander during the course of a housing discrimination investigation to determine if, in fact, housing discrimination is being practiced by an agent as alleged. Verifiers are not required to be prospective tenants.

§ 301.4 Objectives and policies.

DoD Directive 1350.2[1] establishes the policy that the Department of Defense is fully committed to the goal of obtaining equal treatment for all DoD personnel. Specific guidance with respect to off-base housing and fair housing enforcement is as follows:

(a) *National Housing Policy.* Federal legislation prohibits discrimination in housing in the United States against any person because of race, color, religion, sex, age, national origin, handicap, or familial status.

(1) Title VIII of the Civil Rights Act of 1968 contains the fair housing provisions; outlines the responsibilities of the Secretary of Housing and Urban Development with regard to the Act; and requires all executive departments and agencies to administer housing and urban development programs and activities under their jurisdiction in a manner which will reflect "affirmatively" the furthering of the purposes of Title VIII.

(2) Title IX of the Civil Rights Act of 1968 makes it a crime to willfully intimidate or interfere with any person by force or threat because of their activities in support of fair housing.

(3) Title 42 U.S.C. 1982 states that all military citizens shall have the right to purchase, lease, sell, and convey real and personal property.

(4) The Fair Housing Amendments Act of 1988 amends title VIII of the Civil Rights Act of 1968 by revising the procedures for the enforcement of fair housing and adding additional protected classes of individuals.

(b) *DoD Fair Housing Policy.* The Department of Defense intends that Federal fair housing legislation be supported and that DoD personnel have equal opportunity for available housing regardless of race, color, religion, sex, age, national origin, handicap or familial status.

(1) This policy includes the objective of eliminating discrimination against DoD personnel in off-base housing. This is not achieved simply by finding a place to live in a particular part of town or in a particular facility for a minority person.

(2) The intent is achieved when a person meeting the ordinary standards of character and financial responsibility is able to obtain off-base housing in the same manner as any other person anywhere in the area surrounding a military installation, without suffering refusal and humiliation because of discrimination based on race, color, religion, sex, age, or national origin.

(i) The accomplishment of the objective shall not be hampered by requiring the submission of a formal complaint of discrimination. A suspected discriminatory act, with or without the filing of a formal complaint, is a valid basis for investigation and, if discrimination is substantiated, imposition of restrictive sanctions.

(ii) Upon substantiation that a housing agent practiced discrimination, restrictive sanctions shall be imposed for a minimum of 180 days.

(iii) The fact that 42 U.S.C. 1982, Pub. L. 90–284 and Pub. L. 100–430 may or may not provide a remedy in a given case of discrimination affecting DoD personnel does not relieve a commander of the responsibility to ensure equal treatment and equal opportunity for such personnel or to impose restrictive

[1] Copies may be obtained, if needed, from the Naval Publications and Forms Center, Attn: Code 1062, 5801 Tabor Avenue, Philadelphia, PA 19120.

sanctions against the agent/facility when appropriate.

(iv) Military Installations shall develop information programs to apprise DoD Service members of the DoD policy and program for equal opportunity in off-base housing. Commanders should use local community resources, such as civil rights organizations, religious and service groups, and local information media in support of their programs.

§ 301.5 Responsibilities of the service secretaries.

Service Secretaries shall:

(a) Ensure nondiscrimination in referring DoD personnel to off-base housing facilities.

(b) Continue efforts to identify and solicit nondiscriminatory assurances for housing facilities within the commuting area which are considered to be suitable for occupancy by DoD Service members.

(c) Ensure that an office and staff are available to advise DoD Service members regarding:

(1) The procedures set forth in this part.

(2) The application of 42 U.S.C. 1982, Pub. L. 90–284, and Pub. L. 100–430 in specific situations.

(3) The rights of individuals to pursue remedies through civilian channels, without recourse and in addition to the procedures prescribed herein including the right to:

(i) Make a complaint directly to the Department of Housing and Urban Development (HUD) and/or to the Department of Justice (DOJ) in the United States.

(ii) Bring a private civil action in any court of competent jurisdiction.

(d) Periodically review off-base housing procedures and policies to ensure effectiveness and compliance with this part. Appendix A contains a checklist to help commanders with this review.

(e) Cooperate with other Government Agencies investigating housing discrimination complaints filed by DoD Service members.

§ 301.6 Procedures and reports

(a) Appendix B contains the detailed procedures for assisting Service members, investigating housing complaints, and reporting requirements for housing discrimination complaints.

(b) The complaint and investigative report required in Appendix B is exempt from formal approval and licensing pursuant to DoD Directive 7750.5–M.[2]

[2] Copies may be obtained at cost, from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 12161.

Appendix A—Checklist for Commanders

1. Are all assigned personnel informed of the Equal Opportunity in Off-Base Housing Program requirements prior to obtaining housing off base?
2. Is there an effective equal opportunity in off-base housing information program?
3. Are community resources being used to support the equal opportunity in off-base housing information program?
4. Are housing discrimination complaints being processed within the required time?
5. Are complainants being informed in writing of the results of housing discrimination inquiry/investigation actions?
6. Are housing surveys being conducted periodically to obtain new listings?
7. Are restrictive sanctions being imposed immediately for a minimum of 180 days on agents found to be practicing discrimination?
8. Are the services of command representatives provided to assist applicants in their search for housing?
9. Are HRO personnel and equal opportunity personnel aware of and sensitive to housing problems encountered by DoD personnel?
10. Are equal opportunity in off-base housing reports being submitted accurately and on time?

Appendix B—Procedures and Reports

A. *Off-Base Housing Procedures*

DoD personnel seeking off-base housing shall be (1) processed through the HRO when available (optional for DoD civilian personnel), and (2) provided assistance in seeking temporary and permanent off-base housing as follows:

1. Counseling concerning the equal opportunity in off-base housing program with particular emphasis placed on the desirability to report any indication of discrimination against them in their search for housing.

2. Counseling and personal assistance shall include the following services:

a. Offering to check by telephone the availability of selected listings. A record shall be made and retained for future reference of the date, time and nature of any conversation confirming the availability of a facility. The race, color, religion, sex, or national origin of the applicant will not be divulged. Caution must be exercised to ensure that a pattern of "confirmation only for minorities" does not develop.

b. Offering the services of a command representative (such as a unit sponsor or other designated person when available) to accompany and assist the applicant in the search for housing.

c. Explaining various discriminating methods that may be employed by agents. For instance, if an agent arbitrarily refuses to accept or consider the applicant as a tenant, falsely indicates the unit sought has been rented to another applicant, or refuses to make the unit available under the same terms and conditions as are ordinarily applied to applicants for the facilities.

(1) In such instances the agent should be queried concerning the reasons why the unit is not available. After all reasonable steps have been taken to ascertain whether any valid nondiscriminatory reason can be shown for the agent's rejection of the applicant, and there appears to be no such reason, a reasonable effort should be made to persuade the agent to make the unit available to the applicant.

(2) The incident shall be reported immediately by the command representative and the complainant to the HRO for appropriate command action.

B. *Complaint Procedures—United States*

Commanders will ensure that all DoD personnel are informed of the scope and provisions of the DoD Equal Opportunity in Off-Base Housing Program and advised to immediately report to the HRO (when available) any form of discrimination encountered as a tenant or prospective tenant. Incidents reported to base agencies or representatives other than the HRO (for example, equal opportunity officer, unit commander, supervisor) should be brought to the immediate attention of the HRO for appropriate action. A verbal or written statement of discriminatory policy by an agent is considered to be an act or incident of discrimination and the investigative procedures outlined in this Appendix shall be followed.

1. *Inquiry into Complaint.* Complaints of off-base housing discrimination must receive prompt attention. An inquiry into the complaint will begin within 3 working days after receipt of the complaint. The inquiry may be informal but must be detailed sufficiently to indicate if discriminate occurred. Upon receipt of a discrimination complaint, the HRO (or in the event there is no HRO, a command designated representative) will take the following action:

a. Immediately notify the commander.

b. Promptly interview the complainant to determine the details and circumstances of the alleged discriminatory act.

c. Inform HRO personnel to advise all prospective tenants that a discrimination complaint has been received against a particular agent/facility, that substantiated discrimination has not been determined, and allow prospective tenants to decide if they desire to view the facility involved.

d. Immediately telephone or visit the facility/agent concerned, if the complaint is received shortly after the time of the alleged act and it concerns the change in availability of a vacancy (such as, "just rented," etc.). Attempt to determine if a vacancy exists without making reference to the complaint received. Request the commander to authorize the use of verifiers as necessary. (See subsection B.2.)

e. Advise the complainant of the provisions and procedures contained in this Instruction and of the right to pursue further actions through HUD, DOJ, and local or State agencies. Coordinate effort with the Judge Advocate's office to determine to what extent legal assistance can be provided. Assist the complainant in completing seven signed, dated, and notarized copies of HUD Form 903, Housing Discrimination Complaint. The fact that a complainant might report an act of alleged discriminatory treatment but decline completing a Form 903 does not relieve the command of responsibility for making further

inquiry and taking such subsequent actions as may be appropriate.

f. Document the above action for future reference and inform the commander of the results of the HRO preliminary inquiry and actions taken. The commander will take action to assist the complainant in obtaining suitable housing. If, due to discriminatory practices in the community, suitable housing cannot be obtained by the complainant in a reasonable amount of time, the complainant and the commander may use this fact to justify a request for priority in obtaining military housing or for humanitarian reassignment. Reassignment action is a last resort and must be justified fully through command personnel channels.

2. *Use of Verifiers.* Verifiers are authorized to determine if a vacancy exists and whether or not rental practices are discriminatory. Verifiers shall not be used for the sole purpose of determining sincerity or normal practices of an agent about whom the HRO has not received a housing discrimination complaint.

(a) When selecting and using verifiers, the following applies:

(1) Verification of the vacancy should be made as soon as possible after an alleged act of discrimination.

(2) Verifiers should be volunteers (the Equal Opportunity Office is a possible source for identifying individuals to be used as verifiers).

(3) The purpose of the verifier is to isolate the attribute of race, color, religion, sex, national origin, age, handicap or familial status which is the suspected basis for the complainant's exclusion. Except for those attributes which are considered to be the source of the discrimination complaint, the verifier should possess attributes which are as close as possible to the complainant. If two verifiers are used, one may possess similar attributes to the complainant. Ideally, two verifiers should be used.

b. Instructions provided to the verifiers by HRO personnel should include the following:

(1) Explanation of the equal opportunity in off-base housing and off-base housing referral programs.

(2) Verifiers are to obtain information only on agent/facility operating policies, practices, and procedures for subsequent determination of complaint validity.

(3) Verifiers are not to make a verbal or written contract for the apartment, pay any money, or say they want the apartment.

(4) Verifiers should be knowledgeable as to family composition, pets, and housing requirements of the complainant so they may ask for identical housing requirements.

(5) The following information should be obtained by the verifier, if possible:

(a) *Concerning the Facility.* What is available? Does it meet the requirements of what the complainant requested? Amount of rent? Deposit required? Are children/pets accepted? Is an application required? What is the time between filing an application and permission to move in? Are there minority families and/or singles in the facility? Make a note of the presence or absence of a vacancy sign, and any other information deemed appropriate.

(b) *Concerning the Prospective Tenants.* If possible, ascertain criteria and qualifications prospective tenants must meet (credit rating, salary, marital status, children, deposit, written application, and the like), and obtain a complete description of all procedures for becoming a tenant, including all steps from initial inquiry to moving in. Does the manager's subjective impression of the application appear to play any part in the decision to rent an apartment?

(6) The verifier's statement should be completed immediately after the verification visit. It should be accurate, objective, and factual. Include the following:

(a) Date, time of visit, person contacted, position of person contacted. Include any other pertinent information obtained during visit, i.e., length of time employed at facility, in addition to the information in subparagraph 2.b.(5) above.

(b) When reconstructing conversation, write in the first person and try to use direct quotes. Do not use pronouns such as "he," "she," or "they." Clearly identify who said what to whom.

(c) Sign and date statement. Give full name, address, telephone number (duty or home) and race, etc., as relevant to complaint.

3. *Complaint Process.* If the basic facts of the HRO preliminary inquiry appear to substantiate the complaint, the commander will ensure the following actions begin within 3 working days of receipt of the inquiry report:

a. *Informal Hearing.* Give written notice to the agent explaining the nature of the complaint and the agent's right to request an informal hearing with the commander. The notification will specifically state the nature of the discrimination complaint and the right of the agent to appear personally at the hearing, be represented by an attorney, and to present evidence and call witnesses. The notification will also state that the agent has 5 days after receipt of the written notice to request a hearing. If no request is received within 5 days, the lack of response will be considered as a waiver of the right to such haring. The written notification will either be delivered to the agent personally by a representaqtive of the commander, or will be sent to the agent by certified mail with return receipt.

(1) *Composition of an Informal Hearing.* The informal hearing will be conducted by the commander at a convenient location. The agent, agent's attorney, the complainant, complainant's attorney, Equal Opportunity Officer, HRO, Judge Advocate, or other designated persons may attend.

(2) *Disclosure of Information.* The agent (or agent's attorney) will not be given copies of the HUD Form 903, or other pertinent statements that may later be required for subsequent HUD/DOJ actions. Freedom of Information and Privacy Act considerations will be determined in accordance with the respective Military Department instructions.

(3) *Record of Hearing.* A summary of the hearing will be made a part of the complaint file.

b. *Legal Review.* A legal review will be accomplished subsequent to the inquiry and informal hearing (if applicable) and prior to the commander's final decision that the inquiry supports or fails to support the complaint. The report will be reviewed for content and completeness and a statement that such a review was conducted, signed by the Judge Advocate performing the review, will be made a part of the case file. The statement will include:

(1) Any necessary explanatory remarks, including comments concerning the facts and evidence presented.

(2) Information known concerning pending complaints brought by private parties with respect to the same facility/agent.

(3) Comments pertaining to civil rights laws relevant to the particular case.

4. Commander's Decision. The responsibility for imposition of restrictive sanctions rests with the commander and cannot be delegated. The commander's decision will be based on a full and impartial review of all facts and the policies and requirements as stated in this part. The commander's options include:

a. If the commander determines that more information is required, or for any reason further inquiry is deemed necessary, an officer will be appointed from sources other than the HRO to conduct a formal inquiry or investigation as the situation warrants. The officer, if not an attorney, will be afforded the advice and assistance of a judge advocate.

b. If, in the commander's judgment, the inquiry or investigation fails to support the complaint the case will be considered closed and the commander will:

(1) Inform the complainant in writing of all actions taken and advise the complainant of rights to pursue further actions to include:

(a) The right to submit a complaint to HUD and DOJ.

(b) The right to bring a private civil action in a state or federal court.

(c) The right to obtain whatever legal assistance is appropriate and can be legally provided in pursuing civil redress.

(2) Direct HRO to terminate action outlined in B.1.c.

(3) Summarize in the report file the practices giving rise to the complaint, the actions and results of the inquiry or investigation, and a written assurance from the agent concerning future facility/agent practices. The following statement, completed by the complainant, will also be included as part of the case file: "I am (am not) satisfied with the efforts taken by the commander in my behalf to achieve satisfactory resolution of my off-base housing discrimination complaint." If the complainant indicates a lack of satisfaction, the reasons must be included in the case file.

(4) Inform the agent of the results of the inquiry by command correspondence if an informal hearing was held. Such correspondence should reiterate DoD policy and requirements for equal opportunity in off-base housing.

(5) Forward unsubstantiated complaint reports and HUD Form 903 to HUD and DOJ if requested by the complainant.

(6) Retain a copy of the report file for future reference.

c. If the inquiry or investigation supports the complainant's charge of discrimination and the discriminatory act is determined by the commander to conflict with DoD policy, the commander shall:

(1) Impose restrictive sanctions against the agent/facility for a minimum of 180 days. Sanctions will remain in effect until the provisions of subparagraph 6.a.(1) or 6.a.(2) (below) are met. Restrictive sanctions shall also be imposed when a suspected discriminatory act, despite the absence of a formal complaint, is investigated and found valid. The fact that a validated discrimination complaint/incident has been or is scheduled to be forwarded to another agency (HUD, DOJ, etc.) is not cause for withholding sanction action pending the outcome of that agency's further review or investigation. When imposing a restrictive sanction, the commander shall:

(a) Remove the facility listing(s) from the HRO files.

(b) Impose restrictive sanctions (effective the date of notification, as per paragraph (d) below) against all facilities owned or operated by the agent concerned.

(c) Place the facility on the restrictive sanction list maintained by the HRO. The restrictive sanction list will be prepared on official letterhead stationery, signed by the commander, and include the authority for and conditions of the restrictive sanctions.

(d) Inform the agent concerned by command correspondence that restrictive sanctions have been imposed, the reasons, the nature, and minimum duration of the restrictions, and the action required for their removal at the conclusion of the minimum period. The notification of restrictive sanctions may be sent by certified mail with return receipt or delivered to the agent personally by a command representative.

(e) Provide all DoD personnel reporting to the HRO with a copy of the restrictive sanction list, and advise members of the Armed Forces that they may not rent, lease, purchase, or reside in any of the listed facilities. Obtain a signed acknowledgment of receipt of the restrictive sanction list using a DD Form 1746, "Application for Assignment to Housing."

(f) Advise other military installations of the restrictive sanction action taken when the sanctioned facility is located within the commuting area of the military installation.

(2) Inform the complainant in writing of all actions taken, advise the complainant that the complaint will receive continuing base action to include, if the complainant requests, forwarding the case file to HUD and/or DOJ for action. The complainant will also be counselled concerning the right to pursue remedies through civilian channels other than HUD/DOJ for action. (See subparagraph 4.b. (1) above).

(3) Prior to forwarding the report, prepare a memorandum outlining:

(a) The base efforts made to obtain housing relief for the complainant.

(b) The impact of restrictive sanctions upon the off-base housing program and DoD personnel and their dependents.

(c) Any other considerations deemed relevant.

(4) Include a statement completed by the complainant as part of the case file (see subparagraph 4.b.(3) above).

(5) If the act of discrimination falls within existing laws, and if the complainant concurs, forward a copy of the complaint and investigation report directly to HUD within 180 days after the occurrence of the alleged discrimination act, using HUD Form 903. The original report shall be sent to Fair Housing, c/o Department of Housing and Urban Development, Washington, DC 20410. A copy of the complaint and investigation report shall be forwarded to the Department of justice (Civil Rights Division), Washington, DC 20530.

(6) When more than one complaint alleging discrimination in the same facility or by the same agent has been received, consolidate the complaints for the purpose of the inquiry, legal review, and commander's memorandum. The consolidated case file must include a separate HUD Form 903 from each complainant who has filed one.

d. When a commander receives a complaint alleging further discrimination in a facility or by an agent after a completed case file has been forwarded, the commander will forward the summary of the facts relating to the subsequent complaint, outlined in 4.c.(6) above. Include brief comments indicating the extent to which the new complaint and information developed with respect to it affect the previous action.

5. *Follow-up Actions.* Subsequent to forwarding the report and all required attachments to HUD and DOJ, it is important that the commander, to the maximum extent possible, take the following actions:

a. Cooperate with HUD, DOJ, and local/State agency representatives during their investigation and processing of the case, should these agencies seek assistance.

b. Periodically determine the status of the case by maintaining liaison with the HUD area/regional office concerned. Contact will be maintained until such time as the case is resolved and/or closed by HUD.

c. Ensure that the complainant is kept informed on information received and actions taken by HUD/DOJ.

d. Ensure that DoD personnel comply with the restrictive sanctions imposed on the facility/agent.

(1) Military personnel moving into or changing the place of residence in the computing area of a military installation or activity may not enter into a rental, purchase, or lease arrangement with an agent of a facility which is under restrictive sanction.

(2) Implement procedures for ensuring that DoD personnel seeking housing are made aware of and are counselled concerning, current restrictive sanctions. HROs must also ensure that controls are effective for determining where members ultimately locate housing. As a minimum, these controls will include the careful screening of returned DD Forms 1670, "Community Housing Feedback."

(3) Sanctions are not applicable to DoD personnel who may be residing in a facility at the time the sanction is imposed or to the extension or renewal of a rental or lease agreement originally entered into prior to the imposition of the sanction. Relocation of a military tenant within a restricted facility, however, is prohibited without the written approval of the commander.

(4) If it is determined that a member of the Armed Forces has intentionally taken residency in a restricted facility contrary to instructions, the commander will take appropriate disciplinary action.

(5) Periodically, publish a current listing of restricted facilities in the base bulletin (or other appropriate means of internal distribution). As a minimum, this will be done when there has been an addition, deletion, or change to the list.

6. Removal of Restrictive Sanction.

a. A facility/agent may be removed from sanction only if one of the following actions is taken:

(1) The sanction may be removed before completion of the 180 day restrictive period if an approved waiver request is obtained from the Senior Installation Commander concerned, or his/her designee. Consideration will be given to lifting an imposed sanction only in exceptional circumstances and in concern with a written assurance of nondiscrimination from the agent concerned.

(2) After completion of 180 days on restrictive sanction, if the agent provides written assurance of future nondiscimination to the HRO.

b. The commander shall inform the HRO, the equal opportunity office, and the agent in writing of the removal from restrictive sanctions.

7. *Privacy Act and Freedom of Information Act Inquiries.* Requests for information regarding reports that have been referred to HUD, DOJ, and/or local or State agencies for action shall be referred to the appropriate agency for response. Requests for information from reports not referred to those agencies for action shall be processed in accordance with the appropriate Military Department instructions concerning the Privacy Act and Freedom of Information Act.

C. Complaint Procedures—Outside the United States

Commanders of installations or activities outside the United States will ensure that all DoD personnel, upon reporting to the HRO, are clearly informed of the scope and provisions of the DoD Equal Opportunity in Off-Base Housing Program and advised to immediately report to the HRO any form of discrimination encountered as a tenant or prospective tenant. Incidents reported to base agencies or representatives other than the HRO (for example, equal opportunity officer, unit commander, supervisor) should be brought to the immediate attention of the HRO for appropriate action. Upon receiving a complaint of discrimination the commander and HRO shall:

1. Consult with Staff Judge Advocate attorneys to determine if the laws of the country concerned (or any subdivision thereof) prohibit any of the actions outlined in section B.

2. Take actions outlined in section B., this enclosure, except that a HUD Form 903 will not be completed as cases processed outside the United States are not forwarded to HUD or DOJ. Complainants should understand that the fair housing provisions of the Civil Rights Act are not applicable in areas outside the United States.

3. Determine, with Judge Advocate advice, whether the discriminatory act can be pursued for civil redress. Redress will be

based on the laws of the country (or subdivison thereof) concerned.

D. Reporting Requirements

1. A copy of each complaint and investigative report that substantiates a housing discrimination shall be submitted to the appropriate Military Department (Manpower and Reserve Affairs/Equal Opportunity Office) not later than 45 days from the date the case is forwarded from the installation. Under normal circumstances, the commander of the installation concerned shall complete required investigation and processing complaints within 45 days from the date that a housing complaint is filed by a complainant.

2. A copy of complaint and investigative reports that do not substantiate allegations of housing discrimination shall be kept on file at the installation level for a period of 24 months.

P.H. Means

OSD Federal Register Liaison Officer, Department of Defense.

February 14, 1989.

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

CGD1-88-106

Safety Zone; Portsmouth Harbor, Portsmouth, New Hampshire.

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is considering a proposal to establish a permanent safety zone to safeguard vessels carrying Liquefied Petroleum Gas (LPG) to a facility along the Piscataqua River in Newington, New Hampshire. This safety zone is necessary to safeguard the LPG carriers and minimize the effects of the movement of these vessels on the maritime and recreational boating communities. This proposed regulation would eliminate the need for written safety zones for each movement of the LPG-carriers.

DATES: Comments must be received on or before April 10, 1989.

ADDRESSES: Comments should be mailed to Commanding Officer, U.S. Coast Guard Marine Safety Officer, P.O. Box 108, DTS, Portland, Maine 04112-0108. The comments and other materials referenced in this notice will be available for inspection and copying at the Marine Safety Office, 312 Fore Street, Portland, Maine. Normal office hours are between 7:30 a.m. and 4:00 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Lieutenant Scott Kuhaneck at Marine Safety Office, Portland, Maine at (207) 780-3251.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written views, data or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD1-88-106) and the specific section of the proposal to which their comments apply, and give reasons for each comment.

The regulations may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

Drafting Information

The drafters of this notice are Lieutenant Scott Kuhaneck, Project Officer, Portland Marine Safety Office, and Lieutenant John Gately, Project Attorney, First Coast Guard District Legal Office.

Discussion of Proposed Regulations

This notice is strictly administrative in nature. In 1975 the Coast Guard Captain of the Port, Portland, Maine (COTP) promulgated a LPG Contingency Plan which provided specific guidance and procedures for the movement of vessels carrying LPG in the port of Portsmouth, New Hampshire (A port within the COTP zone). This contingency plan specifies the route to be taken by LPG carriers during transits of the Piscataqua River, Portsmouth, NH. In addition, this plan calls for a safety zone to be implemented each time a vessel carrying LPG moves in the port area. This contingency plan is reviewed annually by the COTP and input from various entities is encouraged. The plan is corrected on an as needed basis. These entities include various Maine and New Hampshire state agencies, local area fire and police commands, the local marine industry and the LPG facility located in Newington, New Hampshire. The notice would eliminate the need to submit a written safety zone each time a vessel carrying LPG transits the Portsmouth area. Each instance a safety zone would be necessary, the previously mentioned entities would be notified via radio and/or telephone of the particulars of the safety zone. Such a system is already in effect under the current plan in addition to the actual written safety zone.

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

Economic Assessment and Certification

These proposed regulations are considered to be a non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of his proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. This notice is strictly administrative in nature and proposes to reduce the number of written safety zones that Captain of the Port, Portland is required to submit. No changes are being proposed that will have a significant impact on the maritime or recreational boating communities.

Since the impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 165

Harbors, Marine Safety, Navigation (water), Security Measures, Vessels, Waterways.

Proposed Regulations: In consideration of the foregoing, the Coast Guard proposes to amend Part 165 of Title 33, Code of Federal Regulations as follows:

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 160.5

2. Section 165.103 is added to read as follows:

§ 165.103 Safety Zone, Portsmouth Harbor, Portsmouth, New Hampshire.

(a) The following areas are established as safety zones during the specified conditions:

(1) For all inbound tank vessels carrying Liquefied Petroleum Gas (LPG), the waters bounded by the limits of the Piscataqua River Channel and extending 1000 yards ahead and 500 yards astern of an LPG tanker while the vessel transits Bigelow Bight, Portsmouth Harbor and the Piscataqua River to the

LPG receiving facility at Newington, New Hampshire. This safety zone remains in effect until the LPG carrier is safely moored at the LPG receiving facility on the Piscataqua River.

(2) For all outbound tank vessels carrying LPG, the waters bounded by the limits of the Piscataqua River Channel and extending 1000 yards ahead and 500 yards astern of an LPG tanker while the vessel departs the LPG facility and transits the Piscataqua River, Portsmouth Harbor and Bigelow Bight. This safety zone remains in effect until the LPG carrier passes Gunboat Shoal Lighted Bell Buoy "1" (LLNR 185) located in Bigelow Bight.

(b) The general regulations governing safety zones contained in 33 CFR 165.23 apply.

(c) The Captain of the Port will notify the maritime community and local agencies of periods during which this safety zone will be in effect by providing advance notice of scheduled arrivals and departures of LPG vessels via the telephone and Marine Safety Information Radio Broadcasts.

Dated: January 25, 1989.

R.I. Rybacki,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 89-4050 Filed 2-22-89; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL-3526-1]

Approval and Promulgation of Implementation Plan; Wisconsin

AGENCY: U.S. Environmental Protection Agency (USEPA).

ACTION: Proposed rulemaking.

SUMMARY: USEPA is proposing to disapprove a revision to the Wisconsin State Implementation Plan (SIP) for ozone. The requested revision from the Wisconsin Department of Natural Resources (WDNR) consists of portions of Wisconsin's 1987 Act 27 (Act 27), which created a program for allocating a growth allowance for sources of Volatile Organic Compounds (VOC) in Southeastern Wisconsin. The intent of this notice is to discuss the result of USEPA's review of this Act.

USEPA is proposing to disapprove this revision because Act 27 in its present form does not provide for the assurance that the National Ambient Air Quality Standards (NAAQS) for ozone will be attained and maintained in Southeastern Wisconsin.

DATE: Comments on this revision and on the proposed USEPA action must be received by March 24, 1989.

ADDRESSES: Copies of the SIP revision are available at the following addresses for review: (It is recommended that you telephone Uylaine E. McMahan, at (312) 886-6031, before visiting the Region V office.)

U.S. Environmental Protection Agency, Region V, Air and Radiation Branch, 230 South Dearborn Street, Chicago, Illinois 60604.

Wisconsin Department of Natural Resources, Bureau of Air Management, 101 South Webster, Madison, Wisconsin 53707.

Comments on this proposed rule should be addressed to: (Please submit an original and three copies, if possible).

Gary Gulezian, Chief, Regulatory Analysis Section, Air and Radiation Branch (5AR-26), U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Uylaine E. McMahan, (312) 886-6031.

SUPPLEMENTARY INFORMATION: On September 10, 1987, the WDNR submitted a portion of Wisconsin's 1987 Act 27 as a revision to its ozone SIP. USEPA has completed its review of this submittal and is proposing to disapprove this revision.

In the March 9, 1984 (49 FR 8920), **Federal Register**, USEPA approved Wisconsin's ozone attainment demonstration for the seven-county ozone demonstration area [1] in the Southeastern Wisconsin and the carbon monoxide (CO) attainment demonstration for the Milwaukee area, with the exception of the inspection and maintenance (I/M) program. Wisconsin's I/M program was approved in the February 25, 1985 (50 FR 7593), **Federal Register**, which resulted in an approved 1982 ozone SIP and an approved 1982 CO SIP for Wisconsin.

The intent of Act 27 is to create a program which allows new sources of VOCs in six counties in Southeast Wisconsin (Kenosha, Milwaukee, Ozaukee, Racine, Washington, and Waukesha Counties) to obtain growth accommodation [2] credits in lieu of offsets. Act 27 also provides for procedures and regulations for the use and replenishment [3] of this "growth accommodation" to allow and encourage new and expanded activity by businesses in Southeastern Wisconsin. A detailed description of Wisconsin's Act 27 can be found in the September 18, 1987, Information Memorandum 87-5, entitled "Southeastern Wisconsin's Volatile Organic Compound Growth Accommodation Use and Replenishment Program, As Contained In 1987 Wisconsin Act 27". This document is available at the Region V office.

A. USEPA has analyzed Wisconsin's growth allowance program and has found the following underlying deficiencies:

1. In the current Federally approved Wisconsin ozone SIP for the Milwaukee demonstration area, the State built in accommodation for emission source growth by providing a small VOC emissions attainment margin. However, the approved SIP new source (NS) permitting program only provides for NS growth by using site specific offsets. In addition, the area where the submitted rule applies experienced monitored violations of the ozone NAAQS in 1979 through 1987 (except 1982) and will likely experience future violations of the ozone NAAQS. Continued violations of the ozone NAAQS imply that the required emission level which was prediced to assure attainment within the 1982 Ozone SIP is not supported by the current ozone air quality data and that a new SIP analysis is required before a VOC growth allowance, such as that contemplated by Act 27, could be approved under the accommodative provisions of the Section 173(1)(B) of the Clean Air Act. The USEPA notified the Governor of Wisconsin in a letter dated May 26, 1988, that the current plan is inadequate under section 110(a)(2)(I) of the Clean Air Act and that a new ozone SIP is required for the Milwaukee area. After a revised SIP is approved that demonstrates attainment, USEPA could entertain proposing approval of a growth margin, such as that contemplated under Act 27, for the Milwaukee area.

2. Act 27 fails to include Walworth County in the area for assessment of emissions growth. Walworth County is currently designated as attainment for

[1] Kenosha, Milwaukee, Ozaukee, Racine, Walworth, Washington, and Waukesha Counties.

[2] Wisconsin defines the term "growth accommodation" as the amount by which Southeastern Wisconsin is ahead of schedule in complying with reductions in the emissions of VOC's under Federal air pollution law, as adjusted by set asides for specific improvements in air quality.

[3] A replenishment program is the method by which the State intends to maintain the growth accommodation at a reasonable level in order to continue to have growth accommodation credits available.

ozone. Therefore, any growth in this County would be subject to Prevention of Significant Deterioration (PSD) requirements. However, Wisconsin included Walworth County in the Milwaukee ozone demonstration area for the 1982 Wisconsin ozone SIP, reflecting Wisconsin's view that VOC emissions from Walworth County impact ozone concentrations in and downwind of Milwaukee. Thus, any assessment of emission growth must include VOC emissions from Walworth County. Act 27 is inconsistent with the Federally approved SIP because changes in emissions from Walworth County affect the integrity of the 1982 ozone SIP for the Milwaukee area, but are not included in the Act 27 provisions.

B. There are a number of specific provisions in Act 27 which need to be revised in order to comport with Federal requirements and in order to assure attainment and maintenance of the NAAQS for ozone. Upon resubmission of these revisions, USEPA will be able to reconsider Act 27 as a growth accommodation SIP under section 173 (1)(B) of the Clean Air Act. The following general criteria apply to any credits which expect to be attributed to a growth allowance in an approvable SIP. The credits must be (1) based on actual emissions, if the SIP attainment demonstration is based on actual emissions, e.g., the Southeast Wisconsin ozone demonstration, (2) Federally enforceable, (3) permanent, and (4) surplus, in that the credit can not be simultaneously used in other permitting activities. The major deficiencies with Act 27 with respect to these criteria are:

1. The definition of a VOC used in Act 27 is based upon a vapor pressure of 0.1 millimeter of mercury, which is not consistent with the federally approved definition of VOC. See 40 CFR 60.2.

2. The emission reduction credits are not federally enforceable reductions when generated from (1) the difference between the allowable emission rate of a source and the actual emission rate of the source: (2) the difference between the offset previously granted to new source and the actual emissions of the new source: or (3) the difference between the growth allowance given to a new source and the actual emissions of the source. These three categories of emission credits represent the difference between allowable emissions and actual emissions as established by an emission inventory. To be approvable, these credits would have to be in excess of the Federally enforceable baseline. Otherwise the reductions could disappear if existing industry increased its production rate; thus jeopardizing the maintenance of the air quality standard.

3. The rules promulgated by the State to replenish the growth allowance must be Federally approved before the replenished allowance can be used for accommodating new growth.

4. The provisions in Act 27 allow the State to suspend the use of the growth allowance which was granted to a new source under certain circumstances. A requirement of any emission reduction credit is that it must be permanent; otherwise a source which has a growth allowance removed might continue to operate and depend on equity arguments in court, e.g., capital investment and work force hardship, to justify its continued operation.

C. A number of provisions are unclear with respect to implementation of Act 27. These areas would have to be further explained and appropriate demonstrations would have to be made if the rule were to be approved, as discussed below.

1. The growth allowance is based largely upon the accuracy of the emission inventory. If a source is overlooked, or if the emissions are underestimated by a source, the growth allowance will appear to be larger than it actually is. This situation brings into question the reliability of the growth allowance, and, therefore, the State should submit a demonstration which provides assurance of the accuracy of the inventory.

2. The law is unclear as to what happens when a large new source applies for a permit, its needs are greater than the available growth margin (e.g., a source of greater than 2500 tons per year (TPY) applies for a permit when the currently available growth margin is less than 2500 TPY because an adequate replenishment rule has not been approved). The State should always require case-by-case offsets in this situation.

3. There must be some guarantee that the allowance emission level is always below the reasonable further progress (RFP) level specified in section 172(b)(3) of the Clean Air Act, or otherwise a growth allowance cannot exist. The formula in Appendix I implies this, but the statutory basis has not been demonstrated.

4. Under the Clean Air Act, emission offsets for growth accommodation must be permanent. Therefore, during the public comment period, Wisconsin would have to explain the restrictions on a source when its growth accommodation expires. The Act appears to provide that the permit expires upon the expiration of the growth accommodation. However, the mechanism by which this occurs is unclear. It is important that a source not continue to operate after its growth accommodation expires. This presents the same difficulty that is addressed in B.4 above.

D. The State has not revised its new source review regulations to comport with the Federal requirements promulgated August 7, 1980. Several definitions related to identifying sources covered by the Federal rules and exemptions need to be revised, including the definition of a stationary source modification and net emission increase. Approval of a SIP revision providing for growth allowances is not possible when the definitions and other requirements necessary to implement that rule do not comport with the Federal requirements in 40 CFR 51.165.

If the State of Wisconsin provides the regulatory and statutory revisions addressed above, and provides the demonstrations in B. above and explanations requested in C above, the USEPA will be able to consider approval of a growth allowance SIP. This growth allowance SIP should be incorporated in a post-1987 SIP revision, which (1) presents a detailed emissions inventory and (2) provides sufficient emission reductions beyond Reasonably Available Control Technology (RACT) reduction levels and ozone attainment levels to insure an acceptable growth allowance. The SIP will also have to address the following points:

1. The base year of the growth allowance.
2. The tracking mechanism to be used to assure the maintenance of a growth allowance that provides for RFP.
3. The demonstrations that the contributions to the growth allowance are Federally enforceable, permanent, and surplus.

USEPA is providing a 30-day comment period on this notice of proposed rulemaking. Public comments received on or before (30 days from publication) will be considered in USEPA's final rulemaking. All comments will be available for inspection during normal business hours at the Region V office address provided at the front of this notice.

Under 5 U.S.C. 605(b), I certify that this SIP disapproval will not have a significant economic impact on a substantial number of small entities, because the effect of this disapproval is to leave in effect existing emission limitations and requirements. Therefore, the disapproval will not result in any change or impact on any source or

community. Additionally, it applies only to portions of Wisconsin's 1987 Act 27.

Under Executive Order 12291, today's action is not "Major". It has been submitted to the Office of Management and Budget (OMB) for review.

List of Subjects in 40 CFR Part 52

Air pollution control, Carbon monoxide, Hydrocarbon, Intergovernmental relations, Ozone.

Authority: 42 U.S.C. 7401–7642.

Dated: May 11, 1988.

David Kee,

Acting Regional Administrator.

Note.—This document was received by the Office of the Federal Register, February 16, 1989.

[FR Doc. 89–4025 Filed 2–21–89; 8:45 am]

BILLING CODE 6560-50-M

Notices

Federal Register
Vol. 54, No. 34
Wednesday, February 22, 1989

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

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

Sunflower Seed, Oil Equipment Calibration

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice.

SUMMARY: On February 22, 1989, the Federal Grain Inspection Service (FGIS) will implement an updated calibration for Nuclear Magnetic Resonance instruments used to determine oil content in sunflower seeds. A public meeting is also scheduled to discuss this change.

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., USDA, FGIS, Resources Management Division, Room 0628-S, P.O. Box 96454, Washington, DC 20090-6454; telephone (202) 475-3428.

SUPPLEMENTARY INFORMATION: An updated sunflower seed oil calibration for Nuclear Magnetic Resonance (NMR) instruments will be implemented on February 22, 1989 at FGIS field offices and official agencies. A technical review of the updated calibration indicates that the effect on the system will be a lowering of the reported oil content for official certification by an average of 0.36 percent when the sunflower seed is adjusted to a 10 percent moisture basis.

The existing calibration was implemented in September 1984 when sunflower seed oil official inspection was first offered, and yearly monitoring showed it to be stable and accurate (average error less than 0.05 percent) through the ensuing four years. However, variety and growing conditions are considered to have resulted in changes in the chemical structure (degree of saturation) of the oil from the 1988 harvest of sunflower seed. Considerable research and evaluation was required to verify the needed change. This calibration was developed with the assistance of USDA's Agricultural Marketing Service, Statistics Branch.

To assure that sunflower seed oil in future sunflower crops is measured as accurately as possible, a complete review of the calibration procedure will be conducted and if needed, a revised calibration and control process will be implemented prior to the next sunflower seed harvest.

A meeting to discuss the updated calibration will be held on March 1, 1989 at 9:30 a.m. at the Holiday Inn Hotel, 3803 13th Avenue South, Fargo, North Dakota 58109. The agenda will include review of the processes that FGIS uses to establish and change calibrations, and a summary of the evaluation that prompted the present change in the sunflower seed calibration for determining oil content. The meeting will be open to the public and public participation is invited. Persons who wish to submit written or oral statements at the meeting should contact Lewis Lebakken, Jr., telephone (202) 475-3428.

Pub. L. 94-582, 90 Stat. 2867, as amended (l7 U.S.C. 71 *et seq.*)

Dated: February 17, 1989.

W. Kirk Miller,

Administrator.

[FR Doc. 89-4188 Filed 2-21-89; 8:45 am]

BILLING CODE 3410-EN-M

Forest Service

King-Titus Fire Recovery; Environmental Impact Statement

AGENCY: Forest Service, USDA.

ACTION: Notice of Intent To Prepare an Environmental Impact Statement.

SUMMARY: The Department of Agriculture, Forest Service will prepare an environmental impact statement (EIS) for a proposal to implement fire recovery activities on a portion of the King-Titus Fire on the Happy Camp Ranger District.

DATE: Comments concerning the scope of the analysis should be received by March 20, 1989.

ADDRESSES: Send written comments and suggestions concerning the scope of the analysis to George R. Harper, District Ranger, Happy Camp Ranger District, P.O. Box 377, Happy Camp, CA 96039.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and environmental impact statement should be directed to Carmine Lockwood or Jeff Leach, Happy Camp Ranger District, phone (916) 493-2243.

SUPPLEMENTARY INFORMATION: A range of alternatives for this area will be considered. One of these will be no recovery activities in the project area. Other alternatives will range from implementing fire recovery activities to recovery in combination with more extensive timber management projects.

Federal and State, and local agencies; and other individuals or organizations who may be interested in or affected by the decision will be invited to participate in the scoping process. This process will include:

1. Identification of potential issues.
2. Identification of issues to be analyzed in depth.
3. Elimination of insignificant issues or those which have been covered by a previous environmental review.
4. Determination of potential cooperating agencies and assignment of responsibilities.

The Fish and Wildlife Service, Department of the Interior, will be invited to participate as a cooperating agency to evaluate potential impacts on threatened and endangered species habitat if any such species are found to exist in the watershed.

The Forest Supervisor will hold a public meeting at Klamath National Forest headquarters, large conference room, 1312 Fairlane Road, Yreka, California, at 1:00 p.m., on Saturday, February 25, 1989.

Robert Rice, Forest Supervisor, Klamath National Forest, is the responsible official.

The analysis is expected to take about 5 months.

The draft environmental impact statement (DEIS) is to be filed with the Environmental protection Agency (EPA) and to be available for public review by June 1989. At that time EPA will publish a notice of availability of the DEIS in the **Federal Register.**

The comment period on the draft environmental impact statement (DEIS) will be 45 days from the date the Environmental Protection Agency's notice of availability appears in the **Federal Register.** It is very important that those interested in the management

of the King-Titus area participate at that time. To be the most helpful, comments on the DEIS should be as specific as possible and may address the adequacy of the statement or the merits of the alternatives discussed (see The Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3). In addition, Federal court decisions have established that reviewers of DEIS's must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewers' position and contentions, *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978), and that environmental objections that could have been raised at the draft stage may be waived if not raised until after completion of the final environmental impact statement (FEIS). *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). The reason for this is to ensure that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the FEIS.

After the comment period ends on the draft EIS, the comments will be analyzed and considered by the Forest Service in preparing the final environmental impact statement (FEIS). The FEIS is scheduled to be completed by August 1989. The Forest Service is required to respond in the FEIS to the comments received (40 CFR 1503.4). The responsible official will consider the comments, responses, disclosure of environmental consequences, and applicable laws, regulations, and policies in making a decision regarding this proposal. The responsible official will document the decision and rationale in the Record of Decision. That decision will be subject to appeal under 36 CFR 211.16.

Date: February 10, 1989.

Ronald W. Boatner,

Administrative Officer.

[FR Doc. 89-4010 Filed 2-21-89; 8:45 am]

BILLING CODE 3410-11-M

Soil Conservation Service

South Webster High School RC&D Measure, Ohio

AGENCY: Soil Conservation Service, Department of Agriculture.

ACTION: Notice of Finding of No Significant Impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the South Webster High School RC&D Measure, Scioto County, Ohio.

FOR FURTHER INFORMATION CONTACT: Joseph C. Branco, State Conservationist, Soil Conservation Service, Federal Building, 200 North High Street, Room 522, Columbus, Ohio 43215, telephone: (614)-469-6962.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impact on the environment. As a result of these findings, Joseph C. Branco, State Conservationist, has determined that the preparation and review of an environmental impact statement is not needed for this project.

This measure concerns a plan for critical area treatment on the South Webster High School grounds. Drainage runoff is causing significant erosion and sediment problems. Planned works of improvement include the installation of 1,000 feet of grassed waterways, five grade stabilization structures, one water and sediment control basin, and two acres of seeding.

The Notice of Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various federal, state, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Joseph C. Branco.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication.

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.901—Resource Conservation and Development Program—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with state and local officials.)

[FR Doc. 89-4007 Filed 2-21-89; 8:45 am]

BILLING CODE 3410-16-M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 1-89; Foreign-Trade Zone 84—Houston, TX]

Application for Subzone; E.I. Du Pont de Nemours & Co., La Porte, TX; Hydrofluoric Acid Manufacturing Plant

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Port of Houston Authority (PHA), grantee of FTZ 84, requesting special-purpose subzone status for the hydrofluoric acid (HF) manufacturing plant of E.I. Du Pont de Nemours & Co. (Du Pont), located in La Porte, Harris County, Texas, within the Houston Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on January 30, 1989.

The HF plant is within the Du Pont chemical complex (345 acres) at 12501 Strang Street in the city of La Porte on the Houston Ship Channel. The HF plant employs 150 persons. The only foreign item for which zone benefits are sought is acid grade fluorspar used in the production of hydrofluoric acid. HF is sold to producers of fluorocarbons, aluminum, stainless steel and other items.

Zone procedures would exempt Du Pont from duty payments on the fluorspar used in its exports. On its domestic sales, the company would be able to elect the duty rate that applies to hydrofluoric acid. The duty rate on acid grade fluorspar is $2.07 per metric ton, whereas HF is duty free. The application indicates that zone savings will improve the plant's international competitiveness.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: Dennis Puccinelli (Chairman), Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, DC 20230; Paul Rimmer, Deputy Assistant Regional Commissioner, U.S. Customs Service, Southwest Region, 5850 San Felipe Street, Houston, Texas 77057-3012; and Colonel John A. Tudela, District Engineer, U.S. Army Engineer District Galveston, Texas 77553-1229.

Comments concerning the proposed subzone are invited in writing from interested parties. They shall be addressed to the Board's Executive

Secretary at the address below and postmarked on or before March 30, 1989.

A copy of the application is available for public inspection at each of the following locations:

U.S. Department of Commerce, District Office, 2625 Federal Courthouse, 515 Rusk Street, Houston, TX 77002

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 2835, 14th & Pennsylvania Avenue NW, Washington, DC 20230

Dated: February 15, 1989.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 89-4061 Filed 2-21-89; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

[A-580-507]

Malleable Cast Iron Pipe Fittings, Other Than Grooved, From Korea; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration; Department of Commerce.

ACTION: Notice of Preliminary Results of Antidumping Duty Administrative Review.

SUMMARY: In response to a request by the petitioner, the Department of Commerce has conducted an administrative review of the antidumping duty order on malleable cast iron pipe fittings, other than grooved, from Korea. The review covers two manufacturers and/or exporters of this merchandise to the United States and the period May 1, 1987 through April 30, 1988.

Since the firms did not respond to the Department's questionnaire, we used the best information otherwise applicable for cash deposit and appraisement purposes.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: February 22, 1989.

FOR FURTHER INFORMATION CONTACT: Barbara Victor or Laurie A. Lucksinger, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone (202) 377-5222/5255.

SUPPLEMENTARY INFORMATION:

Background

On May 23, 1986, the Department of Commerce ("the Department") published in the Federal Register (51 FR 18917) the antidumping duty order on malleable cast iron pipe fittings, other than grooved, from Korea. The petitioner requested in accordance with § 353.53a(a) of the Commerce Regulations that we conduct an administrative review. We published the notice of initiation on May 5, 1988 (53 FR 16178). The Department has now conducted that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

The United States, under the auspices of the Customs Cooperation Council, has developed a system of tariff classification based on the international harmonized system of Customs nomenclature. On January 1, 1989, the United States fully converted to the Harmonized Tariff Schedule ("HTS"), as provided for in section 1201 et seq. of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered, or withdrawn from warehouse, for consumption on or after that date is now classified solely according to the appropriate HTS item number(s).

Imports covered by the review are shipments of malleable cast iron pipe fittings, other than grooved, from Korea. During the review period, such merchandise was classifiable under items 610.7000 and 610.7400 of the Tariff Schedules of the United States Annotated. This merchandise is currently classifiable under HTS item 7307.19.10. The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The review covers two manufacturers and/or exporters of Korean malleable cast iron pipe fittings, other than grooved, to the United States and the period May 1, 1987 through April 30, 1988. Since the firms failed to respond to the Department's antidumping questionnaire, we used the best information otherwise available for appraisement and cash deposit purposes.

The petitioner noted that the relationship between the U.S. dollar and the Korean won had changed substantially since the date of the order. The petitioner's allegation, in the absence of a response, provides a reasonable basis for determination of best information otherwise available. We derived the rates for these firms from the final results of the fair value investigation. We assumed that United States price and home market price in won remained constant.

We recalculated the antidumping duty margin by finding the difference between United States price and foreign market value at the average exchange rate for the review period.

Preliminary Results of the Review

As a result of our review, we preliminarily determine that the following margins exist for the period May 1, 1987 through April 30, 1988:

Manufacturer/Exporter	Margin (percent)
Migin Metal Industrial Co., Ltd.	25.59
Shin Han Cast Iron Co., Ltd.	25.59

Interested parties may request disclosure and/or an administrative protective order within 5 days after the date of publication of this notice and may request a hearing within 8 days of publication. Any hearing, if requested will be held 35 days after the date of publication or the first workday thereafter. Prehearing briefs and/or written comments from interested parties may be submitted not later than 25 days after the date of publication. Rebuttal briefs and rebuttals to written comments, limited to issues raised in those comments, may be filed no later than 32 days after the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. The Department will issue appraisement instructions directly to the Customs Service.

Furthermore, as provided for by section 751(a)(1) of the Tariff Act, a cash deposit of estimated antidumping duties based on the above margins shall be required for all shipments of Korean malleable cast iron pipe fittings, other than grooved, by these firms.

For any future entries of this merchandise from a new exporter, not covered in this review, whose first shipments occurred after April 30, 1988 and who is unrelated to either reviewed firm, a cash deposit of 12.48 percent shall be required. This is in accordance with our practice of not using the most recently reviewed rate as a basis for a cash deposit for new shippers when we have based the most recent rate on best information available.

These cash deposit requirements are effective for all shipments of Korean malleable cast iron pipe fittings, other than grooved, entered, or withdrawn from warehouse, for consumption on or

after the date of publication of the final results of this administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)), and section 353.53a of the Commerce Regulations (19 CFR 353.53a).

Date: February 14, 1989.

Jan W. Mares,

Assistant Secretary for Import Administration.

[FR Doc. 89-4062 Filed 2-21-89; 8:45 am]

BILLING CODE 3510-DS-M

Short-Supply Review on Certain Steel Plate; Request for Comments

AGENCY: Import Administration/International Trade Administration, Commerce.

ACTION: Notice and Request for comments.

SUMMARY: The Department of Commerce hereby announces its review of a request for a short-supply determination under Paragraph 8 of the U.S.-Japan steel arrangement, Article 8 of the U.S.-Austria, U.S.-Brazil, U.S.-EC, U.S.-Korea, and U.S.-Spain arrangements, and Article 8 of the U.S.-Finland understanding, with respect to certain steel plate used to manufacture large diameter pipe.

DATE: Comments must be submitted on or before March 6, 1989.

ADDRESS: Send all comments to Nicholas C. Tolerico, Director, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, Room 7866, 14th Street and Constitution Avenue NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Richard O. Weible, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, Room 7866, 14th Street and Constitution Avenue NW., Washington, DC 20230, (202) 377-0159.

SUPPLEMENTARY INFORMATION: Paragraph 8 of the U.S.-Japan Arrangement Concerning Trade in Certain Steel products, Article 8 of the U.S.-Austria Arrangement Concerning Trade in Certain Steel Products, the U.S.-Brazil Arrangement Concerning Trade in Certain Steel Products, the U.S.-EC Arrangement Concerning Trade in Certain Steel Products, the U.S.-Korea Arrangement Concerning Trade in Certain Steel Products, the U.S.-Spain Arrangement Concerning Trade in Certain Steel Products, and the U.S.-Finland Understanding Concerning Trade in Certain Steel Products, provides that if the U.S. determines that because of abnormal supply or demand factors, the United States steel industry will be unable to meet demand in the USA for a particular product (including substantial objective evidence such as allocation, extended delivery periods, or other relevant factors), an additional tonnage shall be allowed for such product or products.

We have received a short-supply request for steel plate, 111.0-112.5 inches in width, in the following American Petroleum Institute grades and thicknesses: (a) X-65, 0.0375 inch; (b) X-60, 0.500 inch; (c) X-60, 0.593 inch; and (d) X-60, 0.625 inch.

Any party interested in commenting on this request should send written comments as soon as possible, and no later than March 6, 1989. Comments should focus on the economic factors involved in granting or denying this request.

Commerce will maintain this request and all comments in a public file. Anyone submitting business proprietary information should clearly so label the business proprietary portion of the submission and also provide a non-proprietary submission which can be placed in the public file. The public file will be maintained in the Central Records Unit, Room B-099, Import Administration, U.S. Department of Commerce, at the above address.

February 15, 1989.

Jan W. Mares,

Assistant Secretary for Import Administration.

[FR Doc. 89-4063 Filed 2-21-89; 8:45 am]

BILLING CODE 3510-DS-M

Short-Supply Review on Certain Tin-Free Steel; Request for Comments

AGENCY: Import Administration/International Trade Administration, Commerce.

ACTION: Notice and Request for comments.

SUMMARY: The Department of Commerce hereby announces its review of a request for a short-supply determination under Paragraph 8 of the U.S.-Japan Arrangement Concerning Trade in Certain Steel Products, with respect to certain tin-free steel.

DATE: Comments must be submitted on or before March 6, 1989.

ADDRESS: Send all comments to Nicholas C. Tolerico, Director, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, Room 7866, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Richard O. Weible, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, Room 7866, 14th Street and Constitution Avenue, NW, Washington, DC 20230, (202) 377-0159.

SUPPLEMENTARY INFORMATION: Paragraph 8 of the U.S.-Japan Arrangement Concerning Trade in Certain Steel Products provides that if the U.S. "* * * determines that because of abnormal supply or demand factors, the U.S. steel industry will be unable to meet demand in the USA for a particular category or sub-category (including substantial objective evidence such as allocation, extended delivery periods, or other relevant factors), an additional tonnage shall be allowed for such category or sub-category * * *"

We have received a short-supply request for certain tin-free steel made to the following specifications:

(a) Chromium Coating Weight: aim for metallic chromium 100 mg/m2; chromium oxide 10 mg/m2.

(b) Width: 28 through 36 inches (−0.0, +0.25 inch).

(c) Thickness: 0.0066 and 0.0094 (±0.0005 inch).

(d) Appearance: scratch-free, hole-free, rust-free.

Any party interested in commenting on this request should send written comments as soon as possible, and no later than (March 6, 1989). Comments should focus on the economic factors involved in granting or denying this request.

Commerce will maintain this request and all comments in a public file. Anyone submitting business proprietary information should clearly so label the business proprietary portion of the submission and also provide a non-proprietary submission which can be placed in the public file. The public file will be maintained in the Central Records Unit, Room B-099, Import Administration, U.S. Department of Commerce, at the above address.

Jan W. Mares,

Assistant Secretary for Import Administration.

February 15, 1989.

[FR Doc. 89-4064 Filed 2-21-89; 8:45 am]

BILLING CODE 3510-DS-M

[Application No. 85-2A017]

Export Trade Certificate of Review

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of issuance of an amended export trade certificate of review.

SUMMARY: The Department of Commerce has issued a second amendment to the Export Trade Certificate of Review granted to the Pacific Northwest Fish Export Association ("PNFEA") on April 24, 1986 (51 FR 16089, April 30, 1986). PNFEA's Certificate was first amended on June 20, 1988 (53 FR 23781, June 24, 1988).

FOR FURTHER INFORMATION CONTACT: Thomas H. Stillman, Director, Office of Export Trading Company Affairs, International Trade Administration, 202-377-5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 ("the Act") (Pub. L. No. 97-290) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III are found at 15 CFR Part 325 (50 FR 1804, January 11, 1985).

The Office of Export Trading Company Affairs is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Department of Commerce to publish a summary of a Certificate in the **Federal Register.** Under Section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

The amendment consists of the following change: Ward's Cove Packing Company of Seattle, Washington has been added as a "Member" of the Certificate.

Effective date: November 16, 1988.

A copy of the Certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, Room 4102, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Date: February 15, 1989.

Thomas H. Stillman,

Director, Office of Export Trading Company Affairs.

[FR Doc. 89-4044 Filed 2-21-89; 8:45 am]

BILLING CODE 3510-OR-M

National Technical Information Service

Intent to Grant Exclusive Patent License to AgriSense

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to AgriSense, having a place of business in Fresno, CA 93722, an exclusive license in the United States and certain foreign countries to practice the invention embodied in U.S. Patent No. 4,764,366 and U.S. Patent Application Serial Number 7-186,990, "Persistant Attractants for the Mediterranean Fruit Fly, the Method of Preparation and Method of Use." Prior to any license granted by NTIS, the patent rights in this invention will be assigned to the United States of America, as represented by the Secretary of Commerce.

The intended exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The intended license may be granted unless, within sixty days from the date of this published Notice, NTIS receives written evidence and argument which establishes that the grant of the intended license would not serve the public interest.

Inquiries, comments, and other materials relating to the proposed license must be submitted to Douglas J. Campion, Associate Director, Office of Federal Patent Licensing, NTIS, Box 1423, Springfield, VA 22151.

A copy of the instant patent application may be purchased from the NTIS Sales Desk by telephoning 703/487-4650 or by writing to NTIS, 5285 Port Royal Road, Springfield, VA 22161 and a copy of the instant patent may be purchased from the Commissioner of Patents, U.S. Patent & Trademark Office, Washington, DC 20231.

Douglas J. Campion,

Associate Director, Office of Federal Patent Licensing, National Technical Information Service, U.S. Department of Commerce.

[FR Doc. 89-4074 Filed 2-21-89; 8:45 am]

BILLING CODE 3510-04-M

Intent to Grant Exclusive Patent License to Catalyst Corporation; Correction

Notice document 89-3118 appearing on page 6315 in the issue of Thursday, February 9, 1989 should be disregarded since it duplicates notice document 89-2913 appearing on page 5998 in the issue of Tuesday, February 7, 1989. Therefore, the 60 days notice period will run from the Febuary 7, 1989 date.

Douglas J. Campion,

Associate Director, Office of Federal Patent Licensing, National Technical Information Service, U.S. Department of Commerce.

[FR Doc. 89-4075 Filed 2-21-89; 8:45 am]

BILLING CODE 3510-04-M

Intent To Grant Exclusive Patent License

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to HELIX International Corporation, having a place of business in Baton Rouge, LA 70802, and to Brady International Inc., having a place of business in Torrance, CA 90505, co-exclusive right in the United States to practice the invention embodied in the U.S. Patents 4,064,283; No. 4,204,008; and 4,225,629, "Preparation of Protein Concentrates from Whey and Seed Products;" and U.S. Patent No. 3,859,451, "Preparation of Stable Protein Concentrates from Grain By-Products." Prior to any license grant by NTIS, the patent rights in this invention wil be assigned to the United States of America, as represented by the Department of Commerce.

The intended co-licenses will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The intended licenses may be granted unless, within sixty days from the date of this published Notice, NTIS receives written evidence and argument which establishes that the grant of the intended licenses would not serve the pubic interest.

Inquiries, comments and other materials relating to the intended license must be submitted to Douglas J. Campion, Office of Federal Patent Licensing, NTIS, Box 1423, Springfield, VA 22151.

Copies of the subject patents may be purchased from the Commission of Patents, U.S. Patent & Trademark Office, Washington, DC 20231.

Douglas J. Campion,

Associate Director, Office of Federal Patent Licensing, National Technical Information Service, U.S. Department of Commerce.

[FR Doc. 89-4005 Filed 2-21-89; 8:45 am]

BILLING CODE 3510-04-M

National Oceanic and Atmospheric Administration

Final Approval of Amendment No. 1 to the South Carolina Coastal Management Program.

AGENCY: National Oceanic and Atmospheric Administration, National Ocean Service, Office of Ocean and Coastal Resource Management.

ACTION: Approval of Amendment to the South Carolina Coastal Management Program.

SUMMARY: The Office of Ocean and Coastal Resource Management (OCRM), National Ocean Service, National Oceanic and Atmospheric Administration received a request from the State of South Carolina to amend the South Carolina Coastal Management Program (SCCMP) to incorporate the 1988 Beach Management Act. The State's request was made pursuant to section 306(g) of the Coastal Zone Management Act, as amended (CZMA), 16 U.S.C. 1451 *et seq.* and implementing regulations at 15 CFR 923.81. The Beach Management Act enlarges the beach/dune critical area, establishes a setback line based on erosion of the shoreline, places strict limits on what may be constructed seaward of that line, requires long-range comprehensive shorefront management plans at the State and local level, and requires disclosure statements regarding erosion conditions in all contracts of sale and deeds of transfer of affected properties.

Notice is hereby given that the Director of the Office of Ocean and Coastal Resource Management has reviewed the amendment request and has made a determination that the SCCMP as amended will still constitute an approvable program and that the procedural requirements of section 306(g) of the CZMA have been met.

Notice of intent to approve the amendment was published in the **Federal Register** on Wednesday, December 21, 1988, and interested parties had until January 17, 1989, to comment on the proposed changes. A full text of the proposed amendment along with an environmental assessment was distributed to Federal agencies and other interested parties. All comments received have been responded to and Final Findings of Approvability approved by the Director of OCRM. This amendment is now officially part of the federally-approved South Carolina Coastal Management Program.

Inquiries regarding this program should be addressed to: Mr. William Millhouser, Regional Manager, South Atlantic and Gulf Regions, Office of Ocean and Coastal Resource Management, 1825 Connecticut Avenue, NW., Washington, DC 20235, (202) 673-5138.

Date: February 15, 1989.

(Federal Domestic Assistance Catalog 11.419 Coastal Zone Management Program Administration)

Thomas J. Maginnis,

Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 89-4000 Filed 2-21-89; 8:45 am]

BILLING CODE 3510-08-M

Patent and Trademark Office

[Docket No. 90126-9026]

Establishment and Solicitation for Board Members for the Biotechnology Institute

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Notice of establishment of Biotechnology Institute and solicitation for Board Members for the Institute.

SUMMARY: Biotechnology is a rapidly emerging field of endeavor. As a consequence, the Patent and Trademark Office is experiencing a significant growth in patent application filing activity in this and related arts. The immense volume of filing and newness of the technology have created problems for the Patent and Trademark Office in the assimilation of large numbers of newly hired examiners and the retrieval and acquisition of the most pertinent prior art, primarily non-patent literature.

In response to the challenge created by this activity, the Assistant Secretary and Commissioner of Patents and Trademarks, Donald J. Quigg, is establishing a Biotechnology Institute which will be a cooperative effort of the PTO, other Government agencies and the private sector. The purpose of this Institute is to provide examiners with better resources to keep current in the legal and technological issues involved in biotechnology patent examination. Working with trade and bar associations, academia, and other Government agencies, the PTO will, through the establishment of this Institute, provide state-of-the-art knowledge to examiners through an enhanced training program.

In order to accomplish this goal the Assistant Secretary and Commissioner has decided to set up a board of interested people from the Government, academia and trade and bar associations. The purpose of this Board is to assist the PTO in identifying technology trends and training expertise for the Institute.

ADDRESSES: Parties interested in having representatives on this Board should address their name request to the Commissioner of Patents and Trademarks; Washington, DC 20231; Attention: John E. Kittle, Director, Group 180 by March 31, 1989. The first meeting of the Board will be held on April 18, 1989, at 10:00 a.m. in Room 912, on the 9th floor of Crystal Park, Building 2, located at 2121 Crystal Drive, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: John E. Kittle, Director, Group 180, by telephone at (703) 557-3637, or by mail to his attention and addressed to the Commissioner of Patents and Trademarks, Washington, DC 20231.

SUPPLEMENTARY INFORMATION: Biotechnology is a rapidly emerging field of endeavor. As a consequence, the Patent and Trademark Office is experiencing a significant growth in patent application filing activity in this and related arts. The immense volume of filings and unusually rapid development of the technology have created problems for the Patent and Trademark Office in the assimilation of large numbers of newly hired examiners and the retrieval and acquisition of the most pertinent prior art, primarily non-patent literature.

In response to the challenges created by this activity, the Assistant Secretary and Commissioner of Patents and Trademarks implemented a 13-point plan to reduce pendency and improve examination quality in the Biotechnology area. One of the first measures undertaken in his plan was the formation of a new patent examining group, Group 180, which consolidated into a single group all of the various arts which comprise biotechnology. To keep pace with the patent activity in this area, large numbers of new examiners have and will be hired into the new group. Further, other chemical examining groups will help train new examiners for the new group. These examiners, after their training period, will be reassigned to the new group. In addition, specifically identified experienced examiners from other chemical examining groups will be retrained to provide assistance in examining biotechnology inventions.

Six points in the "13-point plan" cover training and access to search tools needed to examine biotechnology inventions in an effective and efficient manner. To address these needs in a systematic way, a Biotechnology Institute will be created. The purpose of the Institute will be to enhance the

quality of the patent examination process in Biotechnology.

The goals of the Biotechnology Institute will be:

(1) Education of examiners in the technical and legal aspects of examining biotechnology inventions;

(2) Improvement of internal and external communication of technical and legal information between the examining corps and the public; and

(3) Development of search tools which will improve the effectiveness and efficiency of the patent examination process in biotechnology

Major participants in the program from within the Patent and Trademark Office are the Patent Academy, which serves as the parent organization responsible for coordinating the diverse activities of the Biotechnology Institute; the Scientific Library, which will identify, obtain and catalogue literature relevant to the Biotechnology examiners' needs; and Group 180, which will provide not only examiners for the education program, but will also provide speakers/educators in specific fields of biotechnology and the law.

Working through trade and bar associations, other Government agencies and academia, the PTO will seek the assistance from the private sector in enhancing examiner education. Help will be sought to obtain state-of-the-art understanding in the biotechnology field.

Currently the Patent Academy provides formal examiner training in the legal, procedural, technical and search areas to all new and experienced examiners. The examiner training programs under the auspices of the Patent Academy are shown below:

1. The Patent Academy, a 4-phased program, provides new examiners with over 200 hours of mandatory formal training in patent law, practice and procedure during the first year of service.

2. The Law School Tuition Assistance program enables examiners interested in attending law school to receive financial assistance for tuition and books for authorized job-related courses taken in pursuit of a law degree.

3. Tuition assistance for technical courses at local universities is available for examiners to keep up with state-of-the-art graduate level courses in their technologies.

4. Three in-house law courses are provided to examiners after they complete the Patent Academy. The three courses taught at the Patent Academy facilities are: Patent Law, Legal Methods and Evidence.

5. In-house technical courses are also provided through live presentations by outside contractors and via use of videotaped courses facilitated by in-house technical experts.

6. Automated Patent System training is provided to all examiners in Text Search and, in the future, Image Search and Retrieval.

7. Commercial Database training is provided for examiners in specialized arts.

8. Guest speakers in legal and technical areas provide short subject presentations within the framework of the legal lecture series and the Patent and Trademark Office Society educational program.

The Biotechnology Institute will build upon these current structures to increase legal and technical knowledge among the biotechnology examiners.

Participants

Participants in the training aspects of the Institute will be drawn from Group 180 and selected individuals from the Board of Patent Appeals and Interferences and the Office of Quality Review. In selected instances, trainees may be drawn from other examining groups. Supervisors will develop an individual training plan for each of their examiners that takes into consideration the education, background and experience of the individual in comparison to specific work needs. In this way, individual developmental needs will be identified so that appropriate training can be strategically planned for succeeding years. General needs of all the examiners will also be addressed.

Selection for training opportunities will be determined by giving priority to needs identified in the individual training plans and to general technical and legal update needs.

Program Scope

The Biotechnology Institute will include adaptations of current Academy programs and PTO training policy and the introduction of intensive legal and technology training in the biotechnology area. The following are adaptations of current PTO training policy and proposed new programs for which we would like to have industry and other outside assistance.

1. An expanded Patent Examiner Initial Training (*PEIT*) Program. PEIT is the initial first two weeks of formal training in examination practice and procedure given to all new examiners. This program will be *augmented* to meet the specific initial needs of biotechnology examiners.

2. A specifically designed *patent law class*, taught by an attorney with a biotechnology background, will be presented to all new biotechnology patent examiners between phases II and III of the Patent Academy (3–6 months after coming on board). This course will focus on special issues and fact situations arising in the examination of patent applications in this field.

3. *Text search* training in the Automated Patent System (APS) will be given within a few weeks after completing the PEIT. Additionally, biotechnology examiners will be given access to early training on biotechnology related commercial databases.

4. The examiners in Group 180 will continue to conduct weekly *lunchtime* training sessions. This program offers an opportunity for examiners to share with each other their technical and legal knowledge needed in the examination of biotechnology patent applications.

5. *Seminars* and *lectures* will be provided on technical and legal issues through a cooperative effort of the PTO with other Government agencies and industry associations.

6. A week-long *transition* program will be conducted for experienced patent examiners transferring into the biotechnology area through a cooperative effort with other Government agencies and industry associations.

7. A *one-day seminar* dealing with the realities of biotechnology research will be presented through a cooperative effort with other Government agencies and industry associations.

8. A *one-day seminar* will be conducted each year, to *update examiners* on significant technological advances which occurred during the year through a cooperative effort with other Government agencies and industry associations.

9. Assistance will be provided to the PTO by outside sources to identify *facilities to be visited*, and points of contact, that would be most beneficial for examiners in arranging trips under the Examiner Education Program.

10. Round Table discussions with members of bar associations will continue to ensure that general biotechnology legal and practice issues of mutual concern are discussed.

The Institute, a cooperative effort of Government and bar and trade associations, will be established to provide examiners with the necessary resources to keep current on law and technology. Government agencies and trade associations such as the Industrial Biotechnology Association, Association of Biotechnology Companies, the Pharmaceutical Manufacturers Association, the Intellectual Property

Owners, American Society of Microbiologists, American Association for Advancement of Science, American Chemical Society and other associations in the biotechnology field, and bar associations such as American Intellectual Property Law Association, American Bar Association, etc., will be invited to provide the technical and legal resources needed to design and present training courses and provide the PTO with general reference materials. These associations will provide the authorities in the field who will assist with the training of biotechnology patent examiners. The Industrial Biotechnology Association has already offered to help with the Institute.

A board of association, Government and academic representatives will assist the PTO in the identification of Institute needs and provide resources for the program implementation of this Institute. The board will initially meet in the near future. The Institute will utilize the board to identify future technological trends where training will be needed, identify sources of technical and legal expertise and effectuate the cooperation necessary to provide the teaching and other assistance required.

A notice will be published in the **Federal Register** inviting academic and bar and trade associations support for the Institute. The involvement of bar and industry groups will be strictly limited to assistance in identifying needs, identifying and providing training expertise, helping contact and provide teaching resources and donations of general reference materials. No contacts with the private sector will involve patent applications or patents or their processing in any way. General policy issues will not be resolved or decided in the Institute program.

PROGRAMS FOR FY 1989

What	Who	When
Implementation of augmented PEIT	PTO	Fall/Winter 1988.
Inclusion of Biotechnology Patent Law Class	PTO	Spring 1989.
Accelerated Schedule of training for Group 180 examiners in APS and Commercial Databases.	PTO	Summer/Fall 1988.
Selected lectures from guest speakers on technology issues	PTO Associations	Continuing.
One week program to introduce transferred/new examiners to biotechnology	IBA/PTO	Winter 1988/Spring 1989.
Seminar on realities of biotechnology research	IBA/PTO	Spring 1989.
Update seminar of significant technology changes in past year	IBA/PTO	Summer 1989.
Round Table discussions with members of Bar Associations	PTO/Bar Associations	Continuing.
Meeting with the Institute board to evaluate program progress and discuss plans and needs for the future.	PTO/Advisory	Summer 1989.

Date: February 16, 1989.

Donald J. Quigg,

Assistant Secretary and Commissioner of Patents and Trademarks.

[FR Doc. 89-4085 Filed 2-21-89; 8:45 am]

BILLING CODE 3510-16-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Intelligence Agency Advisory Board; Meeting

AGENCY: Defense Intelligence Agency Advisory Board.

ACTION: Notice of closed meetings.

SUMMARY: Pursuant to the provisions of subsection (d) of section 10 of Pub. L. 92-463, as amended by section 5 of Pub. L. 94-409, notice is hereby given that closed meetings of a panel of the DIA Advisory Board have been scheduled as follows.

DATES: 17 March and 11 April 1989 (9:00 a.m. to 5:00 p.m. each day).

ADDRESS: The DIAC, Bolling AFB, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Lieutenant Colonel John E. Hatlelid, USAF, Executive Secretary, DIA Advisory Board, Washington, DC 20340-1328 (202/373-4930).

SUPPLEMENTARY INFORMATION: The entire meetings will be devoted to the discussion of classified information as defined in section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. Subject matter will be used in a special study on tactical intelligence information handling systems.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

February 15, 1989.

[FR Doc. 89-4065 Filed 2-21-89; 8:45 am]

BILLING CODE 3810-10-M

Defense Intelligence Agency Advisory Board; Meeting

AGENCY: Defense Intelligence Agency Advisory Board.

ACTION: Notice of closed meetings.

SUMMARY: Pursuant to the provisions of subsection (d) of section 10 of Pub. L. 92-463, as amended by section 5 of Pub. L. 94-409, notice is hereby given that a closed meeting of the DIA Advisory Board has been scheduled as follows.

DATES: 16-17 May 1989, 9:00 a.m. to 5:00 p.m. each day.

ADDRESS: The DIAC, Bolling AFB, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Lieutenant Colonel John E. Hatlelid, USAF, Executive Secretary, DIA Advisory Board Washington, DC 20340 (202/373-4930).

SUPPLEMENTARY INFORMATION: The entire meeting is devoted to the discussion of classified information as defined in section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. The Board will receive briefings on and discuss several current critical intelligence issues and advise the Director, DIA on related scientific and technical intelligence matters.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer Department of Defense.

February 15, 1989.

[FR Doc. 89-4066 Filed 2-21-89; 8:45 am]

BILLING CODE 3810-01-M

Office of the Secretary of Defense

Defense Intelligence Agency Advisory Board; Meeting

AGENCY: Defense Intelligence Agency Advisory Board.

ACTION: Notice of closed meetings.

SUMMARY: Pursuant to the provisions of subsection (d) of section 10 of Pub. L. 92-463, as amended by section 5 of Pub.

L. 94–409, notice is hereby given that closed meetings of a panel of the DIA Advisory Board have been scheduled as follows.

DATES: 8–9–10 March, 12–13 April, and 18 May 1989 (8:30 a.m. to 5:00 p.m. each day).

ADDRESSES: Los Alamos, NM; Albuquerque, NM; and Ft. Huachuca, AZ (8–9–10 March). The DIAC, Bolling AFB, Washington, DC (12–13 April and 18 May).

FOR FURTHER INFORMATION CONTACT: Lieutenant Colonel John E. Hatlelid, USAF, Executive Secretary, DIA Advisory Board, Washington, DC 20340–1328 (202/373–4930).

SUPPLEMENTARY INFORMATION: The entire meetings are devoted to the discussion of classified information as defined in section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. Subject matter will be used in a special study on HUMINT/Scientific and Technical Intelligence Interface.

P.H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

February 14, 1989.

[FR Doc. 89–4069 Filed 2–21–89; 8:45 am]

BILLING CODE 3810-01-M

Defense Advisory Panel on Government-Industry Relations; Panel Meeting

Pursuant to Pub. L. 92–463, notice is hereby given that a meeting of the Defense Advisory Panel on Government-Industry Relations (DAPGIR) is scheduled to be held from 9 a.m. to 5 p.m. on 21 March 1989. The meeting will be held in the Command Conference Room, Defense Logistics Agency, Cameron Station, Alexandria, Virginia. This is the initial meeting of the DAPGIR. The agenda will focus on organizational matters and include a discussion of directed study topics.

The DAPGIR was established pursuant to Section 808, Pub. L. 100–456 to study and make recommendations to the Secretary of Defense on ways to enhance cooperation between the Department of Defense and industry regarding matters of mutual interest, including (1) procedures governing the debarment and suspension of contractors from doing business with the Department of Defense; (2) the role of self-governing oversight programs establishing by defense contractors; and (3) expanded use of alternative disputes resolution procedures. The Panel will also study and make recommendations on the desirability of establishing a permanent panel. Membership of the DAPGIR is comprised of senior government acquisition officials, prominent academicians and senior executives from private industry.

Persons desiring to attend the Panel meeting should contact Mr. Thomas W. Colangelo or Ms. Regina Bacon, Defense Advisory Panel on Government-Industry Relations, ATTN: DLA-L, Cameron Station, VA 22304, telephone (202) 274–7146, no later than 17 March 1989.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

February 15, 1989.

[FR Doc. 89–4067 Filed 2–21–89; 8:45 am]

BILLING CODE 3810-01-M

Department of the Air Force

USAF Scientific Advisory Board; Meeting

February 15, 1989.

The USAF Scientific Advisory Board Ad Hoc Committee on Munitions Effectiveness will meet on 9–10 Mar 89 from 8:00 a.m. to 5:00 p.m. at the China Lake Naval Weapons Center, CA.

The purposes of this meeting are to assess the changes in the threat over the past ten years and to study how to take full advantage of potential technology improvements in the development and manufacturing of munitions. This meeting will involve discussions of classified defense matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 687–4648.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 89–4002 Filed 2–21–89; 8:45 am]

BILLING CODE 3910-01-M

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following the Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: 14–16 March 1989.

Time: 0830–1730, 14 March 1989; 0900–1700, 15 March 1989; 0900–1200, 16 March 1989.

Place: Natick, Massachusetts.

Agenda: The Army Science Board Ad Hoc Subgroup on U.S. Army Institute for Environmental Medicine Effectiveness Review will hold its first meeting. The meeting will be hosted by the Commander, U.S. Medical Research and Development Command. The panel will provide independent observations on potential and actual performance of the laboratory. This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695–3039/7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 89–4073 Filed 2–21–89; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Date of Meeting: 9 March, 1989.

Time of Meeting: 0830–1630 hours.

Place: The Pentagon, Washington, DC.

Agenda: The Army Science Board Ad Hoc Subgroup on the Army's Technology Base Strategy for the 1990's will meet to conduct a detailed review of a final draft of the Army's Technology Base Master Plan. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 2, subsection 10(d). The classified and unclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. Contact the Army Science Board Administrative Officer, Sally Warner, for further information at (202) 695–3039 or 695–7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc 89–4132 Filed 2–21–89; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF EDUCATION

[CFDA NO.: 84.129]

Extension of Closing Date for Transmittal of Applications for New Awards Under the Rehabilitation Long-Term Training Program

Deadline for Transmittal of Applications

On February 6, 1989, a notice was published that established the closing date for transmittal of applications for the fiscal year 1989 competitions in certain fields under the Rehabilitation Long-Term Training Program (54 FR 5649). Detailed information concerning this program was included in that notice. The purpose of this notice is to extend the closing date for transmittal of applications to allow sufficient time for applicants to prepare their applications.

The closing date for applications is extended from March 13, 1989 to March 31, 1989.

FOR APPLICATIONS OR INFORMATION CONTACT: Mary Ford, U.S. Department of Education, 400 Maryland Avenue SW., Room 3332 (Switzer Building), Washington, DC 20202-2650. Telephone: (202) 732-1351.

Program Authority: 29 U.S.C. 774.

Dated: February 14, 1989.

Madeleine Will,

Assistant Secretary, Office of Special Education and Rehabilitative Services.

[FR Doc. 89-4084 Filed 2-21-89; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Financial Assistance Award; Harvard University Energy & Environmental Policy Center

AGENCY: Depart of Energy (DOE).

ACTION: Notice of noncompetitive financial assistance award.

SUMMARY: In accordance with 10 CFR 600.7(b), eligibility for award of a grant, resulting from Procurement Request 01-89FE61725.000, will be restricted to the Energy & Environmental Policy Center of Harvard University. The DOE is conducting negotiations with Harvard for a research grant. These negotiations are expected to result in the issuance of Grant Number DE-FG01-89Fe61725. The total project period consists of three 12 month budget periods, estimated to begin March 17, 1989.

Project Scope

The objective of this project is to examine the effects of various market, environmental, and security developments on petroleum reserves. The project will include studies of energy demand, regionalization of the U.S. oil trade, sizing the Strategic Petroleum Reserve (SPR) in relation to oil prices, and environmental restrictions in an oil emergency and their effects on petroleum reserves.

The proposed grantee, Harvard University's Energy & Environmental Policy Center is uniquely qualified to perform this research due to the depth and breadth of their in-house technical expertise and the ability to bring together the foremost experts on these subjects. Harvard University is recognized as a domestic leader in this area of research. Since 1979, the Energy & Environmental Policy Center at Harvard has conducted significant research concerning petroleum industry trends, security, and stockpiling and the global impacts of each.

FOR FURTHER INFORMATION CONTACT: Paul Grimes, MA-453.1, Office of Procurement Operations, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-9518.

Scott Sheffield,

Acting Director, Contract Operations Division "B", Office of Procurement Operations.

[FR Doc. 89-4055 Filed 2-21-89; 8:45 am]

BILLING CODE 6450-01-M

Committee on Petroleum Storage and Transportation, National Petroleum Council; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: Committee on Petroleum Storage and Transportation of the National Petroleum Council.

Date and Time: Friday, March 17, 1989, 10:00 a.m.

Place: Marathon Oil Company, Marathon Tower, Conference Room 1012, 5555 San Felipe Road, Houston, TX.

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

Purpose of the Parent Council: To provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and gas or the oil and gas industries.

Purpose of the Meeting: Review and discuss the Committee's proposed final draft report volumes of the summary and system dynamics.

Tentative Agenda:

—Opening remarks by the Chairman and Government Cochairman.
—Review and discuss the Committee's proposed final draft volumes of the Summary and System Dynamics of the study.
—Discuss the Committee's timetable for completion of the study.
—Discuss any other matters pertinent to the overall assignment from the Secretary of Energy.

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

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

Issued in Washington, DC, on: February 15, 1989.

J. Robert Franklin,

Deputy Advisory Committee Management Officer.

[FR Doc. 89-4056 Filed 2-21-89; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. EC89-6-000, et al.]

Duquesne Light Company, et al.; Electric rate, Small Power Production, and Interlocking Directorate Filings

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

1. Duquesne Light Company

[Docket No. EC89-6-000]

February 13, 1989.

Take notice that on February 10, 1989, Duquesne Light Company (Duquesne) filed an application with the Federal Energy Regulatory Commission, pursuant to Section 203 of the Federal Power Act, for authorization for a proposed corporate reorganization.

Duquesne proposes to carry out a reorganization plan which will result in

a holding company structure under which Duquesne and its utility operations will be a wholly-owned subsidiary of the newly formed DQE, Inc.

Comment date: March 10, 1989, in accordance with Standard Paragraph E at the end of this notice.

2. Cambridge Electric Light Company

[Docket No. EC89-212-000]

February 13, 1989.

Take notice that Cambridge Electric Light Company (Cambridge) on February 1, 1989, tendered for filing a proposed Notice of Cancellation of its generally-available full requirements power supply service designated as FERC Rate Schedule Original Volume No. 1 (Tariff).

Cambridge states that no customer is either taking service or seeking to take service under the provisions of the Tariff and that Cambridge does not wish to offer such service under the present terms and conditions as are set forth in the Tariff.

Comment date: February 27, 1989, in accordance with Standard Paragraph E at the end of this notice.

3. Iowa Public Service Company

[Docket No. EC89-214-000]

February 13, 1989.

Take notice that Iowa Public Service Company on February 3, 1989, tendered for filing an executed Transmission Service Agreement dated July 29, 1988, whereby Iowa Public Service Company (IPS) will provide Interstate Power Company (IPW) with transmission service, commencing August 1, 1988 and ending on December 31, 2003, unless terminated by either party after eight years and upon giving not less than three years notice, IPS requests that the negotiated Agreement be made effective as of August 1, 1988.

Comment date: February 27, 1989, in accordance with Standard Paragraph E at the end of this notice.

4. Public Service Company of New Hampshire

[Docket No. EC89-207-000]

February 13, 1989.

Take notice that on February 1, 1989, Public Service Company of New Hampshire (the Company) tendered for filing revisions to the Company's FERC Electric Tariff, Original Volume No. 1, for non-firm transmission service. The changes proposed in this filing are as follows:

The Company states that it has: (1) Eliminated as unnecessary an unused provision for a weekly rate, while continuing to offer a daily rate; (2) limited availability of the tariff to transactions originating within New England; (3) shortened from six months to 30 days the notice period on which it can terminate service because it lacks the transmission capacity to provide the service; (4) added provisions to recover the costs of providing transmission service during periods of transmission limitations; (5) included in the tariff rate costs of non-PTF transmission facilities which serve an integrated system function; (6) eliminated a 50% joint rate discount; and (7) added a provision permitting it or the customer to terminate service agreements on 30 days' notice. The Company states that it has served the filing on affected customers and the New Hampshire Public Utilities Commission.

Comment date: February 27, 1989, in accordance with Standard Paragraph E at the end of this notice.

4. Northeast Utilities Service Company

[Docket No. ER89-213-000]

February 13, 1989.

Take notice that on February 2, 1989, Northeast Utilities Service Company (NUSCO) tendered for filing a proposed rate schedule pertaining to: (1) Letter Agreement with Respect to Montville and Middletown Units (Fossil Unit Agreement) between NUSCO, and Agent for The Connecticut Light and Power Company (CL&P), and Western Massachusetts Electric Company (WMECO), and Boston Edison Company (BECO), dated December 21, 1988; and (2) Letter Agreement with Respect to System Sale from Niagara Mohawk (System Sale Agreement) between NUSCO, as Agent for CL&P and WMECO and BECO dated November 23, 1988.

NUSCO states that the Fossil Unit Agreement provides for a sale to BECO of a specified percentage of capacity and energy from Montville Unit 6 and Middletown Unit 4 during the period November 1, 1987 through October 31, 1988. NUSCO states that the System Sale Agreement provides for a sale to BECO of capacity and energy provided from Niagara Mohawk Power Corporation's purchase from Ontario Hydro during the period December 14, 1987 through December 31, 1987.

NUSCO requests that the Commission waive its notice periods and permit the rate schedules to commence effective November 1, 1987 and December 14, 1987, respectively, and to terminate said rate schedules effective October 31, 1988 and December 31, 1987, respectively.

(1) NUSCO states that the capacity charge rate under the Fossil Unit Agreement is a negotiated rate, based on the market price for this capacity, and less than the cost-of-service rate (determined in accordance with Schedule I and Exhibits I and II thereto of Appendix A of the transmittal letter). The transmission charge is determined in accordance with Schedule II and Exhibits I, II, and III thereto of Appendix A to the transmittal letter. The energy charge and the station service energy charges are based on BECO's portion of the applicable fuel expenses related to the units and no special cost-of-service studies were made to derive these charges.

(2) NUSCO states that the capacity charge rate for the service under the System Sale Agreement was based on a quote rate from Niagara Mohawk Power Corporation less any reduction for transmission limitations. The transmission charge rate under the System Sale Agreement was determined in the same manner as the transmission charge rate under the Fossil Unit Agreement. The energy charge is based on energy rates quoted in advance of the sale of BECO.

NUSCO states that the services to be provided under the Fossil Unit Agreement are similar to services provided by CL&P pursuant to a sales agreement with Fitchburg Gas and Electric Light Company (FERC Rate Schedule No. CL&P 359).

NUSCO states that the services to be provided under the System Sale Agreement are similar to service provided by Public Service Electric and Gas Company (PSE&G) pursuant to a purchase agreement with The Connecticut Light and Power Company and Boston Edison Company (FERC Rate Schedule Nos. PSE&G 87 and 88, respectively).

NUSCO states that a copy of the rate schedules have been mailed or delivered to CL&P and WMECO, and to BECO.

Comment date: February 27, 1989, in accordance with Standard Paragraph E at the end of this notice.

5. Commonwealth Edison Company

[Docket No. ER89-198-000]

February 14, 1989.

Take notice that on January 26, 1989, Commonwealth Edison Company (Edison Company) tendered for filing an Amendment (Amendment), dated January 24, 1989, to the Interconnection Agreement between Commonwealth Edison Company and Indiana Michigan Power Company (Indiana Company). The Amendment caps the price for emergency energy, when such energy is purchased by Edison Company from a third party for resale to Indiana Company, at the greater of 100 mills per

kilowatthour or the amount paid to the third party by Edison Company plus Edison Company's currently effective Order No. 84 adder.

Copies of the filing were served upon Indiana Company, the Illinois Commerce Commission and the Indiana Utility Regulatory Commission.

Comment date: February 28, 1989, in accordance with Standard Paragraph E at the end of this notice.

6. Appalachian Power Company

[Docket No. ER89-215-000]

February 14, 1989.

Take notice that on February 3, 1989, Appalachian Power Company (APCO) tendered for filing as an initial rate schedule a Transmission Agreement between APCO and Aquenergy Systems, Inc. (Aquenergy). Under the Agreement, APCO will transmit power and associated energy generated by Aquenergy's qualifying small power production facility (QF) and received from Aquenergy's QF at its 12.47 KV interconnection point with APCO near Aquenergy's QF located in Fries, Virginia (Fries Delivery Point), adjusted for losses, to APCO's interconnection points with Virginia Power.

APSO states that a copy of its filing was served upon Virginia Power, Aquenergy Systems, Inc., and the Virginia State Corporation Commission.

Comment date: February 28, 1989, in accordance with Standard Paragraph E at the end of this document.

7. Public Service Company of New Mexico

[Docket No. ER89-218-000]

February 15, 1989.

Take notice that on February 6, 1989, Public Service Company of New Mexico (PNM) tendered for filing an Amended and Restated Service Schedule C (Amended and Restated Service Schedule C), an Amended and Restated Schedule D (Amended and Restated Service Schedule D) and a Service Schedule H (Service Schedule H) to the Interconnection Agreement between PNM and the City of Farmington, New Mexico (City). Amended and Restated Service Schedule C allows City to reduce the amount of power for which City must pay, provides for a reduction in the energy rate charged for energy taken during off-peak periods through 1993, and provides an overall rate reduction after 1993. City has the unilateral right to terminate Amended and Restated Service Schedule C as of January 1, 1996, or any month thereafter; PNM has the unilateral right to terminate Amended and Restated Service Schedule C as of April 1, 2006, or any month thereafter. City has the unilateral right to reduce its firm power purchases to zero in 1994 and 1995 if PNM is unable to satisfy certain conditions for the related sale of PNM's UW transmission line to City. Otherwise, Amended and Restated Service Schedule C remains in effect through 2011.

Amended and Restated Service Schedule D updates the rates, terms and conditions for both interruptible and firm transmission services between the parties.

Under Service Schedule H, in lieu of curtailing energy production from the parties' undivided ownership entitlements in San Juan Generating Station Unit 4, the parties may offer certain excess energy to one another.

PNM has requested that the applicable notice requirements be waived, and that the Commission accept for filing Amended and Restated Service Schedule C, Amended and Restated Service Schedule D, and Service Schedule H to be effective January 1, 1989.

Copies of Amended and Restated Service Schedule C, Amended and Restated Service Schedule D, and Service Schedule H to be effective January 1, 1989.

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

8. Florida Power Corporation

[Docket No. ER89-221-000]

February 15, 1989.

Take notice that on February 7, 1989, Florida Power Corporation (Florida Power) tendered for filing a Contract for Purchases of Economic Energy (Contract) between Florida Power and Duke Power Company. The Contract provides for the sale or exchange of economic energy between the two non-contiguous utilities.

Florida Power asks that the sixty day notice requirement be waived so that the Contract, in accordance with its terms, may be permitted to become effective on February 1, 1989.

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

9. Montana Power Company

[Docket No. ER89-219-000]

February 15, 1989.

Take notice that on February 6, 1989, the Montana Power Company (Montana) tendered for filing pursuant to Part 35 of the Federal Energy Regulatory Commission's (FERC) Regulations under the Federal Power Act its proposed Rate Schedule REC-89, applicable for sales of electricity by Montana for resale to Central Montana Electric Power Cooperative, Inc., (Central Montana) (Rate Schedule FPC No. 39), and Big Horn County Electric Cooperative, Inc., (Big Horn) (Rate Schedule FPC No. 40). Montana states that this filing has been served upon Big Horn and Central Montana. Montana has requested that the Commission waive the notice requirements to allow the revised rates to be effective as of January 1, 1989.

Montana states that Rate Schedule REC-89 will provide it with an annual decrease in revenues from sales to these customers of $700,000 (four percent) beginning January 1, 1989, as a result of a rate reduction agreement accepted by the above-mentioned parties.

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

10. Central Hudson Gas & Electric Corporation

[Docket No. ER89-220-000]

February 15, 1989.

Take notice that Central Hudson Gas and Electric Corporation (Central Hudson), on February 6, 1989, tendered for filing, as a rate schedule an executed Agreement dated December 1, 1988, between Central Hudson and Boston Edison. The proposed rate schedule provides for the sale and purchase of 25 MW of capacity and related energy for the period December 1, 1988 to April 30, 1989.

Boston Edison shall pay Central Hudson monthly $60/MW day for the capacity made available which charge includes the use of Central Hudson's transmission facilities required to deliver and transmit energy. Energy and supplemental capacity charges are based on a number of factors described in Section 6a and 6b of the Agreement.

Central Hudson states that copies of the subject filing were served upon Boston Edison.

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

11. Wisconsin Power & Light Company

[Docket No. ER89-224-000]

February 15, 1989.

Take notice that on February 9, 1989, Wisconsin Power & Light Company (WPL) tendered for filing a new wholesale power agreement dated January 26, 1989, between the City of Sun Prairie and WPL. WPL states that this new wholesale power agreement supercedes the previous agreement between the two parties which was

dated October 15, 1968, and designated Rate Schedule No. 73 by the Commission.

The purpose of this new agreement is to provide for a new delivery point, the construction and lease of new facilities, and for new terms of service.

WPL requests that an effective date concurrent with the contract effective date be assigned. WPL states that copies of the agreement and the filing have been provided to the City of Sun Prairie and the Wisconsin Public Service Commission.

Comment date: March 3, 1989, in accordance with Standard Paragraph E at the end of this document.

12. Virginia Electric and Power Company

[Docket No. ER89-217-000]

February 15, 1989.

Take notice that on February 3, 1989, Virginia Electric and Power Company (VEPCO) tendered for filing an Agreement for the Purchase of Electricity for Resale Between VEPCO and Virginia Municipal Electric Association Number 1 (VMEA). Pursuant to the Agreement, VEPCO would provide wholesale service to VMEA in lieu of service previously provided to the Cities of Franklin, Harrisonburg, and Manassas, Virginia and the Towns of Blackstone, Culpeper, Elkton and Wakefield, Virginia.

Copies of the filing have been served on VMEA, the wholesale municipal customers in Virginia, the Virginia State Corporation Commission and the North Carolina Utilities Commission.

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

13. Ultra Cogen Systems, Inc.

[Docket No. QF89-140-000]

February 15, 1989.

On February 1, 1989, Ultra Cogen Systems, Inc. (Applicant), of 12500 Fair Lake Circle, Suite 260, Fairfax, Virginia 22033-3822 submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located in Rensselaer, New York. The facility will consist of one pulverized coal-fired boiler and a single automatic extraction, condensing steam turbine generator. The steam extracted from the generator will be used to supply process heat to the BASF Corporation to process fluids which are used in the manufacture of chemicals and resins. The net electrical power production capacity will be 79 megawatts. The primary energy sources will be coal. Installation of the facility is scheduled to begin in mid-1991.

Comment date: Thirty days from publication in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

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

Lois D. Cashell,

Secretary.

[FR Doc. 89-4039 Filed 2-21-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP89-799-000, et al.]

United Gas Pipe Line Co., et al.; Natural Gas Certificate Filings

February 16, 1989.

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

1. United Gas Pipeline Company

[Docket No. CP89-799-000]

Take notice that on February 9, 1989, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP89-799-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide interruptible transportation service on behalf of Texaco Gas Marketing (Texaco), a marketer of natural gas, under United's blanket certificate issued in Docket No. CP88-6-000, all as more fully set forth in the request on file with the Commission and open to public inspection.

Pursuant to an interruptible gas transportation agreement dated August 22, 1988, as amended December 16, 1988, United proposes to transport up to 51,500 MMBtu of natural gas per day for Texaco from an existing point of receipt located in Mobile County, Alabama to ten points of delivery located in Alabama, Florida and Mississippi. Texaco has informed United that it expects to have the full 51,500 MMBtu transported on an average day and, based thereon, estimates that the annual transportation quantity would be 18,797,500. United advises that the transportation service commenced on December 16, 1988, as reported in Docket No. ST89-1974-000, pursuant to § 282.223(a) of the Commission's Regulations.

Comment date: April 3, 1989, in accordance with Standard Paragraph G at the end of this notice.

2. Panhandle Eastern Pipe Line Company

[Docket No. CP89-784-000]

Take notice that on February 8, 1989, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77251-1642, filed in Docket No. CP89-784-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas for National Steel Corporation (National Steel), a shipper and end-user of natural gas, pursuant to Panhandle's blanket certificate issued in Docket No. CP86-585-000, under section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open for public inspection.

Specifically, Panhandle requests authority to transport up to 20,000 Dt. per day on an firm basis on behalf of National Steel, pursuant to a Transportation Agreement dated January 1, 1989 between Panhandle and National Steel (Agreement). Panhandle states that the Agreement provides for it to receive gas from various existing points of receipt along its system in Texas, Oklahoma, Kansas, Colorado, Wyoming, and Illinois and deliver such gas, less fuel used and unaccounted for line loss, to National Steel and Michigan Consolidated Gas Company in Wayne County, Michigan. National Steel expects to have the maximum transportation quantity, 20,000 Dt., transported on an average day and, based thereon, 7,300,000 Dt. would be transported annually. Panhandle advises that the service commenced on January 1, 1989, as reported in Docket No. ST89-2089, pursuant to Section 284.223(a) of the Commission's Regulations.

Comment date: April 3, 1989, in accordance with Standard Paragraph G at the end of this notice.

3. United Gas Pipe Line Company

[Docket No. CP89-793-000]

Take notice that on February 9, 1989, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP89-793-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 284.223) for authorization to provide an interruptible transportation service on behalf of LaSER Marketing Company, a marketer of natural gas, under United's blanket certificate issued in Docket No. CP88-6-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open for public inspection.

United states that the interruptible gas transportation service agreement, dated December 16, 1988, proposes to transport a maximum daily quantity of 618,000 MMBtu equivalent of natural gas, an average daily quantity of 618,000 MMBtu equivalent of natural gas, and an annual quantity of 225,570,000 MMBtu equivalent of natural gas, using existing facilities to provide transportation service pursuant to that agreement. It is stated that the executed agreement contains the location of the receipt and delivery points in Exhibits A and B. United further states that service commenced January 1, 1989, as reported in Docket No. ST89-1799 pursuant to § 284.223(a) of the Regulations.

Comment date: April 3, 1989, in accordance with Standard Paragraph G at the end of this notice.

4. El Paso Natural Gas Company

[Docket No. CP89-809-000]

Take notice that on February 10, 1989, El Paso Natural Gas Company (El Paso), P.O. Box 1492, El Paso, Texas, 79978, filed in Docket No. CP89-809-000 a request pursuant to §§ 157.205 and 284.223(2)(b) of the Commission's Regulations under the Natural Gas Act for authorization to provide transportation for Hondo Oil & Gas Company (Hondo Oil) under El Paso's blanket certificate issued in Docket No. CP88-433-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open for public inspection.

El Paso requests authorization to transport, on an interruptible basis, up to a maximum of 264 MMBtu of natural gas per day for Hondo Oil from various receipt points to various delivery points on El Paso's system in New Mexico. The receipt and redelivery points are listed in Exhibits A and B of the December 20, 1988 transportation agreement which provides for this service, and is on file with the Commission and open to public inspection. El Paso states that the estimated daily and annual quantities would be 264 MMBtu and 96,360 MMBtu, respectively.

El Paso further states that the transportation of natural gas for Hondo Oil commenced on January 6, 1989, as reported in Docket No. ST89-2081-000, for a 120-day period pursuant to § 284.223(a)(1) of the Commission's Regulations and the blanket certificate issued to El Paso in Docket No. CP88-433-000.

El Paso further states that it has no knowledge of any agency relationship under which a local distribution company or an affiliate of Hondo Oil will receive natural gas on behalf of Hondo Oil.

Comment date: April 3, 1989, in accordance with Standard Paragraph G at the end of this notice.

5. United Gas Pipe Line Company

[Docket No. CP89-797-000]

Take notice that on February 9, 1989, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP89-797-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of LaSER Marketing Company (LaSER), under its blanket authorization issued in Docket No. CP88-6-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open for public inspection.

United would perform the proposed interruptible transportation service for LaSER, a marketer of natural gas, pursuant to a interruptible gas transportation service agreement dated October 1, 1988 (Contract No. T1-21-1841). The term of the transportation agreement is for a primary term of one month from the first delivery of gas and shall continue in effect for successive one month terms thereafter until terminated. United proposes to transport on a peak day up to 154,500 MMBtu; on an average day up to 154,500 MMBtu; and on an annual basis 56,392,000 MMBtu for LaSER. United proposes to receive the subject gas at an existing interconnection with Sea Robin Pipeline Company near Erath, Vermilion Parish, Louisiana. United would then transport and redeliver such volumes for LaSER's account at existing points of interconnection in St. Laundry Parish, Ouachita Parish, Rapides Parish, and LaSalle Parish, Louisiana. The proposed rate to be charged is 37.03 cents per Mcf pursuant to Rate Schedule ITS. United indicates that it would be using existing facilities to provide the proposed transportation service.

It is explained that the proposed service is currently being performed pursuant to the 120-day self implementing provision of § 284.223(a)(1) of the Commission's Regulations. United commenced such self-implementing service on January 1, 1989, as reported in Docket No. ST88-1738-000.

Comment date: April 3, 1989, in accordance with Standard Paragraph G at the end of this notice.

6. Northwest Pipeline Corporation

[Docket No. CP89-771-000]

Take notice that on February 7, 1989, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84108, filed in Docket No. CP89-771-000, a request pursuant to §§ 157.205 and 157.212 of the Federal Energy Regulatory Commission's (Commission) Regulations under the Natural Gas Act for authorization to reallocate natural gas service for The Washington Water Power Company (Water Power), an existing customer of Northwest's, under the blanket certificate issued to Northwest in Docket No. CP82-433-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Northwest states that Water Power has requested Northwest to provide additional service to Water Power at the Rathdrum Meter Station, located in Kootenai County, Idaho. Water Power has informed Northwest that the additional service is needed to provide natural gas to the Coeur D'Alene Asphalt Company (CD Asphalt).

It is stated that since the Rathdrum Meter Station is on Pacific Gas Transmission Company's (PGT) pipeline, PGT will construct and operate an enlarged Rathdrum Meter Station and provide transportation of Northwest's system supply to that point. PGT has agreed to enlarge the Rathdrum Meter Station and Northwest has agreed to reimburse PGT for its actual costs of doing so. Likewise, Water Power has agreed to reimburse Northwest for all our-of-pocket costs incurred in enlarging the Rathdrum Meter Station. The total cost of the meter station is estimated to be $188,740.

Northwest proposes to sell up to 4,800 therms (including an estimated 3,800 therms to serve CD Asphalt) of natural gas per day under Rate Schedule ODL-1

to Water Power at the Rathdrum Meter Station by utilizing existing quantities of natural gas heretofore authorized for sale and delivery under Rate Schedule ODL-1 to Water Power at the Mica Meter Station in Ada county, Idaho.

Northwest further states that no increase in the total daily contract quantity of natural gas which it is authorized to sell and deliver to Water Power is proposed, nor will any such increase from the grant of authorization sought herein.

Northwest avers that the proposed sales will be made by utilizing its currently existing system capacity and that Northwest has sufficient capacity to provide for the proposed deliveries without detriment or disadvantage to any of Northwest's existing customers.

Comment date: April 3, 1989, in accordance with Standard Paragraph G at the end of this notice.

7. Pacific Gas Transmission Company

[Docket No. CP89-788-000]

Take notice that on February 9, 1989, Pacific Gas Transmission Company (PGT), 160 Spear Street, San Francisco, California 94105-1570, filed in Docket No. CP89-788-000, a request pursuant to § 157.205 of the Commission's Regulations for authorization to construct and operate metering facilities for the delivery of natural gas to Northwest Pipeline Corporation (Northwest) and to reassign volumes authorized for delivery to Northwest from one existing delivery point to another, under PGT's blanket certificate issued in Docket No. CP82-530-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

PGT proposes to construct and operate new metering facilities at an existing delivery point at Rathdrum, Idaho (Rathdrum), for the delivery of 480 Mcf of natural gas per day to Northwest for resale to the Washington Water Power Company, a local distribution, which would use the gas to serve customers in Rathdrum, Idaho. It is stated that of the volumes to be delivered at Rathdrum, 363 Mcf per day would come from Northwest's daily entitlement from PGT at Mica, Washington (8,190 Mcf per day), which would be reassigned for delivery at Rathdrum in addition to the 117 Mcf per day currently authorized for delivery at Rathdrum. It is explained that the cost of constructing new facilities would be $115,000, for which PGT would be reimbursed by Northwest. It is asserted that the proposed reassignment would not increase the total daily quantity of gas which PGT is authorized to transport for Northwest and would cause no impact on PGT's peak day and annual deliveries to other existing customers.

Comment date: April 3, 1989, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraph

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) to motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 89-4040 Filed 2-21-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP89-791-000, et al.]

Williams Natural Gas Co., et al.; Natural Gas Certificate Filings

February 14, 1989.

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

1. Williams Natural Gas Company

[Docket No. CP89-791-000]

Take notice that on February 9, 1989, Williams Natural Gas Company (Williams), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP89-791-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Williams Gas Marketing Company (WGM), a marketing affiliate of Williams', under its blanket authorization issued in Docket No. CP86-631-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Williams would perform the proposed interruptible transportation service for WGM, pursuant to an interruptible transportation service agreement dated January 1, 1989 (Reference No.TR-A0062). The transportation agreement is effective for a term until January 1, 1990, and month-to-month thereafter unless terminated by either party on thirty days written notice. Williams proposes to transport approximately 3,500 MMBtu of natural gas on a peak and average day; and on an annual basis 1,277,500 MMBtu of natural gas for WGM. Williams proposes to receive the subject gas at various points located in the state of Oklahoma for delivery to various points on Williams' pipeline system located in the states of Kansas and Missouri.

It is explained that the proposed service is currently being performed pursuant to the 120-day self implementing provision of § 284.223(a)(1) of the Commission's Regulations. Williams commenced such self-implementing service on January 1, 1989, as reported in Docket No. ST89-2053-000.

Comment date: March 31, 1989, in accordance with Standard Paragraph G at the end of this notice.

2. United Gas Pipe Line Company

[Docket No. CP89-785-000]

Take notice that on February 8, 1989, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP89-785-000 a request pursuant to § 157.205 of the Commission's Regulations for authorization to transport natural gas on behalf of Seagull Marketing (Seagull), a marketer of natural gas, under United's blanket certificate issued in Docket No. CP88-6-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

United proposes to transport on an interruptible basis up to 515,000 MMBtu equivalent of natural gas on a peak day, 515,000 MMBtu equivalent on an average day, and 187,975,000 MMBtu equivalent on an annual basis. It is stated that United would receive the gas for Seagull's account at existing points on United's system in Texas, Louisiana, and Mississippi, and would deliver equivalent volumes at existing points in Louisiana, Texas, Florida, Alabama, and Mississippi. It is asserted that the transportation service would be effected utilizing existing facilities and would not require any construction of additional facilities. It is explained that the transportation service commenced January 16, 1989, as reported in Docket No. ST89-1972.

Comment date: March 31, 1989, in accordance with Standard Paragraph G at the end of this notice.

3. United Gas Pipe Line Company

[Docket No. CP89-794-000]

Take notice that on February 9, 1989, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP89-794-000 a request pursuant to Section 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide an interruptible transportation service for Transco Energy Marketing (Transco), a marketer, under the blanket certificate issued in Docket No. CP88-6-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

United states that pursuant to a transportation agreement dated May 19, 1988, as amended on October 18, 1988, under its Rate Schedule ITS, it proposes to transport up to 99,517 MMBtu per day equivalent of natural gas for Transco. United states that it would transport the gas from existing receipt points in Louisiana and Mississippi, and deliver such gas to interconnections between United and (1) Gulf States Utilities Company at the Willow Glen Power Generating Station, Iberville Parish, Louisiana, (2) the inlet of Shell's North Terrebonne Gas Processing Plant, Terrebonne Parish, Louisiana, and (3) United Texas Transmission Company near Port Arthur, Jefferson County, Texas.

United advises that service under Section 284.223(a) commenced December 12, 1988, as reported in Docket No. ST89-1936 (filed January 25, 1989). United further advises that it would transport 99,517 MMBtu on an average day and 36,323,705 MMBtu annually.

Comment date: March 31, 1989, in accordance with Standard Paragraph G at the end of this notice.

4. United Gas Pipe Line Company

[Docket No. CP89-796-000]

Take notice that on February 9, 1989, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP89-796-000 a request pursuant to Section 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide an interruptible transportation service for Superior Natural Gas Corporation (Superior), a marketer, under the blanket certificate issued in Docket No. CP88-6-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

United states that pursuant to a transportation agreement dated October 1, 1988, as amended on November 14, 1988, under its Rate Schedule ITS, it proposes to transport up to 41,200 MMBtu per day equivalent of natural gas for Superior. United states that it would transport the gas from an existing interconnection between United and Sea Robin Pipeline Company near Erath, Vermilion Parish, Louisiana, and deliver such gas to existing interconnections with various pipeline companies at multiple delivery points for Superior's account.

United advises that service under Section 284.223(a) commenced December 8, 1988, as reported in Docket No. ST89-1973 (filed January 26, 1989). United further advises that it would transport 41,200 MMBtu on an average day and 15,038,000 MMBtu annually.

Comment date: March 31, 1989, in accordance with Standard Paragraph G at the end of this notice.

5. Williams Natural Gas Company

[Docket No. CP89-792-000]

Take notice that on February 9, 1989, Williams Natural Gas Company (WNG), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP89-792-000 an application pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Phillips Petroleum Company (Phillips), a producer of natural gas, under WNG's blanket certificate issued in Docket No. CP86-631-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

WNG proposes to transport, on an interruptible basis, up to a maximum of 2,000 MMBtu per day for Phillips from various receipt points in Kansas and Oklahoma to various delivery points on WNG's pipeline system located in Kansas, Missouri and Oklahoma. WNG states that the maximum day, average day, and annual transportation volumes would be approximately 2,000 MMBtu, 2,000 MMBtu and 730,000 MMBtu respectively.

WNG further states that the transportation of natural gas for Phillips commenced on December 28, 1988, as reported in Docket No. ST89-2094-000, for a 120-day period pursuant to Section 284.223(a) of the Commission's Regulations.

WNG advises that construction of facilities would not be required to provide the proposed service.

Comment date: March 31, 1989, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraph

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 89-4041 Filed 2-21-89; 8:45 am]

BILLING CODE 6717-01-M

[Project Nos. 10297-002, et al.]

Skagit River Hydro, et al.; Surrender of Preliminary Permits and Exemptions

February 16, 1989.

Take notice that the following preliminary permits/exemptions have been surrendered effective as described in Standard Paragraph I at the end of this notice.

1. Skagit River Hydro

[Project No. 10297-002]

Take notice that Skagit River Hydro, Permittee for the proposed Walker Creek Project, has requested that its preliminary permit be terminated. The permit was issued on June 30, 1987, and would have expired on May 31, 1990. The project would have been located on Walker Creek, near the town of Mt. Vernon, in Skagit County, Washington. The permittee states that the proposed project is not economically feasible under existing environmental and engineering constraints.

The Permittee filed the request on January 30, 1989.

2. Skykomish River Hydro

[Project No. 10391-002]

Washington.

Take notice that Skykomish River Hydro, Permittee for the Money Creek Project No. 10391, has requested that its preliminary permit be terminated. The

preliminary permit for Project No. 10391 was issued on September 9, 1987, and would have expired August 31, 1990. The project would have been located on Money Creek in King County, Washington.

The Permittee filed the request on January 25, 1989.

3. Skykomish River Hydro

[Project No. 10390-003]

Washington.

Take notice that Skykomish River Hydro, Permittee for the Index Creek Project No. 10390, has requested that its preliminary permit be terminated. The preliminary permit for Project No. 10390 was issued October 16, 1987, and would have expired September 30, 1990. The project would have been located on Index Creek in King County, Washington.

The Permittee filed the request on January 25, 1989.

4. Skykomish River Hydro

[Project No. 10417-002]

Washington.

Take notice that Skykomish River Hydro, Permittee for the Rapid River Project No. 10417, has requested that its preliminary permit be terminated. The preliminary permit for Project No. 10417 was issued September 8, 1987, and would have expired August 31, 1990. The project would have been located on Rapid River in Snohomish County, Washington.

The Permittee filed the request on January 25, 1989.

5. Snowbird, Ltd.

[Project No. 9827-001]

Utah.

Take notice that Snowbird, Ltd., Exemptee for the Wasatch Drain Tunnel Project No. 9827, has requested that its exemption be terminated. The exemption for Project No. 9827 was issued December 17, 1986. The project would have been located on Wasatch Drain Tunnel in Salt Lake County, Utah. No construction has been undertaken.

The Exemptee filed the request on December 16, 1989.

Standard Paragraph

I. The preliminary permit/exemption shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007 in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Lois D. Cashell,

Secretary.

[FR Doc. 89-4042 Filed 2-21-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP86-63-013; RP86-114-008 and RP88-17-021]

Southern Natural Gas Co.; Proposed Changes in FERC Gas Tariff

February 15, 1989.

Take notice that on February 8, 1989, Southern Natural Gas Company (Southern) tendered for filing the following revised tariff sheets to be effective September 1, 1988:

Sixth Revised Volume No. 1

Substitute Third Revised Sheet No. 4C
Substitute Third Revised Sheet No. 4D
Substitute Third Revised Sheet No. 4E
Substitute Sixth Revised Sheet No. 8B
Substitute First Revised Sheet No. 11H.1
Substitute First Revised Sheet No. 15A.1
Substitute First Revised Sheet No. 26A.1

In compliance with Ordering Paragraph (B) of the Commission's January 24, 1989, order in the above-captioned proceedings, Southern states that the proposed tariff sheets, which contain the D-2 Overrun Charge provisions, have been revised so as to eliminate any possibility of Southern's assessment of both monthly and annual D-2 Overrun charges on the same volumes of gas. Southern pointed out, however, that its tariff filing did not affect the provisions of the Interim Stipulation implemented in these proceedings effective December 1, 1988. Southern further stated that the provisions in the Interim Stipulation relating to the assessment of D-2 Overrun Charges have effectively superseded the application of the D-2 Overrun Charge provisions contained in its tariff while the settlement rates are in effect.

Any person desiring to protest this 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 the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such motions or protests should be filed on or before February 22, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken but will not make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-4037 Filed 2-21-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-66-000]

Texas Eastern Transmission Corp. Tariff Change and Request for Waiver of Tariff Provision

February 15, 1989

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on February 8, 1989 tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, six copies of the following tariff sheets:

Second Revised Sheet No. 326
Second Revised Sheet No. 336
Substitute Second Revised Sheet No. 337

The purpose of this filing is to withdraw section 12 of Texas Eastern's Rate Schedule IT-1 and to request waiver of the requirements of section 12 for customers who entered into IT-1 contracts prior to the withdrawal of section 12.

Section 12 currently requires Texas Eastern and customers under Rate Schedule IT-1 to the execute new service agreements each calendar year in the event the customer did not deliver during the prior calendar year at least 50% of their MDTQ times the number of days the IT-1 Service Agreement was effective. The new service agreement would specify a MDTQ equal to 50% of the prior MDTQ.

Based on Texas Eastern's experience since the commencement of service under Rate Schedule IT-1, there does not appear to be a need for the provision contained in section 12 of Rate Schedule IT-1. Indeed, section 12, by requiring a customer to deliver at least 50% of his MDTQ, may deny a customer the ability to obtain a MDTQ sufficient to satisfy anticipated above average transportation demands on a given day. Practically 100% of Texas Eastern's existing IT-1 contracts failed to satisfy the requirements of section 12 for calendar year 1988. The implementation of section 12 for 1988 Service Agreements will cause Texas Eastern to process and mail approximately 300 new contracts to its customers. Accordingly, section 12 is imposing significant administrative burdens on Texas Eastern and the customers without, in Texas Eastern's opinion, any corresponding benefits.

In addition to withdrawing section 12 of Rate Schedule IT-1 prospectively.

Texas Eastern respectfully requests authorization to waive section 12 in so far as it is applicable to all IT-1 Service Agreements executed prior to the effective date of the withdrawal of section 12. In addition to the reasons stated above supporting such waiver, Texas Eastern submits that waiver of section 12 is appropriate since these customers did not have a full calendar year in which to attempt to satisfy the requirements of section 12. Customers did not have a full calendar year of transportation due to the fact Texas Eastern was not authorized to render IT-1 transportation prior to April 22, 1988.

Texas Eastern has commenced the necessary procedures required by section 12 to cancel and rewrite the 1988 Service Agreements. Texas Eastern originally anticipated full implementation of section 12 by March 1, 1989. March 1, 1989 was also the anticipated effective date of the new service agreements. However, in light of the administrative burden in processing approximately 300 contracts, Texas Eastern does not now anticipate being able to implement to section 12 until after March 15, 1989. In the event authorization to waive section 12 is not granted by March 15, 1989, Texas Eastern will implement the MDTQ reductions required by section 12 on or about April 1, 1989. To avoid this administrative burden, Texas Eastern respectfully request the Commission to approve Texas Eastern's waiver request on or before March 15, 1989.

The proposed effective date of the above tariff sheets is March 15, 1989.

Copies of this filing has been mailed to all customers under Rate Schedule IT-1 and to Interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before February 22, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-4036 Filed 2-21-89; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3526-2]

Municipal Solid Waste Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability.

SUMMARY: The Environmental Protection Agency (EPA) announces the availability of the final report entitled: "The Solid Waste Dilemma: An Agenda for Action." A draft report was released for public comment on September 22, 1988, and four public meetings were held in September and October, 1988, to solicit comments on the draft. The final report reflects many of these public comments and is EPA's response to the nation's current solid waste management dilemma. Americans produce increasing amounts of garbage each year. This depletes natural resources used to produce products which become waste and depletes the capacity of facilities to properly handle the waste. Some areas of the nation are quickly running out of landfill space, and the siting of new landfills, incinerators, and recycling facilities is strongly resisted at the local level. EPA's "Agenda for Action" is a national strategy to deal with this problem. It calls for responsible action by all levels of government and by individual and corporate citizens to reduce the amount and toxicity of waste produced and to assume responsibility for waste produced. Consumers need to buy reusable and recyclable, rather than disposable products. Manufacturers need to make products which, at the end of their useful life, result in waste of lower quantity and toxicity. Waste management costs should not be subsidized; rather, individuals and companies should be charged the full cost of handling the wastes which they generate.

ADDRESS: *Comments*—Copies of the public comments on the draft Agenda for Action received by EPA during the 60-day comment period are available for viewing at the RCRA Docket Information Center, U.S. EPA (OS-305), 401 M Street, SW, Washington, DC 20460. In addition, transcripts of the four public meetings are available for viewing in the RCRA Docket. Finally, EPA developed a summary of the comments, as well as a separate summary of the public hearing testimony on the draft Agenda for Action. These summaries are also available for viewing at the RCRA docket. The docket reference number for all of these materials is F-88-SWDA-FFFFF. The docket is located at EPA Headquarters and is available for viewing from 9:00 AM to 4:00 PM Monday through Friday, excluding Federal holidays. Docket materials may be reviewed by appointment only. To make appointments, the public should call (202) 475-9327. The public may copy materials from the docket at a cost of $.15 per page.

Additional Information—EPA developed a report which provides background information for the Agenda for Action. The report, entitled: "Background Document for The Solid Waste Dilemma: An Agenda for Action," was released in September 1988. No revisions to the document have been made. It is available for purchase from the National Technical Information Service (NTIS) at a cost of $38.95. When ordering this report, please include the PB order number PB88-251137. Microfiche of the report is available at a cost of $6.95.

In addition, EPA developed appendices, "Appendices A-B-C," which summarize information on different municipal waste materials. These appendices also have not been revised, and are available from NTIS at a cost of $38.95. The order number is PB88-251145. Microfiche of the appendices is available at a cost of $6.95.

The Final Agenda for Action is available from the U.S. EPA at no charge by calling the RCRA Hotline at 1-800-424-9346; in Washington, DC, call 382-3000.

SUPPLEMENTARY INFORMATION:

I. Authority

The authority for the activities discussed in this notice are found in the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6901 *et seq.* and in the Toxic Substances Control Act, as amended, 15 U.S.C. 2601 *et seq.*

II. Background

Many areas of the United State are today facing very serious difficulties in safely and efficiently managing municipal solid waste. Americans produce more and more solid waste each year. While, at the same time we

are generating more waste, we are running out of places to dispose of it. Although solid waste management is primarily a local responsibility, the problem is national in scope. In response to this rash of environmental and siting problems, EPA created a Municipal Solid Waste Task Force in February 1988 and directed it to fashion a strategy for improving the nation's management of municipal solid waste. (See **Federal Register**, Volume 53, No. 78, April 22, 1988, pg. 13316–13317.)

A draft report "The Solid Waste Dilemma: An Agenda for Action," was developed by the Task Force after numerous discussions with State representatives, various industries, environmental and other public interest groups, as well as at three public meetings held in May 1988. The draft report was released on September 22, 1988, for public comment. It presented the Task Force's draft national action agenda to cope with the burgeoning problems associated with the nation's municipal solid waste. (See **Federal Register**, Volume 53, No. 184, September 22, 1988, pg. 36883–36885.)

During the 60-day comment period, four public meetings were held in St. Paul, Minnesota; Washington, DC; Long Beach, California; and Atlanta, Georgia. In total, 33 persons from a variety of organizations spoke at these public meetings. In addition, 46 sets of written comments were received by the RCRA docket. Most of these comments were generally supportive of the proposed activities in the draft Agenda for Action. As noted earlier, summaries of the written comments and the public meeting transcripts are available for viewing at the RCRA Docket. Some revisions to the Agenda for Action have been made to reflect these comments.

III. Summary of Revisions

The following revisions were incorporated into the final report:

- To meet the 25 percent source reduction/recycling goal by 1992, greater emphasis is placed on composting. Development of quality guidelines and standards or guidelines for operation of compost facilities are also planned.
- No specific source reduction/recycling goal is established beyond 1992; however, the EPA anticipates that the 25 percent level will be exceeded, as capital equipment comes on-line for recycling various commodities, including paper.
- The goal for source reduction is articulated more clearly to indicate that we should reverse the trend of ever-increasing per capita generation of solid waste.
- More emphasis is placed on a "systems" approach to waste management, since meeting a 25 percent recycling and reduction goal still leaves 75 percent of the waste stream to be managed.
- Household hazardous waste (HHW) issues are noted in more detail.
- The need for better communication by states and localities to enhance siting is discussed, and EPA's communications experts are committed to working on this issue.
- Several changes to the schedules for EPA activities have been made, to reflect public comments and other factors.

IV. Scope of the Final Agenda for Action

For purposes of the strategy, the Task Force considered "municipal solid waste" as primarily residential solid waste, with some contribution from commercial, institutional, and industrial sources. Americans generate municipal solid waste at a rate of over 3.5 pounds per capita per day; some 160 million tons nationally in 1986. The primary constituents of municipal solid waste are paper and paperboard, yard waste, food waste, rubber and textiles, metals, plastics, and glass. These and other components are addressed in the report. The report does not attempt to grapple with the issue of infectious waste, as this issue is the exclusive subject of a separate EPA Task Force.

The Municipal Solid Waste Task Force identified several objectives for a national agenda for action to address the municipal solid waste dilemma. These objectives, described below, relate directly to the overall goal of closing the gap between waste generation and the capacity to safely handle all wastes. These objectives also highlight the importance of participation and planning in order to achieve both national and local goals for integrated waste management. All parties have action roles and must assume responsibility: manufacturing industries, product distributors (e.g., retailers), the waste management industry, the secondary materials industry, consumers, and all levels of government.

The Objectives are:

1. Increase the waste planning and management information (both technical and educational) available to states, local communities, waste handlers, citizens, and industry.

2. Increase planning by waste handlers, local communities, and states.

3. Increase source reduction activities by manufacturing industry, government and citizens.

4. Increase recycling by government and individual and corporate citizens.

5. Reduce the risks of municipal solid waste combustion.

6. Reduce the risks of landfills.

The Agenda for Action discusses the need for "integrated waste management" for local communities. An integrated waste management system will contain some or all of the following components: source reduction, recycling of materials, combustion (incineration), and landfilling. In integrated waste management, all the elements work together to form a complete system for proper management of municipal waste. Every community can "custom design" its integrated waste management system to emphasize certain management practices, consistent with the community's particular demographic and waste stream characteristics.

Everyone has a role in making integrated waste management work. Industry has a responsibility to consider source reduction and recyclability in designing products and packaging, and to use secondary materials in their manufacture. Every individual and corporate citizen should assume responsibility for waste disposal and adopt a "pay as you throw" attitude, recognizing and paying the true costs of handling their waste.

Units of state and local government are ultimately responsible for managing solid waste and planning the mix of management options that will effectively handle the waste stream. The Federal government should participate in municipal solid waste management by establishing national goals, developing education programs, providing technical assistance, and issuing regulations.

While the Agenda for Action offers a number of concrete suggestions for action by government at all levels, industry, and private citizens, it also underscores the need for a fundamental change in the nation's approach to producing, packaging, and disposing of consumer goods. In the past, "business as usual" has meant an accelerating trend toward disposable products, convenience packaging, and an "out-of-sight, out-of-mind" attitude toward solid waste. As a nation, we can no longer afford this kind of "business as usual."

Date: February 13, 1989.

J. Winston Porter,

Assistant Administrator for Solid Waste and Emergency Response.

[FR Doc. 89–4026 Filed 2–21–89; 8:45 am]

BILLING CODE 6560-50-M

[FRL 3525-3]

Science Advisory Board Environmental Health Committee Drinking Water Subcommittee Open Meeting

Under Pub. L. 92-463, notice is hereby given that a two-day meeting of the Drinking Water Subcommittee, of the Environmental Health Committee, of the Science Advisory Board will be held on April 6 & 7, 1989, at the Holiday Inn-Central, 1501 Rhode Island Avenue NW., Washington, DC. The meeting will be held from 9:00 a.m. to 5:00 p.m. on April 6 and from 9:00 a.m. to 12:00 p.m. on April 7th.

The purpose of this meeting is to finalize the discussion of the two previous meetings on disinfection and to discuss some specific aspects of arsenic in drinking water.

The meeting will be open to the public. Any member of the public wishing to make a presentation at the meeting should forward a written statement to Dr. C. Richard Cothern, Executive Secretary, Science Advisory Board (A-101F)), U.S. Environmental Protection Agency, Washington, DC 20460, or contact him on (202) 382-2552 by March 24, 1989. The Science Advisory Board expects that the public statements presented at its meetings will not be repetitive of previously submitted written statements. In general, each individual or group making an oral presentation will be limited to a total time of ten minutes.

Dated: February 15, 1989.

Donald G. Barnes,

Director, Science Advisory Board.

[FR Doc. 89-3997 Filed 2-21-89; 8:45am]

BILLING CODE 6560-50-M

[OPP-50684; FRL-3524-7]

Receipt of Notification of Intent to Conduct Small-Scale Field Testing; Genetically Engineered Microbial Pesticide; Boyce Thompson Institute for Plant Research of Ithaca

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received a notification of intent to conduct small-scale field testing of a genetically engineered microbial pesticide consisting of an altered *Autographa californica* nuclear polyhedrosis virus from the Boyce Thompson Institute for Plant Research. EPA has determined that the application may be of regional and national significance. Therefore, in accordance with 40 CFR 172.11(a), EPA is soliciting public comments on this application.

DATE: Written comments must be received on or before March 24, 1989.

ADDRESS: Comments in triplicate, should bear the docket control number OPP-50684 and be submitted to: Information Services Section, Program Management and Support Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

In person bring comments to: Rm. 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted in any comment(s) concerning this notice 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(s) that do 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. Information on the proposed test and all written comments will be available for public inspection in Rm. 236 at the Virginia address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Phillip Hutton, Product Manager (PM) 17, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 207, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-2690).

SUPPLEMENTARY INFORMATION: A notification of intent to conduct small-scale field testing pursuant to the EPA's "Statement of Policy; Microbial Products Subject to the Federal Insecticide, Fungicide. and Rodenticide Act and the Toxic Substances Control Act" of June 26, 1986 (51 FR 23313), has been received from Boyce Thompson Institute for Plant Research of Ithaca, New York. The purpose of the proposed testing is to test the survival capacity and assess the spread of a genetically engineered baculovirus with pesticidal characteristics under field release conditions over a 3-year period. This research is being funded through a grant from the EPA Office of Research and Development Terrestrial Biotechnology and Microbial Ecology Program. The proposed testing involves an *Autographa californica* nuclear polyhedrosis virus (AcMNPV) that has been genetically engineered to delete the polyhedrin gene. Unaltered AcMNPV has been used in field control trials throughout the United States. AcMNPV's known host range is restricted to the *Lepidoptera* order of insects. The field test is to take place on 2 acres of the Robbins Vegetable Research Farm, New York State Agricultural Research Station, Geneva, New York. The target pest will be *Trichoplusia ni*, cabbage looper, and the crop plant will be cabbage.

Following the review of the Boyce Thompson Institute application and any comments received in response to this notice, EPA will decide whether or not an Experimental Use Permit is required.

Dated: February 8, 1989.

Anne E. Lindsay,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 89-3994 Filed 2-21-89; 8:45 am]

BILLING CODE 6560-50-M

[OPP-36163; FRL-3526-4]

Summary of Responses to Tuberculocidal Effectiveness Data Call-In Notice

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: This notice announces the availability of a summary of responses to EPA's June 13, 1986, Tuberculocidal Effectiveness Data Call-In Notice to registrants of antimicrobial pesticides with tuberculocidal efficacy claims. The Agency believes that the validity of tuberculocidal efficacy claims for antimicrobial pesticides is a critical concern due to the public health implications of environmental contamination with *Mycobacterium tuberculosis* microorganisms. It is for this reason that the Agency is announcing the availability of the summary of responses.

FOR FURTHER INFORMATION CONTACT: By mail: Bruce Mann, Registration Division (TS-767C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 711, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-8763).

SUPPLEMENTARY INFORMATION: Researchers have indicated that glutaraldehyde based products require longer exposure times and/or higher

temperatures for tuberculocidal activity than the 10 minutes at 20° C specified in the Association of Official Analytical Chemists AOAC Tuberculocidal Activity Method.

In 1983, the AOAC Associate Referee for the AOAC Tuberclocidal Activity Method submitted a new quantitative tuberculocidal procedure for Agency consideration as an alternative testing method. The Agency distributed this new quantitative tuberculocidal procedure on May 21, 1984, in conjunction with the Label Improvement Program for registrants of glutaraldehyde-based hospital sterilant/disinfectant products. The new procedure was identified as an optional alternative to the AOAC Tuberculocidal Activity Method for glutaraldehyde-based disinfectant products.

Subsequently, controversy arose concerning the validity of the new quantitative procedure and of the established AOAC method. In September 1984, an EPA Scientific Advisory Panel (SAP) Subpanel was convened to evaluate the new procedure. The consensus of this Subpanel was that the new procedure had scientific merit but that more testing was needed before adoption as a standard method. In July 1985, a new SAP Subpanel was selected to provide a comparative assessment of the existing AOAC Tuberculocidal Activity Method and the new quantitative tuberculocidal procedure. A public meeting of the SAP Subpanel was held on September 30, 1985, and comments were solicited from the public and interested parties. This Subpanel concluded that both methods should be considered valid until, or unless, data were developed to indicate otherwise.

EPA issued a notice of policy on testing methods, published in the **Federal Register** of May 28, 1986 (51 FR 19279) which announced three tuberculocidal activity testing options that would be permitted by the Agency. Applicants/registrants of all antimicrobial pesticides with proposed or existing tuberculocidal claims for their stressed (re-used) and/or non-stressed (discarded daily) product solutions were required to choose one testing approach for the development of data to substantiate tuberculocidal effectiveness.

On June 13, 1986, a data call-in notice was mailed to all affected registrants, under the authority of section 3(c)(2)(B) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), specifying the requirements necessary for compliance with the announced tuberculocidal testing policy. In both notices, EPA announced the following regulatory policy concerning the tuberculocidal activity testing methods for antimicrobial pesticides:

1. Registrants/applicants of all antimicrobial pesticides with existing tuberculocidal claims or proposed tuberculocidal claims for their stressed (re-used) and/or non-stressed (discarded daily) product solutions were required to choose one of three available tuberculocidal testing options to document tuberculocidal claims. The testing options were:

a. The new quantitative method.

b. The AOAC Tuberculocidal Activity Method, but with substantial modification of the exposure time and/or temperature.

c. The standard AOAC Tuberculocidal Activity Method using 20° C and 10 minutes exposure time.

Certain chemical classes of products were required to undergo validation testing in addition to basic testing.

2. Registrants/applicants were required to clearly reflect the contact time and temperature necessary to achieve effective use of the product as a tuberculocidal agent in the directions for use on the product label. The following additional testing was required for specific chemical classes:

a. For glutaraldehyde-based products, validation data were required if registrants chose testing option 1 c. above, the standard AOAC Method. Specifically, one additional sample of the product had to be tested by a laboratory of the registrant's choice (other than the laboratory which developed the original data) using the same test conditions as the original laboratory (10-minute contact time and 20° C).

b. For quaternary ammonium compounds, registrants/applicants could base their claims on any one of the three optional tests; however, validation data on one additional sample of the product were required for each test option chosen.

c. For chemical groups other than glutaraldehyde or quaternary ammonium compounds, registrants/applicants were permitted to base tuberculocidal claims on any one of the three optional test procedures without required validation data.

Registrants have responded to the data call-in by submitting data generated by one of the three methods, deleting the TB claim from their product label, or voluntarily cancelling their product registration. EPA has completed review of the submitted data and has approved revised labeling to reflect tuberculocidal efficacy of the products as supported by the test data.

A total of 144 products were included in the data call-in. For all chemical classes of products, registrants satisfied the data requirements for only 43 (29.86%) products. The data requirements for 17 products are still outstanding because of deficient reports (i.e., registrants submitted data on only one sample rather than two samples as required by the notice). The registrants of these products who did not correct these deficiencies have been issued a notice of intent to suspend. Registrants of the remaining 84 products either deleted the TB claim from their product label (14), voluntarily cancelled their product registration (22), or were suspended by EPA for failure to comply with the call-in (48).

Since EPA completed its review of the submitted data and approved revised labeling, the AOAC held its annual international meeting from August 27–September 1, 1988, in Palm Beach, Florida. At this meeting, the Committee on Pesticide Formulations and Disinfectants, reported to the Official Methods Board and the AOAC membership that the AOAC Tuberculocidal Activity Method had been adopted as an official AOAC method in 1956 without the required AOAC collaborative studies. As a result of this report, the AOAC membership voted to revoke this procedure as an official method. The motion passed and the AOAC Tuberculocidal activity Method is no longer an official AOAC method of analysis.

In follow-up to this revocation, EPA initiated an investigation of the contention that the AOAC Tuberculocidal Activity Method was adopted in 1956 without the required collaborative studies. Documentation has been obtained that in 1965, after conduct of the required collaborative studies and publication, the procedure designated as the AOAC Tuberculocidal Activity of Disinfectants Method was recommended and adopted as Official First Action. In 1967, it was recommended and adopted by AOAC as Official Final Action.

In consideration of these facts, EPA has requested that the AOAC take the necessary action to reinstate the method. An officer of the AOAC has responded to this request stating that the Association will initiate an investigation of the validity and implications of these alleged discrepancies.

Notwithstanding the AOAC general membership vote to repeal the AOAC Tuberculocidal Activity Method, EPA will continue to allow use of the three testing options to document

tuberculocidal effectiveness for all antimicrobial pesticides. To date, definitive research data have not been developed on either the AOAC Method or the quantitative tuberculocidal activity procedure. Until such data are available, EPA will continue its tuberculocidal testing policy that allows use of the AOAC Tuberculocidal Activity Method and/or time and temperature modifications to it, and the new quantitative procedure for registration of tuberculocidal claims.

Due to public health implications and the significance of tuberculocidal efficacy claims for antimicrobial pesticides, EPA prepared a summary report of the results of the data call-in to respond to the many questions that are raised about tuberculocidal efficacy. This report is available to anyone upon request. Contact Bruce Mann at the above address/telephone number given under **FOR FURTHER INFORMATION CONTACT,** for a copy of the summary of responses.

Dated: February 14, 1989.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 89-4028 Filed 2-21-89; 8:45 am]

BILLING CODE 6560-50-M

[OPP-50682; FRL-3524-9]

Issuance of Experimental Use Permits; Abbott Laboratories et al.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted experimental use permits to the following applicants. These permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

FOR FURTHER INFORMATION CONTACT: By mail: Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

In person or by telephone: Contact the product manager at the following address at the office location or telephone number cited in each experimental use permit: 1921 Jefferson Davis Highway, Arlington, VA.

SUPPLEMENTARY INFORMATION: EPA has issued the following experimental use permits.

275-EUP-61. Issuance. Abbott Laboratories, Chemical and Agricultural Products Division, 1400 Sheridan Road, North Chicago, IL 60064. This experimental use permit allows the use of 215.7 grams of the plant growth regulator gibberellin A_3 on 4,153,000 pounds of citrus (post-harvest) to evaluate physiological changes to fruit in storage. The program is only authorized in the States of Arizona, California, and Florida. The experimental use permit is effective from November 21, 1988 to November 21, 1991. A permanent tolerance for residues of the active ingredient in or on citrus fruits has been established (40 CFR 180.224). (Robert Taylor, PM 25, Rm. 245, CM#2, (703-557-1800))

7969-EUP-25. Extension. BASF Corporation Chemicals Division, Agricultural Chemicals Group, 100 Cherry Hill Road, Parsippany, NJ 07054. This experimental use permit allows the use of 100 pounds of the herbicide 3,7-dichloro-8-quinoline-carboxylic acid on 200 acres of rice to evaluate the control of various grasses and broadleaf weeds. The program is authorized only in the States of Arkansas, California, Louisiana, Mississippi, Missouri, and Texas. The experimental use permit is effective from April 29, 1989 to April 29, 1990. This permit is issued with the limitation that all crops are destroyed or used for research purposes only. (Robert Taylor, PM 25, Rm. 245, CM#2, (703-557-1800))

100 EUP 90. Issuance. Ciba-Geigy Corporation, P.O. Box 18300, Greensboro, NC 27419. This experimental use permit allows the use of 61.20 pounds of the herbicide 2-(2-chloroethoxy)-N- (((4-methoxy-6-methyl-1,3,5-triazin-2-yl)amino)carbonyl)benezenesulfonamide) on 2,870 acres of barley and wheat to evaluate the control of various weeds. The program is authorized in the States of Colorado, Delaware, Idaho, Illinois, Indiana, Kansas, Maryland, Michigan, Montana, Nebraska, New York, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Dakota, Texas, Virginia, Washington, and Wyoming. The experimental use permit is effective from November 14, 1988 to December 31, 1990. Temporary tolerances for residues of the active ingredient in or on barley and wheat (hay, grain, and straw) have been established. (Robert Taylor, PM 25, Rm. 245, CM#2, (703-557-1800))

279-EUP-114. Extension. FMC Corporation, Agricultural Chemical Group, 2000 Market St., Philadelphia, PA 19103. This experimental use permit allows the use of 3,300 pounds of the herbicide 2-(2-chlorophenyl)methyl-4,4-dimethyl-3-isoxazolidinone on 3,300 acres of soybeans to evaluate the control of various grasses and broadleaf weeds. The program is authorized only in the States of Alabama, Delaware, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, New Jersey, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, and Wisconsin. The experimental use permit is effective from May 15, 1989 to May 15, 1990. A permanent tolerance for residues of the active ingredient in or on soybeans has been established (40 CFR 180.425). (Robert Taylor, PM 25, Rm. 245, CM#2, (703-557-1800))

524-EUP-69. Issuance. Monsanto Agricultural Company, 800 N. Lindbergh Blvd., St. Louis, MO 63167. This experimental use permit allows the use of 1,000 pounds of the herbicide 3,5-pyridinedicarbothioic acid, 2-(difluoromethyl)-4-(2-methyl- propyl)-6-(trifluoromethyl)-S,S,-dimethyl ester on 1,333 acres of ornamental turf to evaluate the control of annual grasses and broadleaf weeds. The program is authorized in the States of Arizona, California, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Maryland, Massachusetts, Michigan, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Texas, Virginia, Washington, and Wisconsin. The experimental use permit is effective from October 24, 1988 to October 24, 1989. (Richard Mountfort, PM 23, Rm. 237, CM#2, (703-557-1830))

Persons wishing to review these experimental use permits are referred to the designated product managers. Inquiries concerning these permits should be directed to the persons cited above. It is suggested that interested persons call before visiting the EPA office, so that the appropriate file may be made available for inspection purposes from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

Authority: 7 U.S.C. 136c.

Dated: January 26, 1989.

Anne E. Lindsay,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 89-3996 Filed 2-21-89; 8:45 am]

BILLING CODE 6560-50-M

[PF-503; FRL-3525-1]

Pesticide Tolerance Petitions; E.I. du Pont de Nemours & Co., Inc., et al.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the filing of pesticide petitions proposing the establishment of tolerances and/or regulations for residues of certain pesticide chemicals in or on certain agricultural commodities.

ADDRESS: By mail, submit written comments to: Information Services Section, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

In person, bring comments to: Rm. 246, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this notice 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. 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: Registration Division (TS-767C), Attention: Product Manager (PM) named in the petition, Environmental Protection Agency, Office of Pesticide Programs, 401 M St., SW., Washington, DC 20460.

In person, contact the PM named in each petition at the following office location/telephone number:

Product manager	Office location/ telephone number	Address
Dennis Edwards (PM 12).	Rm. 202, CM #2 703-557-2386.	Do.
George LaRocca (PM 15).	Rm. 204, CM #2 703-557-2400.	Do.
Lois Rossi (PM 21).	Rm. 227, CM #2 703-557-1900.	Do.
Richard Mountfort (PM 23).	Rm. 237, CM #2 703-557-1830.	Do.
Robert Taylor (PM 25).	Rm. 245, CM #2 703-557-1800.	Do.

SUPPLEMENTARY INFORMATION: EPA has received pesticide (PP) and/or food and feed additive (FAP) petitions as follows proposing the establishment and or amendment of tolerances or regulations for residues of certain pesticide chemicals in or on certain agricultural commodities.

Initial Filings

1. *PP 8F3694.* E.I. DuPont DeNemours & Co., Inc., Agricultural Products Department, Barley Mill Plaza, WM6-118, Wilmington, DE 19898, proposes to amend 40 CFR Part 180 by establishing a regulation to permit the residues of the herbicide chlorimuron ethyl, ethyl 2-[[[[(4-chloro-6-methoxy-2-pyrmidinyl)amino]carbonyl]amino] sulfonyl]benzoate, in or on peanut nutmeat at 0.05 ppm and peanut hulls at 0.10 ppm. The proposed analytical method for determining residues is high-performance liquid chromatography. (PM 25)

2. *PP 8F3695.* Ciba-Geigy Corp., Agricultural Division, P.O. Box 18300, Greensboro, NC 27419, proposes to amend 40 CFR 180.408 by establishing a regulation to permit the residues of the fungicide metalaxyl and its metabolites containing the 2,6-dimethylaniline moiety and N-(2-hydroxymethyl-6-methylphenyl)-N-(methoxyacetyl)-alanine methyl ester in or on alfalfa forage at 10.0 ppm, alfalfa hay at 20.0 ppm, barley (fodder, forage, and straw) at 2.0 ppm, and barley grain at 0.2 ppm. The proposed analytical method for determining residues is high-performance liquid chromatography. (PM 21)

3. *PP 9F3698.* Ciba-Geigy Corp., Agricultural Division, P.O. Box 18200, Greensboro, NC 27419, proposes to amend 40 CFR 180.108 by establishing a regulation to permit the residues of the fungicide metalaxyl and its metabolites containing the 2,6-dimethylaniline moiety and N-(2-hydroxymethyl-6-methylphenyl)-N-(methoxyacetyl)-alanine methyl ester in or on root and tuber vegetable tops at 15.0 ppm and root and tuber vegetable roots at 0.5 ppm. The proposed analytical method for determining residues is high-performance liquid chromatography. (PM 21)

4. *PP 9F3699.* Nor-Am Chemical Co., 3509 Silverside Rd., P.O. Box 7495, Wilmington, DE 19803, proposes to amend 40 CFR Part 180 by establishing a regulation to permit the residues of the insecticide clofentezine (3,6-bis(2-chlorophenyl)-1,2,4,5-tetrazine) in or on peaches at 1.0 ppm and nectarines at 1.0 ppm. The proposed analytical method for determining residues is high-performance liquid chromatography. (PM 12)

5. *PP 9F3701.* Ciba-Geigy Corp., Agricultural Division, P.O. Box 18300, Greensboro, NC 27419, proposes to amend 40 CFR Part 180 by establishing a regulation to permit the residues of the herbicide 3-[4,6-bis-(difluoromethoxy)-pyrimidin-2-yl]1-(2-methoxy carbonyl-phenyl sulfonyl) urea in or on corn (forage) at 0.10 ppm; corn (fodder) at 0.10 ppm; corn (grain) at 0.02 ppm; corn (sweet) (kernels plus cobs with husks removed) at 0.10 ppm; milk at 0.02 ppm; meat, fat, meat byproducts, kidney, and liver of cattle, goats, hogs, horses, and sheep at 0.10 ppm; poultry, fat, kidney, liver, meat, and meat byproducts at 0.10 ppm; and eggs at 0.10 ppm. (PM 23)

6. *PP 9F3703.* Merck and Co., Inc., Merck Sharp and Dohme Research Laboratories, Hillsborough Rd., Three Bridges, NJ 08887, proposes to amend 40 CFR Part 180 by establishing a regulation to permit the residues of the insecticide abamectin and its delta 8,9-isomer in or on tomatoes at 0.005 ppm. The proposed analytical method for determining residues is high-performance liquid chromatography. (PM 15)

7. *PP 9F3705.* Nor-Am Chemical Co., 3509 Silverside Rd., P.O. Box 7495, Wilmington, DE 19803, proposes to amend 40 CFR Part 180 by establishing a regulation to permit the residues of the insecticide clofentezine (3,6-bis(2-chlorophenyl)-1,2,4,5-tetrazine) in or on apples at 0.50 ppm, and the residues of clofentezine and the metabolites 3-hydroxyclofentezine, 4-hydroxyclofentezine, 5-hydroxyclofentezine, and monochlorothiomethyl clofentezine in or on meat, fat, and meat byproducts of cattle, goats, hogs, horses, and sheep at 0.05 ppm; cattle liver at 0.2 ppm; and milk at 0.05 ppm. The proposed analytical method for determining residues is high-performance liquid chromatography. (PM 12)

8. *PP 9F3706.* Ciba-Geigy Corp., Agricultural Division, P.O. Box 18300, Greensboro, NC 27419, proposes to amend 40 CFR 180.434 by establishing a regulation to permit the residues of the fungicide 1-[[2-(2,4-dichlorophenyl)-4-propyl-1,3-dioxolan-2-yl] methyl]-1H-1,2,4-triazole and its metabolites determined as 2,4-dichlorobenzoic acid in or on grass hay at 5.0 ppm and grass forage at 0.5 ppm. The proposed analytical method for determining residues is capillary gas chromatography/electron capture detection. (PM 21)

9. *FAP 8H5564.* McLaughlin Gormley King Co., 8810 Tenth Ave., North, Minneapolis, MN 55427, proposes to amend 40 CFR 185.1300 and 186.1300 by establishing a regulation to permit the residues of all isomers of the insecticide cyano (3-phenoxyphenyl) methyl-4-chloro-alpha (1-methylethyl) benzeneacetate and an isomer (S)-cyano (3-phenoxyphenyl)-(s)-4-chloro-alpha (1-methylethyl) benzeneacetate as follows:

a. In or on all food and feed items (other than those already covered by a higher tolerance as a result of use on growing crops) in food and feed handling establishments where food, food products, feed, and feed products are held, processed, or prepared.

b. Application of cyano (3-phenoxyphenyl) methyl-4-chloro-alpha-(1-methylethyl) benzeneacetate shall be limited to space treatment with a maximum of 0.5 fl. oz. of a 0.05 percent active ingredient solution per 1,000 cu. ft. of space, or as a contact spray applied as a coarse wet spray at a maximum of 1 gallon of a 1.0 percent active ingredient solution per 1,000 sq. ft. of surface, or as a pressurized spot/crack and crevice spray of a 1.0 percent solution. Food and feed must be removed or covered during treatment. Spray should not be applied directly to surfaces or utensils that may come into contact with food or feed. Food- and feed-contact surfaces and equipment should be thoroughly cleaned with an effective cleaning compound and rinsed with potable water before using.

c. Application of (S)-cyano (3-phenoxyphenyl)-(s)-4-chloro-alpha-(1-methylethyl) benzeneacetate shall be limited to space treatment with a maximum of 1.0 fl. oz. of a 0.25 percent active ingredient solution per 1,000 cu. ft. of space, or as a contact spray applied as a coarse wet spray at a maximum of 1 gallon of a 0.25 percent active ingredient solution per 1,000 sq. ft. of surface, or as a pressurized spot/crack and crevice spray treatment of a 0.25 percent solution. Food and feed must be removed or covered during treatment. Spray should not be applied directly to surfaces or utensils that may come into contact with food or feed. Food- and feed-contact surfaces and equipment should be thoroughly cleaned with an effective cleaning compound and rinsed with potable water before using.

d. To assure safe use of the additive, its label and labeling shall conform to that registered with the U.S. Environmental Protection Agency, and it shall be used in accordance with such label and labeling. (PM 15)

10. *FAP 8H5569.* Ciba-Geigy Corp., Agricultural Division, P.O. Box 18300, Greensboro, NC 27419, proposes to amend 40 CFR 186.4000 by establishing a regulation to permit the residues of the fungicide metalaxyl and its metabolites containing the 2,6-dimethylaniline moiety and N-(2-hydroxymethyl)-6-methylphenyl)-N-(methoxyacetyl)-alanine methyl ester in or on barley milling fractions at 1.0 ppm. (PM 21)

11. *FAP 9H5570.* Merck and Co., Inc., Merck Sharp and Dohme Research Laboratories, Hillsborough Rd., Three Bridges, NJ 08887, proposes to amend 40 CFR Part 186 by establishing a regulation to permit the residues of the insecticide abamectin and its delta 8,9-isomer in or on tomato wet pomace at 0.01 ppm and tomato dry pomace at 0.07 ppm. (PM 15)

12. *FAP 9H5571.* ICI Americas, Inc., Agricultural Products, Concord Pike and New Murphy Rd., Wilmington, DE 19897, proposes to amend 40 CFR Part 185 by establishing a regulation to permit the residues of the insecticide cypermethrin [(R,S)-a-cyano-(3-phenoxyphenyl)methyl(R,S)-cis,trans-3-(2,2-dichloroethenyl)-2,2-dimethyl-cyclopropanecarboxylate] in or on food commodities exposed to the insecticide during treatment of food-handling establishments where food and food products are held, processed, prepared, or served at 0.05 ppm. (PM 15)

13. *FAP 9H5572.* Nor-Am Chemical Co., 3509 Silverside Rd., P.O. Box 7495, Wilmington, DE 19803, proposes to amend 40 CFR 186.400 by establishing a regulation to permit the residues of the insecticide clofentezine (3,6-bis (2-chlorophenyl)-1,2,4,5-tetrazine) in or on apple pomace (wet and dry) at 10.0 ppm. (PM 12)

Authority: 7 U.S.C. 136a.

Dated: January 18, 1989.

Anne E. Lindsay,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 89-3995 Filed 2-21-89; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-140112; FRL-3526-5]

Access to Confidential Business Information by Dynatrend Inc.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has authorized its contractor, Dynatrend Incorporated (DYT) of Arlington, VA for access to information which has been submitted to EPA under all sections of the Toxic Substances Control Act (TSCA). Some of the information may be claimed or determined to be confidential business information (CBI).

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. EB-44, 401 M St., SW., Washington, DC 20460, (202) 554-1404, TDD: (202) 554-0551.

SUPPLEMENTARY INFORMATION: Under contract No. 68-W8-0126, EPA's contractor DYT, 1911 N. Ft. Meyer Drive, Arlington, VA will assist the Office of Administration's Facilities Management and Services Division in maintaining security systems which control door reader access to TSCA secured areas at EPA Headquarters. DYT is also responsible for responding to routine and emergency situations throughout EPA Headquarters facilities including TSCA CBI areas.

In accordance with 40 CFR 2.306(j), EPA has determined that under contract No. 68-W8-0126, DYT will require access to CBI submitted to EPA under TSCA to perform successfully the duties specified under the contract. DYT personnel will be given access to information submitted under all sections of TSCA. Some of the information may be claimed or determined to be CBI.

EPA is issuing this notice to inform all submitters of information under all sections of TSCA that EPA may provide DYT access to these CBI materials on a need-to-know basis. All access to TSCA CBI under this contract will take place at EPA Headquarters only.

Clearance for access to TSCA CBI under this contract is scheduled to expire on September 30, 1993.

DYT personnel will be required to sign non-disclosure agreements and will be briefed on appropriate security procedures before they are permitted access to TSCA CBI.

Dated: February 15, 1989.

Linda A. Travers,

Director, Information Management Division, Office of Toxic Substances.

[FR Doc. 89-4029 Filed 2-21-89; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-51713A; FRL-3524-8]

Certain Chemical Premanufacture Notice; Extension of Review Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is extending the review period for an additional 90-days for premanufacture notice (PMN) P-88-1823 under the authority of section 5(c) of the Toxic Substances Control Act (TSCA). The review period will now expire on May 13, 1989.

FOR FURTHER INFORMATION CONTACT: James Alwood, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Environmental Protection Agency, Rm. E-611, 401 M Street, SW., Washington, DC 20460, (202-382-3374).

SUPPLEMENTARY INFORMATION: On July 9, 1988, EPA received PMN 88-1823 for a substance, generically identified as a polyacrylic polymer. The submitter claimed the submitter identify, specific chemical identity, production volume, process information, and other

information to be confidential business information. Notice of receipt was published in the **Federal Register** of September 14, 1988 (53 FR 35535). The submitter voluntarily suspended the review period to develop data to address EPA's concerns for ecotoxicity. The 90-day review period is scheduled to expire on May 13, 1989.

Based on its analysis, EPA finds that there is a possibility that the substances submitted for review in this PMN may be regulated under TSCA. The Agency requires an extension of the review period, as authorized by section 5(c) of TSCA, to investigate further potential risk, to examine its regulatory options, and to prepare the necessary documents, should regulatory action be required. Therefore, EPA has determined that good cause exists to extend the review period for an additional 90 days, to May 13, 1989.

PMNs are available for public inspection in Rm. NE-G004, at the EPA headquarters, address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

Dated: February 8,1989.

John W. Melone,

Director, Chemical Control Division, Office of Toxic Substances.

[FR Doc. 89-3993 Filed 2-21-89; 8:45 am]

BILLING CODE 6560-50-M

[WH-FRL-3525-4]

Drinking Water Health Advisories

AGENCY: Environmental Protection Agency (EPA)

ACTION: Notice of availability of Drinking Water Health Advisories for pesticides

SUMMARY: This notice announces the availability of EPA Drinking Water Health Advisories (HAs) for 50 pesticides. Health Advisories are available for the following contaminants:

Acifluorfen
Ametryn
Ammonium sulfamate
Atrazine
Baygon
Bentazon
Bromacil
Butylate
Carbaryl
Carboxin
Chloramben
Chlorothalonil
Cyanazine
Dacthal
Dalapon
Diazinon
Dicamba
1,3-Dichloropropene
Dieldrin
Dimethrin
Dinoseb
Diphenamid
Disulfoton
Diuron
Endothall
Ethylene thiourea
Fenamiphos
Fluometuron
Fonofos
Glyphosate
Hexazinone
MCPA
Maleic hydrazide
Methomyl
Methyl parathion
Metolachlor
Metribuzin
Paraquat
Picloram
Prometon
Pronamide
Propachlor
Propazine
Propham
Simazine
Tebuthiuron
Terbacil
Terbufos
2,4,5-Trichlorophenoxyacetic acid
Trifluralin

These HAs were developed in conjunction with the National Pesticide survey sponsored by the EPA Office of Drinking Water and Office of Pesticide Programs. The HAs provide information on the health effects, analytical methodology, and treatment technology for specific contaminants that would be useful in dealing with emergency spills or contamination situations. The HAs describe nonregulatory concentrations of drinking water contaminants that are considered protective of adverse health effects over specific durations of exposure. A margin of safety is incorporated to protect sensitive members of the population. Health Advisories are updated as new information becomes available.

SUPPLEMENTARY INFORMATION: The Office of Drinking Water issued draft HAs for these contaminants on January 8, 1988. A total of 21 comments were received. The comments received were reviewed and incorporated where appropriate. A copy of the comments and EPA responses are summarized in a document entitled EPA Response to Public Comments on 50 Draft Health Advisories for pesticides. This document is available for review at the EPA Drinking Water Docket. For access to the docket, call (202) 382-3027 between 9:00 a.m. and 3:30 p.m.

ADDRESSES: To obtain copies of the complete set of 50 pesticide Health Advisories, interested parties should contact the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161, (800) 336-4700. Please refer to accession number PB88-245931/AS. For copies of the individual HAs, rather than the entire set, contact the EPA Safe Drinking Water Hotline (800) 426-4791, local (202) 382-5533.

For further information contact: Jennifer Orme, Health Advisory Program Coordinator, Office of Drinking Water (WH-550D), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, or call (202) 382-7571.

Rebecca W. Hanmer,

Acting Assistant Administrator for Water.

[FR Doc. 89-3992 Filed 2-21-89; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Privacy Act of 1974; Amendment to Existing System of Records

AGENCY: Federal Deposit Insurance Corporation ("FDIC").

ACTION: Notice of proposed changes to a system of records: "Attorney—Legal Intern Applicant System."

SUMMARY: The proposed amendments will update the content, use, retrievability, and retention categories of this system of records, and will clarify existing notification procedures. This action is being undertaken as part of a periodic review to revise, as necessary, the FDIC's systems of records under the Privacy Act of 1974.

DATES: Comments must be submitted by March 24, 1989. The amendments will become effective May 8, 1989, unless a superseding notice to the contrary is published before that date.

ADDRESS: Comments should be addressed to Hoyle L. Robinson, Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429, or hand-delivered to Room 6099 at the same address, Monday through Friday, between the hours of 9 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT: Patti C. Fox, Senior Program Attorney, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429, telephone (202) 898-3719.

SUPPLEMENTARY INFORMATION: The FDIC's system of records entitled "Attorney—Legal Intern Applicant System" is being revised to reflect additions to the system as part of the periodic review of each FDIC system records under the Privacy Act of 1974, 5 U.S.C. 552a. The categories of records have been changed to include writing

samples and documents relating to an applicant's suitability or eligibility which may, in some instances, be retained in an applicant's records. Routine uses have been expanded to include the release of information to a court, magistrate, or administrative tribunal in connection with civil or criminal proceedings, and to the approporiate federal, state or local agency for investigatory or prosecutorial purposes. It is possible that federal, state, or local authorities may seek such information to fulfill their functions. Retrieval of applicant files is generally by name; however, records of unsuccessful applicants are indexed first by the year and job position applied for, then by an individual's name. For example, applications of unsuccessful candidates for the position of legal intern during 1986 would be filed together under the legal intern category for that year. The change in indexing was made to conform to the recently revised filing system for the Legal Division. The retention and disposal of records has been changed to indicate the records of successful applicants become a part of the FDIC's Unofficial Personnal System of Records (FDIC 30-64-0015) and are retained for two years after the successful applicant leaves the employ of the FDIC, in accordance with that system's schedule. Finally, the notification procedure to obtain an individual's records now requires that all requests be in writing. This change will bring the system into conformity with the standard procedure which will be applied to all FDIC systems of records. As each system is revised, the standard notification procedure will be added. In order to assist in a timely search of records, unsuccessful applicants requesting their records are to provide the name of the job position for which they applied and the year of application.

Accordingly, the Board of Directors of the FDIC proposes to revise the Attorney—Legal Intern Applicant System to read as follows.

FDIC 30-64-0001

SYSTEM NAME:

Attorney—Legal Intern Applicant System. (Complete text appears at 47 FR 42158 (Sept. 24, 1982.)

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains correspondence from the applicants and individuals whose names were provided by the applicants as references, applicants' résumés, application forms, and in some instances, comments of individuals who interviewed applicants, documents relating to an applicant's suitability or eligibility, and writing samples.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in the system may be disclosed:

(1) In requesting information of individuals or concerns whose names were supplied by the applicant as references and/or past or present employers.

(2) To the United States Office of Personnel Management, the Merit Systems Protection Board, the Office of Special Counsel, the Federal Labor Relations Authority, an arbitrator, and the Equal Employment Opportunity Commission, to the extent disclosure is necessary to carry out the government-wide personnel management, investigatory, adjudicatory and appellate functions within their respective functions.

(3) To a congressional office in response to an inquiry made at the request of the individual to whom the record pertains.

(4) To a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, or in connection with criminal proceedings.

(5) To the appropriate federal, state, or local agency or authority responsible for investigating or prosecuting a violation of or for enforcing or implementing a statute, rule, regulation, or order, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

* * * * *

RETRIEVABILITY:

Indexed by name; records of unsuccessful applicants are indexed first by job position category and year, then by name.

* * * * *

RETENTION AND DISPOSAL:

Records of unsuccessful applicants are retained two years after their submission; records of successful applicants become a part of the FDIC's Unofficial Personnel System (FDIC 30-64-0015) and are retained two years after the successful applicant leaves the employ of the FDIC.

* * * * *

NOTIFICATION PROCEDURE:

Requests must be in writing and addressed to the Office of the Executive Secretary, FDIC, 550 17th Street, NW., Washington, DC 20429. Unsuccessful applicants or those individuals with applications pending before the FDIC who request their records must provide the job position name and year in which they applied.

* * * * *

By direction of the Board of Directors.

Dated at Washington, DC, this 14th day of February, 1989.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 89-4054 Filed 2-21-89; 8:45 am]

BILLING CODE 6714-01

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.: 202-010424-017.

Title: United States Atlantic and Gulf/Hispaniola Steamship Freight Conference d/b/a United States Atlantic and Gulf/Hispaniola Steamship Freight Association.

Parties:

Crowley Caribbean Transport, Inc./CTMT, Inc./Trailer Marine Transport Corporation

Puerto Rico Maritime Shipping Authority

Sea-Land Service, Inc.

Shipping Corporation of Trinidad and Tobago, Ltd.

Synopsis: The proposed modification would republish the Agreement and authorize the parties to charter space on vessels to each other, and to parties to the Hispaniola Discussion Agreement (Agreement No. 203-010977).

Agreement No.: 203-010977-007.
Title: Hispaniola Discussion Agreement.
Parties:
United States Atlantic and Gulf/Hispaniola Steamship Freight Association
Zim Israel Navigation Co.
Tropical Shipping and Construction Co. Ltd.
Seaboard Caribe Ltd.
Kirk Line Ltd.
U.S.A. Tecmarine Incorporated d/b/a Tecmarine Lines

Synopsis: The proposed modification would republish the Agreement, add Antillean Marine Shipping Corporation as a party to the Agreement, and authorize the parties to charter space to, from, and among each other on vessels owned or operated by them in the trade.

By Order of the Federal Maritime Commission.

Joseph C. Polking,
Secretary.

Dated: February 16, 1989.

[FR Doc. 89-4058 Filed 2-21-89; 8:45 am]

BILLING CODE 6730-01-M

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224-200162-001.
Title: North Carolina State Ports Authority Terminal Agreement.
Parties:
North Carolina State Ports Authority
Solar International Shipping Agency Co., Agent for Yangming Marine Transport Corporation

Synopsis: The Agreement amends paragraph 17 of the basic agreement (Agreement No. 224-200162) to provide that no amendment, modification, or addendum to the basic agreement shall go into effect unless filed and effective under the Shipping Act of 1984.

Agreement No.: 224-010876-004.
Title: Port of Palm Beach Terminal Lease Agreement.
Parties:
Port of Palm Beach District (Port)
Gulfstream Line, Inc. (Gulfstream)

Synopsis: The Agreement provides that Gulfstream is willing to release any rights it has to lease certain parcels of property, as identified in the Agreement, in consideration for a reduction in the minimum annual wharfage guarantee from 50,000 tons to 25,000 tons of cargo. Said minimum annual wharfage shall be applicable for each lease year commencing October 31, 1988. The Agreement also provides for the Port to release Gulfstream from its obligation to pay $15,228, plus late charges and interest accrued, for the deficit between the wharfage paid on actual tonnage generated by Gulfstream and the minimum annual wharfage guarantee for the period from October 1, 1987 to September 30, 1988.

By order of the Federal Maritime Commission.

Dated: February 16, 1989.

Joseph C. Polking,
Secretary.

[FR Doc. 89-4059 Filed 2-21-89; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

First Chicago Corp.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under section 225.23 (a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23 (a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 13, 1989.

A. **Federal Reserve Bank of Chicago** (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *First Chicago Corporation,* Chicago, Illinois; to acquire Morgan Shareholder Services Trust Company, New York, New York, and thereby engage in acting as a stock transfer agent, registrar, dividend disbursing agent and other functions pursuant to § 225.25(b)(3) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, February 15, 1989.

Jennifer J. Johnson,
Associate Secretary of the Board.

[FR Doc. 89-3987 Filed 2-21-89; 8:45 am]

BILLING CODE 6210-01-M

North East Bancshares, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of

Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than March 13, 1989.

A. **Federal Reserve Bank of Cleveland** (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *North East Bancshares, Inc.*, North East, Pennsylvania; to become a bank holding company by acquiring 100 percent of the voting shares of The National Bank of North East, North East, Pennsylvania.

B. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *BTNC Corp.*, Greensboro, North Carolina; to become a bank holding company by acquiring 100 percent of the voting shares of Bankers Trust of North Carolina, Greensboro, North Carolina.

C. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Bankers Capital Corporation*, Forest, Mississippi; to become a bank holding company by acquiring 50.01 percent of the voting shares of The Metropolitan Corporation, Biloxi, Mississippi, and thereby indirectly acquire Metropolitan National Bank, Biloxi, Mississippi.

2. *First National Bancshares, Inc.*, Hollywood, Florida; to become a bank holding company by acquiring 100 percent of the voting shares of First National Bank of Hollywood, Hollywood, Florida.

D. **Federal Reserve Bank of Chicago** (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Bloomfield Hills Bancorp, Inc.*, Bloomfield Hills, Michigan; to become a bank holding company by acquiring 100 percent of the voting shares of The Bank of Bloomfield Hills, Bloomfield Hills, Michigan, a de novo bank.

2. *Deerfield Financial Corporation*, Madison, Wisconsin; to become a bank holding company by acquiring 97.95 percent of the voting shares of Bank of Deerfield, Deerfield, Wisconsin.

3. *Michigan National Corporation*, Farmington Hills, Michigan; to acquire 49 percent of the voting shares of Bloomfield Hills Bancorp, Inc., Bloomfield, Michigan, and thereby indirectly acquire The Bank of Bloomfield Hills, Bloomfield Hills, Michigan.

4. *PWB Bancshares, Inc.*, Wausakee, Wisconsin; to become a bank holding company by acquiring 100 percent of the voting shares of Pembine-Wausaukee Bank, Crivitz, Wisconsin.

E. **Federal Reserve Bank of Minneapolis** (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Peoples Bankshares, Inc.*, Parshall, North Dakota; to become a bank holding company by acquiring 100 percent of the voting shares of Peoples Bank & Trust, Parshall, North Dakota.

Board of Governors of the Federal Reserve System, February 15, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-3986 Filed 2-21-89; 8:45 am]

BILLING CODE 6210-01-M

UST CORP., et al.; Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 10, 1989.

A. **Federal Reserve Bank of Boston** (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *UST Corp.*, Boston, Massachusetts; to engage *de novo* in making and servicing loans to key officers/employees to finance the exercise of their stock options granter under UST Corp.'s current and future incentive stock option plans up to an aggregate ceiling of $1.5 million pursuant to § 225.25(b)(1) of the Board's Regulation Y.

B. **Federal Reserve Bank of Chicago** (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Metrocorp, Inc.*, East Moline, Illinois; to engage *de novo* through its subsidiary, Metrocorp Appraisals, Inc., East Moline, Illinois, in real estate appraising pursuant to § 225.25(b)(13) of the Board's Regulation Y.

C. **Federal Reserve Bank of Dallas** (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *First Baird Bancshares, Inc.*, Baird, Texas; to engage *de novo* in the business of financing business accounts receivables and sales of commercial, industrial, and farm equipment as well as making direct cash loans on an installment basis to individuals pursuant to § 225.25(b)(1) of the Board's Regulation Y.

D. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *U.S. Bancorp*, Portland, Oregon; to engage *de novo* through its subsidiary, Oregon Hotel Limited Partnership, Seattle, Washington, in making equity investments in a community development project pursuant to § 225.25(b)(6) of the Board's Regulation Y. These activities will be conducted in Seattle, Washington. Comments on this application must be received by March 8, 1989.

Board of Governors of the Federal Reserve System, February 15, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-3989 Filed 2-21-89; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 89N-0020]

PFE Plasma Corp.; Revocation of U.S. License No. 1008

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the revocation of the establishment license (U.S. License No. 1008) and the product license issued to PFE Plasma Corp., at the Charlotte, NC location, for the manufacture of Source Plasma. In a letter dated July 14, 1988, the firm requested that its establishment and product licenses be revoked and waived an opportunity for a hearing.

DATE: The revocation of the establishment and product license was effective August 11, 1988.

FOR FURTHER INFORMATION CONTACT: Joseph Wilczek, Center for Biologics Evaluation and Research (HFB-130), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20892, 301-295-8188.

SUPPLEMENTARY INFORMATION: FDA has revoked the establishment license (U.S. License No. 1008) and the product license issued to PFE Plasma Corp., for the manufacture of Source Plasma. PFE Plasma Corp. was located at 511 Cecil St., Charlotte, NC 28204. PFE Plasma Corp. has other licensed locations that are unaffected by this notice.

On June 22 through July 5, 1988, FDA inspected PFE Plasma Corp. at the Charlotte, NC location. This inspection revealed serious deviations from the applicable biologics regulations. These deviations included, but were not limited to: (1) Donors were routinely bled more than the maximum allowable volume of whole blood (21 CFR 640.65(b)(4) and (6)); (2) donor suitability determinations were lacking, including serum protein electrophoresis results, and donors with unacceptably low hematocrit values were bled (21 CFR 640.65(b)(1) and 640.75)); (3) total protein values, as part of donor screening, could not be determined accurately because of an extremely scratched refractometer used by the firm (21 CFR 606.60(a) and 640.63(c)(5)); and (4) a unit of plasma found to be repeatably reactive for antibody to human immunodeficiency virus (anti-HIV) was labeled as anti-HIV nonreactive and shipped (21 CFR 610.45(c)).

FDA's investigation revealed that PFE Plasma Corp. was operating in significant noncompliance with the Federal regulations. Among the violations were inadequate donor screening practices, overbleeding of donors, and shipment of an anti-HIV reactive unit of plasma that was labeled nonreactive.

Because the continuing nature of these deviations represented a significant danger to health, FDA suspended the establishment license (U.S. License No. 1008) by letter of July 11, 1988.

In a letter dated July 14, 1988, PFE Plasma Corp. requested that its establishment and product licenses be revoked and waived an opportunity for a hearing. The agency granted the licensee's request by letter to the firm, dated August 11, 1988, issued under 21 CFR 601.5(a), which revoked the establishment license (U.S. License No. 1008) and the product license issued to PFE Plasma Corp., at the location in Charlotte, NC, for the manufacture of Source Plasma. FDA has placed copies of the letters dated July 11, July 14, and August 11, 1988, on file under the docket number found in brackets in the heading of this notice, with the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

Accordingly, under 21 CFR 12.38 and the Public Health Service Act (sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated under 21 CFR 5.68, the establishment license (U.S. License No. 1008) and the product license issued to PFE Plasma Corp. for the manufacture of Source Plasma were revoked, effective August 11, 1988.

This notice is issued and published under 21 CFR 601.8 and the redelegation at 21 CFR 5.67.

Dated: February 8, 1989.

Gerald V. Quinnan, Jr.,

Deputy Director, Center for Biologics Evaluation and Research.

[FR Doc. 89-4003 Filed 2-21-89; 8:45 am]

BILLING CODE 4160-01-M

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following health fraud conference entitled "Women's Health Expo."

Chicago District Office, chaired by Darlene M. Bailey, Consumer Affairs Officer. The topic to be discussed is health fraud update.

DATE: Saturday, March 4, 1989, 8:30 a.m to 3 p.m.

ADDRESS: Eastern Illinois University, Charleston, IL 61920.

FOR FURTHER INFORMATION CONTACT: Darlene M. Bailey, Consumer Affairs Officer, Food and Drug Administration, 433 West Van Buren, Chicago, IL 60607, 312-353-7126.

SUPPLEMENTARY INFORMATION: The purpose of this conference is to educate and inform the public on matters pertaining to consumer fraud and quackery, to enhance relationships between local consumers and FDA's District Offices, and to contribute to the agency's consumer education programs.

Dated: February 14, 1989.

Alan L. Hoeting,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 89-4004 Filed 2-21-89; 8:45 am]

BILLING CODE 4160-01-M

Health Care Financing Administration

Privacy Act of 1974; Systems of Records

AGENCY: Department of Health and Human Services (HHS), Health Care Financing Administration (HCFA).

ACTION: Notice of proposed new routine use for an existing system of records.

SUMMARY: The Health Care Financing Administration (HCFA) is proposing to revise the system notice for the National Long-Term Care Survey Follow-up, System No. 09-70-0030.

EFFECTIVE DATES: The proposed new routine use shall take effect without further notice March 24, 1989 unless comments received on or before that date would warrant changes.

ADDRESS: Please address comments to Mr. Richard A. DeMeo, HCFA Privacy Act Officer, Office of Budget and Administration, Health Care Financing Administration, Room G-M-1 East Low Rise Building, 6325 Security Boulevard, Baltimore, Maryland 21207. We will make comments received available for inspection at this location.

FOR FURTHER INFORMATION CONTACT: Mr. Herbert A. Siverman, Office of Research, Office of Research and Demonstrations, HCFA, 2-D-11 Oak Meadows Building, 6325 Security

Boulevard, Baltimore, Maryland 21207, Telephone (301) 966-7702.

SUPPLEMENTARY INFORMATION: The National Long-Term Care Survey followup System No. 09-70-0030, contains records of a sample of elderly Medicare beneficiaries who were identified in the National Long-Term Care Survey (1982) or in the National Long-Term Care Survey follow-up (1984) as having functional limitations. This information pertains to the sampled Medicare beneficiaries living in institutions, in their communities, or deceased at the time of the follow-up.

The records include information on personal care; mobility; physical, mental, and social functioning; formal and informal supportive services; income and assets; performance of such activities as managing money and taking medicine; basic information on nursing home stays, living arrangements, and date of death; plus basic demographic information on beneficiaries with no functional limitations. The survey data for individual beneficiaries in the sample can be merged with Medicare utilization records. The notice for this system of records was most recently published at 49 FR 2961 (January 24, 1984).

We are proposing to add the following routine use to the systems notice to permit disclosure of the records.

To an individual or organization for a research, demonstration, evaluation, or epidemiologic project related to the prevention of disease or disability, or the restoration or maintenance of health if HCFA:

a. Determines that the use or disclosure does not violate legal limitations under which the record was provided, collected, or obtained;

b. Determines that the purpose for which the disclosure is to be made:

(1) Cannot be reasonably accomplished unless the record is provided in an individually identifiable form; and

(2) Is of sufficient importance to warrant the effect and/or risk on the privacy of the individual that additional exposure of the record might bring; and

(3) There is reasonable probability that the objective for the use would be accomplished.

c. Requires the information recipient to:

(1) Establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, and

(2) Remove or destroy the information that allows the individual to be identified at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the project, unless the recipient presents an adequate justification of a research or health nature for retaiing such information, and

(3) Make no further use or disclosure of the record except:

(a) In emergency circumstances affecting the health or safety of any individual; or

(b) For use in another research project, under these same conditions, and with written authorization of HCFA; or

(c) For disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit; or

(d) When required by law.

d. Secures a written statement attesting to the information recipient's understanding of and willingness to abide by these provisions.

HHS and HCFA have an important stake in the development of more information about persons in actual or potential need of long-term care services; about whether needed services are health care services or supportive services to forestall premature placement in nursing homes. The importance of this undertaking to HHS is exemplified by its Long-Term Care Initiative. As part of this initiative, HHS has sponsored several major surveys and studies related to the long-term care population. These include: The National Long-Term Surveys of 1982 and 1984, the 1984 and 1986 Supplements on Aging of the Health Interview Survey, the 1985 National Nursing Home Survey, the National Long-Term Care Channeling Demonstration, and the Institutionalized Population Component of the 1987 National Medical Expenditure Survey. HHS has put a strong emphasis on making the data collected in these surveys available to the researchers. As part of this effort, DHHS sponsored the National Invitational Conference on Long-Term Care Data Bases on May 21-22, 1987. Invitees included some of the best-known names in the field of long-term care research, as well as representatives from organizations with direct and indirect stake in increased knowledge about long-term care issues, such as insurance companies, benefits planning agencies, and universities.

HCFA's stake in improving the flow of information concerning that portion of the Medicare aged beneficiary population in actual or potential need of long-term care services arises from its administrative responsibility for the Medicare and Medicaid programs. Extended payments for long-term care services, particulary for nursing home care, is the most common reason aged persons become eligible to receive public assistance from Medicaid. This process, known as "spend down" occurs after the individual has spent savings and used other assets to meet the costs of these services. Greater understanding of the circumstances preceding and accompanying this process will permit more effective planning. This will lead to the development of improved ways of meeting long-term care expenses, such as private insurance plans, and to the development of cost-effective alternatives to institutional placement.

This proposed modification of the systems notice will augment HHS and HCFA access to information and improve the planning and administration of programs on behalf of aged Medicare and Medicaid beneficiaries in actual or potential need of long-term care services.

The new routine use is consistent with the Privacy Act, 5 U.S.C. 552a(a)(7), since, as previously noted, it is compatible with the purpose for which the information is collected. Because the addition of this new routine use will not change the purposes for which the information is to be used or otherwise significantly alter the system, we are not preparing a report of altered system of records under 5 U.S.C. 552a(o). This routine use is already included in the systems notices of all of HCFA's major data systems. The entire systems notice is published below. Please note that since this notice was last published in its entirety, the data collected in the follow-up has been merged with the data collected in the original survey of 1982 to provide an integrated data base. This file, with individual identifiers removed, has also been produced as a public use tape available from the National Technical Information Serice.

Date: February 13, 1989.

William L. Roper,

Administrator, Health Care Financing Administration.

09-70-0030

SYSTEM NAME:

National Long-Term Care Survey Follow-up, DHHS/HCFA/ORD.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Department of Commerce, Bureau of the Census, Washington, DC 20233.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The system will include records of elderly Medicare beneficiaries who have been identified in the National Long-Term Care Survey as having a functional limitation. This information pertains to Medicare beneficiaries living in institutions, in their communities, and deceased beneficiaries.

CATEGORIES OF RECORDS IN THE SYSTEM:

The data records will include information on personal care; mobility; physical, mental, and social functioning; formal and informal services and supports; income and assets; and instrumental activities such as managing money and taking medicine plus basic information on nursing home stays, living arrangements, and demographics from persons who have no limitations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 1875(a) of the Social Security Act (42 U.S.C. 139511).

PURPOSE OF THE SYSTEM OF RECORDS:

To provide a national data base on the incidence and prevalance of dependency among the functionally limited elderly person; the services they use, and their resources for providing long-term care in their communities and in institutions. The data will be used for developing long-term care policies for those who will require such care.

ROUTINE USES OF RECORDS IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSE OF SUCH USES:

Disclosure may be made:

1. To a congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual.

2. To contractors under contract with the Health Care Financing Administration (HCFA) or the National Center for Health Services Research (NCHSR) of the Department of Health and Human Services (DHSS) for projects involved in the Long-Term Care Initiative. The contractor shall be required to maintain Privacy Act safeguards with respect to such records.

3. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided such disclosure is compatible with the purpose for which the records were collected.

To an individual or organization for a research, demonstration, evaluation, or epidemiologic project related to the prevention of disease or disability, or the restoration or maintenance of health if HCFA:

a. Determines that the use or disclosure does not violate legal limitations under which the record was provided, collected, or obtained;

b. Determines that the purpose for which the disclosure is to be made:

(1) Cannot be reasonably accomplished unless the record is provided in an individually identifiable form; and

(2) Is of sufficient importance to warrant the effect and/or risk on the privacy of the individual that additional exposure of the record might bring; and

(3) There is reasonable probability that the objective for the use would be accomplished.

c. Requires the information recipient to:

(1) Establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, and

(2) Remove or destory the information that allows the individual to be identified at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the project, unless the recipient presents an adequate justification of a research or health nature for retaining such information, and

(3) Make no further use or disclosure of the record except:

(a) In emergency circumstances affecting the health or safety of any individual; or

(b) For use in another research project, under these same conditions, and with written authorization of HCFA; or

(c) For disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit; or

(d) When required by law.

d. Secures a written statement attesting to the information recipient's understanding of and willingness to abide by these provisions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic tape and disc, paper and card records.

RETRIEVABILITY:

Records are retrieved by a unique identifying number which is linked to names, addresses, and Medicare numbers at the Census Bureau.

SAFEGUARDS:

All individuals having access to the system of records will sign a pledge of confidentiality or will be sworn Census employees. Automated records will be maintained in accordance with the National Bureau of Standards Federal Information Processing Standards, the DHHS ADP System Manual, Part 6, ADP System Security, and the Census Administrative Manual, Chapter C–2 "Confidential Data, Sensitive Information and Requests Under the Freedom of Information and Privacy Act."

RETENTION AND DISPOSAL:

On the possibility that a further follow-up may be undertaken, tape and hard copy of all interviews will be retained for a period not to exceed five years, after which they will be destroyed. Data disposal will consist of burning or shredding the hard copy (and so certifying) and degaussing computer records. There are no plans to dispose of non-identifiable individual data.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Research and Demonstrations, Health Care Financing Administration, 6325 Security Boulevard, Room 2230, Oak Meadows Building, Baltimore, Maryland 21207.

NOTIFICATION PROCEDURES:

An individual requesting notice as to whether the system of records contains information pertaining to him/her, should write to the Systems Manager, at the above address, indicating his/her full name, current address, including ZIP Code at the time she/he was first interviewed for the survey, and the date of birth. The individual may simultaneously request records access as described below.

RECORD ACCESS PROCEDURE:

Same as notification procedure. Requestors should also reasonably specify the record contents being sought.

CONTESTING RECORD PROCEDURES:

Contact the System Manager at the address given above, reasonably identify the record as described above, specify the information being contested. State the reason for contesting it (e.g., why it is inaccurate, irrelevant, incomplete or not current).

RECORD SOURCE CATEGORIES:

Individual-specific information will be gathered through interviews with beneficiaries, their proxies, or their survivors.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 89-3990 Filed 2-21-89 8:45 a.m.]

BILLING CODE 4120-01-M

National Institutes of Health

National Institute of General Medical Sciences; Meetings

Pursuant to Pub. L. 92-463, notice is hereby given of the meetings of the committees of the National Institute of General Medical Sciences for March 1989.

These meetings will be open to the public to discuss administrative details relating to committee business for approximately two hours at the beginning of the first session of the first day of the meeting. Attendance by the public will be limited to space available.

These meetings will be closed thereafter in accordance with 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, for the review, discussion, and evaluation of individual research training grant and research center grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Ann Dieffenbach, Public Information Officer, National Institute of General Medical Sciences, National Institutes of Health, Building 31, Room 4A52, Bethesda, Maryland 20892 (Telephone: 301-496-7301), will provide a summary of the meeting and a roster of committee members.

Substantive program information may be obtained from each executive secretary whose name, room number, and telephone number are listed below each committee.

Name of Committee: Minority Access to Research Careers Review Committee.

Executive Secretary: Dr. Jean Flagg-Newton, Rm. 949 Westwood Building, Telephone: 301-496-7585.

Dates of Meeting: March 2-3, 1989.

Place of Meeting: Guest Quarters Hotel, 7335 Wisconsin Avenue, Bethesda, Maryland.

Open: March 2, 1989, 8:30 a.m.-10:30 a.m.

Closed: March 2, 1989, 10:30 a.m.-5:00 p.m. March 3, 1989, 8:30 a.m.-adjournment.

Name of Committee: Cellular and Molecular Basis of Disease Review Committee.

Executive Secretary: Dr. Carole Latker, Room 950, Westwood Bldg., Telephone: 301-496-7125.

Dates of Meeting: March 6-7, 1989.

Place of Meeting: Building 31, Conference Room 8, National Institutes of Health, Bethesda, Maryland.

Open: March 6, 1989, 8:30 a.m.-10:30 a.m.

Closed: March 6, 1989, 10:30 a.m.-6:00 p.m. March 7, 1989, 8:30 a.m.-adjournment.

Name of Committee: Genetic Basis of Disease Review Committee.

Executive Secretary: Ms. Linda Engel, Room 950 Westwood Bldg. Telephone: 301-496-7125.

Dates of Meeting: March 8, 1989.

Place of Meeting: Building 31C, Conference Room 7, National Institutes of Health, Bethesda, Maryland.

Open: March 8, 1989, 8:30 a.m.-10:30 a.m.

Closed: March 8, 1989, 10:30 a.m.-adjournment.

Name of Committee: Pharmacological Sciences Review Committee.

Executive Secretary: Dr. Rodney Ulane, Room 952, Westwood Building, Telephone: 301-496-4772.

Date of Meeting: March 13, 1989.

Place of Meeting: Building 31C, Conference Room 7, National Institutes of Health, Bethesda, Maryland.

Open: March 13, 1989, 8:30 a.m.-10:30 a.m.

Closed: March 13, 1989, 10:30 a.m.-adjournment.

(Catalog of Federal Domestic Assistance Program No. 13-859, 13-862, 13-863, 13-880, National Institute of General Medical Sciences, National Institutes of Health)

Date: February 10, 1989.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 89-4141 Filed 2-21-89; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO-010-09-4320-02]

Craig District Grazing Advisory Board, Meeting

Time and Date: March 17, 1989, at 10 a.m. (originally scheduled for February 9, 1989).

Place: Craig District Office, 455 Emerson Street, Craig, Colorado 81625-1129.

Status: Open to public, interested persons may make oral statements between 10 a.m. and 11 a.m., or may file written statements.

Matters to be considered:

1. Service award presentation
2. Riparian presentation
3. Status report on FY '88 and FY '89 range improvement projects
4. Area reports
5. Expenditures of Grazing Advisory Board Funds

Contact Person for More Information: John Denker, Craig District Office, 455 Emerson Street, Craig, CO 81625-1129. Phone: (303) 824-8261.

Dated: February 13, 1989.

Jerry Kidd,

Associate District Manager.

[FR Doc. 89-4001 Filed 2-21-89; 8:45 am]

BILLING CODE 4310-JB-M

[MT-020-08-4410-02]

Miles City District Grazing Board; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Meeting.

SUMMARY: Notice is hereby given in accordance with Pub. L. 92-463 that a meeting of the Miles City District Grazing Board will be held Tuesday, March 21, 1989, at 9 a.m. in the Swarm Room of the Holiday Inn in Spearfish, South Dakota.

The agenda is as follows:

1. Approve minutes of last meeting
2. Drought policy
3. Range condition/use projections
4. Fire management
5. Land Pattern Adjustment/access
6. Budget
7. Update of selected District programs
8. New Business
9. Opportunity for public comment
10. Adjourn

The meeting is open to the public. The public may make oral statements before

the Grazing Board or file written statements for the Board's consideration. Depending upon the number of persons wishing to make an oral statement, a per person time limit may be established. Summary minutes of the meeting will be maintained in the Bureau of Land Management District Office and will be available for public inspection and reproduction during regular business hours within 30 days following the meeting.

FOR FURTHER INFORMATION CONTACT: District Manager, Miles City District, Bureau of Land Management, P.O. Box 940, Miles City, Montana 59301.

Date: February 14, 1989.

Mat Millenbach,

District Manager.

[FR Doc. 89-4077 Filed 2-21-89; 8:45 am]

BILLING CODE 4310-DN-M

[MT-020-08-4410-02]

Miles City District Advisory Council; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Meeting.

SUMMARY: Notice is hereby given in accordance with Pub. L. 92-463 that a meeting of the Miles City District Advisory Council will be held Thursday, March 23, 1989, at 8 a.m. in the Swarm Room of the Holiday Inn in Spearfish, South Dakota.

The agenda is as follows:

1. Approve minutes of last meeting
2. Drought policy
3. Range conditions/use projections
4. Fire management
5. Cherry Creek Reservoir/off stream water storage
6. Wild Horse Sanctuary
7. Bull Mountain Exchange
8. Decertification of Powder River RCT
9. Pipeline applications
10. Budget
11. Update of selected District programs
12. Election of Officers
13. New Business
14. Opportunity for public comment
15. Adjourn

The meeting is open to the public. The public may make oral statements before the Advisory Council or file written statements for the Council's consideration. Depending upon the number of persons wishing to make an oral statement, a per person time limit may be established. Summary minutes of the meeting will be maintained in the Bureau of Land Management District Office and will be available for public inspection and reproduction during regular business hours within 30 days following the meeting.

FOR FURTHER INFORMATION CONTACT: District Manager, Miles City District, Bureau of Land Management, P.O. Box 940, Miles City, Montana 59301.

Date: February 14, 1989.

Mat Millenbach,

District Manager.

[FR Doc. 89-4078 Filed 2-21-89; 8:45 am]

BILLING CODE 4310-DN-M

[CA-060-09-7122-10-1018; CA-20260]

Realty Action; Exchange of Public and Private Lands; Riverside County, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action; exchange of public and private lands CA-20260.

SUMMARY: The following described public lands have been determined to be suitable for disposal by exchange under section 206 of the Federal Land Policy and Management Act of 1976 (43 US.C. 1716):

San Bernardino Meridian

T. 5S, R. 7E.

Section 6: NW¼SW¼SE¼, W½E½S W¼SE¼, E½SW¼SW¼SE¼; containing 25 acres, more or less.

In exchange for these lands, the United States will acquire offered private lands located within the Coachella Valley Fringe-toed Lizard Preserve (hereinafter called the "CVFTL Preserve") in Riverside County from The Nature Conservancy (TNC). The TNC owned offered lands were identified for acquisition under a separate action, BLM Serial No. CA-22587 (Pooled Lands Exchange), and publication was completed in **Federal Register**, Vol. 53, No. 194/Thursday, October 6, 1988. The exchange will include surface and partial mineral estates for both the public and private lands.

An appraisal has been completed and the lands being exchanged will be of equal value or offered private lands in excess of equal value will be donated or contributed to the United States.

The purpose of this exchange is to acquire the remaining portion of the TNC owned lands within the 13,030 acre Coachella Valley Fringe-toed Lizard Preserve. The lizard is a federally listed threatened species and the Bureau of Land Management's (BLM) goal is to acquire approximately 6,700 acres within the Preserve. Other Federal and State agencies will acquire the remaining portion of the Preserve. To facilitate the BLM's acquisition of the 6,700 acres, TNC purchased the offered lands and through a Cooperative Agreement between BLM and TNC, the BLM is committed to exchanging approximately $6,000,000 of public land to complete said acquisition. The value of the TNC owned lands to be acquired is $9,388,670. Once BLM has met it's commitment to convey to TNC $6 million in valuation of public land, TNC will convey to the United States the remaining lands within the Preserve. This exchange is but one in a series of land exchanges being accomplished to meet the stated goal and commitment.

Lands transferred out of public ownership will be subject to the following reservations, terms, and conditions:

1. A reservation to the United States for a right-of-way for ditches or canals constructed under the authority of the Act of August 30, 1890 (43 U.S.C. 945).

Upon publication of this Notice of Realty Action in the **Federal Register**, the public lands will be segregated from all appropriations under the public land laws, including the mining laws, except for exchanges and mineral leasing, for a period of two (2) years or until issuance of patent or other conveyance document, whichever comes first.

For detailed information concerning this exchange, including the environmental assessment/land report, contact Mike Selman, BLM Palm Springs-South Coast Resource Area Office, (619)-323-4421. For a period of 45 days after publication of this Notice in the **Federal Register**, interested parties may submit comments to the District Manager, California Desert District, 1695 Spruce Street, Riverside, California 92507. Any adverse comments will be evaluated by the State Director, who may vacate or modify this realty action and issue a final determination. In the absence of any adverse comments, this realty action will become the final determination of the Department of the Interior.

Date: February 15, 1989.

Robert M. Waiwood,

Acting District Manager.

[FR Doc. 89-4046 Filed 2-21-89; 8:45 am]

BILLING CODE 4310-40-M

[CA-060-09-7122-10-1018; CA-18891]

Realty Action; Exchange of Public and Private Lands, Riverside County, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Reality Action; Exchange of Public and Private Lands CA-18891.

SUMMARY: The following described public lands have been determined to be suitable for disposal by exchange under Section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716):

San Bernardino Meridian

T. 6S., R. 8E.
Section 2: Lots 1 and 2 of the NE¼, E½ of Lot 2 of the NW¼, W½NW¼SE¼.
containing 221.95 acres, more or less

In exchange for these lands, the United States will acquire the following described offered private lands located within the Coachella Valley Fringe-toed Lizard Preserve (hereinafter called the "CVFTL Preserve") in Riverside County, California from The Nature Conservancy (TNC):

San Bernardino Meridian

T. 4S., R. 7E.
Section 9: SW¼.
containing 160 acres, more or less

Additionally, other TNC owned offered lands within the CVFTL Preserve will be acquired. These other TNC owned lands were identified for acquisition under a separate action, BLM Serial No. CA-22587 (Pooled Lands), and publication was completed in **Federal Register**, Vol. 53, No. 194/ Thursday, October 6, 1988.

The exchange will include surface and partial mineral estates for both the public and private lands.

An appraisal has been completed and the lands being exchanged will be of equal value or offered private lands in excess of equal value will be donated or contributed to the United States.

The purpose of this exchange is to acquire the remaining portion of the TNC owned lands within the 13,030 acre Coachella Valley Fringe-toed Lizard Preserve. The lizard is a federally listed threatened species and the Bureau of Land Management's (BLM) goal is to acquire approximately 6,700 acres within the preserve. Other Federal and State agencies will acquire the remaining portion of the preserve. To facilitate the BLM's acquisition of the 6,700 acres, TNC purchased the offered lands and through a Cooperative Agreement between BLM and TNC, the BLM is committed to exchanging approximately $6,000,000 of public land to complete said acquisition. The value of the TNC owned lands to be acquired is $9,388,670. Once BLM has met it's commitment to convey to TNC $6 million in valuation of public land, TNC will convey to the United States the remaining lands within the preserve. This exchange is but one in a series of land exchanges being accomplished to meet the stated goal and commitment.

Lands transferred out of public ownership will be subject to the following reservations, terms, and conditions:

1. A reservation to the United States for a right-of-way for ditches or canals constructed under the authority of the Act of August 30, 1980 (43 U.S.C. 945).

2. A reservation to the United States of the oil, gas, and geothermal steam mineral rights and the rights to prospect for same.

3. A reservation to the United States for a water canal (All American Canal) constructed under the authority of the Act of December 5, 1924; BLM Serial; No. LA-081554.

4. A reservation to the United States for a water pipeline constructed under the authority of the Act of December 5, 1924; BLM serial No. LA-098198.

5. Subject to a right-of-way for an electrical distribution line granted to the Imperial Irrigation District under the Act of February 15, 1901; BLM Serial No. R-174.

6. Subject to a right-of-way for an electrical transmission line granted to the Imperial Irrigation District under the Act of October 21, 1976; BLM Serial No. CA-17200.

Upon publication of this Notice of Realty Action in the **Federal Register**, the public lands will be segregated from all appropriations under the public land laws, including the mining laws, except for exchanges and mineral leasing, for a period of two (2) years or until issuance of patent or other conveyance document, whichever comes first.

For detailed information concerning this exchange, including the environmental assessment/land report, contact Mike Selman, BLM Palm Springs-South Coast Resource Area Office, (619)-323-4421.

For a period of 45 days after publication of this Notice in the **Federal Register**, interested parties may submit comments to the District Manager, California Desert District, 1695 Spruce Street, Riverside, California, 92507. Any adverse comments will be evaluated by the State Director, who may vacate or modify this reality action and issue a final determination. In the absence of any adverse comments, this reality action will become the final determination of the Department of the Interior.

Date: February 15, 1989.

Robert M. Waiwood,

Acting District Manager.

[FR Doc. 89-4049 Filed 2-21-89; 8:45 am]

BILLING CODE 4310-40-M

[ES-940-09-4520-13; ES-039968, Group 81]

Michigan; Filing Of Plat Of Dependent Resurvey and Subdivision of Section 12

February 15, 1989.

1. The plat of the dependent resurvey of a portion of the east boundary, a portion of the subdivisional lines, and the survey of the subdivision of section 12, Township 38 North, Range 25 West, Michigan Meridian, Michigan will be officially filed in the Eastern States Office, Alexandria, Virginia at 7:30 a.m., on April 3, 1989.

2. The survey was made upon request by the Bureau of Indian Affairs.

3. All inquiries or protests concerning the technical aspects of the dependent resurvey must be sent to the Deputy States Director for Cadastral Survey and Support Services, Eastern State Office, Bureau of Land Management, 350 South Pickett Street, Alexandria, Virginia 22304, prior to 7:30 a.m., April 3, 1989.

4. Copies of the plat will be made available upon request and prepayment of the reproduction fee of $4.00 per copy.

Corwyn J. Rodine,

Acting Deputy State Director for Cadastral Survey and Support Services.

[FR Doc. 89-4079 Filed 2-21-89; 8:45 am]

BILLING CODE 4310-GJ-M

[NM-940-09-4214-11; NM NM 6844]

Proposed Continuation of Withdrawal; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The U.S. Department of Agriculture, Forest Service, proposes that a portion of a withdrawal continue for an additional 20 years. The land will remain closed to mining, but has been and will remain open to mineral leasing.

DATE: Comments should be received by May 23, 1989.

ADDRESS: Comments should be sent to: New Mexico State Director, BLM, P.O. Box 1449, Santa Fe, New Mexico 87504-1449.

FOR FURTHER INFORMATION CONTACT: Clarence Hougland, BLM, New Mexico State Office, (505) 988-6545.

SUPPLEMENTARY INFORMATION: The Forest Service proposes that a portion of the existing land withdrawal made by Public Land Order No. 4591 be continued for a period of 20 years pursuant to Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714. The land is described as follows:

New Mexico Principal Meridian

Santa Fe National Forest, Seven Springs Campground

T. 20 N., R. 2 E.;
Sec. 26, E½NE¼SE¼.

Redondo Campground and Jemez Overlook

T. 19 N., R. 3 E.;
Sec. 21, lots 2, 3, and 4, SE¼SE¼NW¼, and E½SW¼.

The area described contains 213.66 acres in Sandoval County.

The purpose of the withdrawal is to protect the substantial capital investments on the recreation sites. The withdrawal segregates the land from location and entry under the mining laws. No change in the segregative effect or use of the land is proposed by this action.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with the proposed withdrawal continuation may present their views in writing to the New Mexico State Director at the address indicated above.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources.

A report will be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawal will be continued, and if so, for how long. The final determination on the continuation of the withdrawal will be published in the **Federal Register**. The existing withdrawal will continue until such final determination is made.

Dated: February 9, 1989.

Monte G. Jordan,

State Director, Associate.

[FR Doc. 89-4006 Filed 2-21-89; 8:45 am]

BILLING CODE 4310-FB-M

Minerals Management Service

Development Operations Coordination Document; Samedan Oil Corp.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Samedan Oil Corporation has submitted a OCD describing the activities it proposes to conduct on Lease OCS-G 4818, Block 290, West Cameron Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an existing onshore base located at Intracoastal City, Louisiana.

DATE: The subject DOCD was deemed submitted on February 9, 1989. Comments must be received within 15 days of the publication date of this Notice or 15 days after the Coastal Management Section receives a copy of the plan from the Minerals Management Service.

ADDRESSES: A copy of the subject DOCD is available for public review at the Public Information Office, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). A copy of the DOCD and the accompanying Consistency Certification are also available for public review at the Coastal Management Section Office located on the 10th floor of the State Land and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, Attention OCS Plans, Post Office Box 44487, Baton Rouge, Louisiana 70805.

FOR FURTHER INFORMATION CONTACT: Ms. Angie D. Gobert; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Telephone (504) 736-2876.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to Sec. 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to Section 930.61 of Title 15 of the CFR, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the DOCD for consistency with the Louisiana Coastal Resources Program.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective May 31, 1988 (53 FR 10595).

Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Date: February 12, 1989.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 89-4009 Filed 2-21-89; 8:45 am]

BILLING CODE 4310-MR-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-430 (Preliminary)]

Dry Aluminum Sulfate From Sweden

AGENCY: United States International Trade Commission.

ACTION: Institution of a preliminary antidumping investigation and scheduling of a conference to be held in connection with the investigation.

SUMMARY: The Commission hereby gives notice of the institution of preliminary antidumping investigation No. 731-TA-430 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Sweden of dry aluminum sulfate, provided for in subheading 2833.22.00 of the Harmonized Tariff Schedule of the United States (formerly provided for in item 417.16 of the Tariff Schedules of the United States), That are alleged to be sold in the United States at less than fair value. As provided in section 733(a), the Commission must complete preliminary antidumping investigations in 45 days, or in this case by March 30, 1989.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, subparts A and B (19 CFR Part 207, as amended by 53 FR 33039 (Aug. 29, 1988) and 54 FR 5220 (Feb. 2, 1989)), and part 201, subparts A through E (19 CFR Part 201).

EFFECTIVE DATE: February 13, 1989.

FOR FURTHER INFORMATION CONTACT: Larry Reavis (202-252-1185), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-252-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-252-1000.

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted in response to a petition filed on February 13, 1989 by Delta Chemical Corp. Baltimore, MD.

Participation in the investigation—Persons wishing to participate in this investigation as parties must file a entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules (19 CFR 201.11), not later than seven (7) days after after publication of this notice in the **Federal Register.** Any entry of appearance filed after this date will be referred to the Chairman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Public service list—Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives who are parties to the investigation upon the expiration of the period for filing entries of appearance. In accordance with §§ 201.16(c) and 207.3 of the rules (19 CFR 201.16(c) and 207.3), each public document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the public service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Limited disclosure of business properietary information under a protective order and business proprietary information service list—Pursuant to § 207.7(a) of the Commission's rules (19 CFR § 207.7(a)), the Secretary will make available business propriatary information gathered in this preliminary investigation to authorized applicants under a protective order, provided that the application be made not later than serven (7) days after the publication of this notice in the **Federal Register.** A Separate service list will be maintained by the Secretary for thos parties authorized to receive business proprietary information under a protective order. The Secretary will not accept any submission by parties containing business proprietary information without a certificate of service indicating that it has beeh served on all the parties that are authorized to receive such information under a protective order.

Conference—The Director of Operations of the Commission has scheduled a conference in connection with this investigation for 9:30 a.m. on March 6, 1989 at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Larry Reavis (202-252-1185) not later than March 2, 1989 to arrange for their appearance. Parties in support of the imposition of antidumping duties in the investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make a oral presentation at the conference.

Written submission—Any person may submit to the Commission on or before March 8, 1989 a written brief containing information and arguments pertinent to the subject matter of the investigation, as provided in § 207.15 of the Commission's rules (19 CFR 207.15). A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the rules (19 CFR 201.8). All written submissions except for business proprietary data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any information for which business proprietary treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Business Properietary Information." The cover of the document must list the pages on which business proprietary information is found. The business proprietary information itself must be clearly identified by means of brackets. Business proprietary submissions and requests for business proprietary treatment must conform with the requirements of §§ 201.6 and 207.7 of the Commission's rules (19 CFR §§ 201.6 and 207.7).

Parties which obtain disclosure of business proprietary information pursuant to § 207.7(a) of the Commission's rules (19 CFR 207.7(a)) may comment on such information in their written brief, and may also file additional written comments on such information no later than March 13, 1989. Such additional comments must be limited to comments on business proprietary information received in or after the written briefs.

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.12 of the Commission's rules (19 CFR 207.12).

By order of the Commission.

Issued: February 15, 1989.

Kenneth R. Mason,

Secretary.

[FR Doc. 89-4196 Filed 2-21-89; 8:53 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-293 (Sub-No. IX)]

Detroit & Mackinac Railway Co.; Abandonment Exemption; Bay County, MI

Applicant has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon its 12.8-mile line of railroad between milepost 3.0 at Kawkawlin and milepost 15.8 at Pinconning in Bay County, MI.

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 24, 1989 (unless stayed pending reconsideration). Petitions to stay that

do not involve environmental issues,[1] formal expressions of intent to file an offer of financial assistance under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking statements under 49 CFR 1152.29 must be filed by March 6, 1989.[3] Petitions for reconsideration and requests for public use conditions under 49 CFR 1152.28 must be filed by March 14, 1989 with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Kevin M. Sheys, Weiner, McCaffrey, Brodsky & Kaplan, P.C., 1350 New York, Ave., NW., Suite 800, Washington, DC 20005–4797.

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 27, 1989. Interested persons may obtain a copy of the EA from SEE by writing to it (Room 3115, Interstate Commerce Commission, Washington, DC 20423) or by calling Carl Bausch, Chief, SEE at (202) 275–7316. 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: February 15, 1989.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 89–4018 Filed 2–21–89; 8:45am]

BILLING CODE 7035-01-M

[1] A stay will be routinely issued by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Section of Energy and Environment in its independent investigation) cannot be made prior to the effective date of the notice of exemption. *See Exemption of Out-of-Service Rail Lines*, 4 I.C.C.2d 400 (1988). Any entity seeking a stay involving environmental concerns is encouraged to file its request as soon as possible in order to permit this Commission to review and act on the request before the effective date of this exemption.

[2] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987), and final rules published in the **Federal Register** on December 22, 1987 (52 FR 48440–48446).

[3] The Commission will accept a late-filed trail use statement so long as it retains jurisdiction to do so.

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant to Clean Water Act; Monticello, FL

In accordance with Department of Justice policy, 28 CFR 50.7, notice is hereby given that on February 6, 1989, a proposed Consent Decree in *United States* v. *City of Monticello, Florida*, Civil Action No. TCA 89–40018 WS, was lodged with the United States District Court for the Northern District of Florida. The Complaint filed by the United States sought injunctive relief and the assessment of civil penalties under the Clean Water Act, as amended (the Act), against the City of Monticello, Florida. The Complaint alleged that since 1982, the City has discharged pollutants from its sewage treatment plant without a National Pollutant Discharge Elimination System (NPDES) permit, thereby violating the Act.

Under the proposed Consent Decree, the City will pay a civil penalty of $15,000. The Decree requires the City to obtain and comply with a NPDES permit by no later than September 1, 1990, and to comply with certain interim effluent limitations until that date. The City must also undertake numerous remedial measures to ensure that it complies with the Act in its operation of its sewage treatment plant.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments concerning the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, U.S. Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, DC 20044, and should refer to *United States* v. *City of Monticello, Florida*, D.J. Ref. 90–5–1–1–3146.

The proposed Consent Decree may be examined at any of the following offices: (1) The United States Attorney for the Northern District of Florida, 227 North Bronough Street #4014, Tallahassee, Florida; (2) the U.S. Environmental Protection Agency, Region 4, 345 Courtland Street NE., Atlanta, Georgia; and (3) the Environmental Enforcement Section, Land & Natural Resources Division, U.S. Department of Justice, Room 1541, 10th & Pennsylvania Avenue NW., Washington, DC. Copies of the proposed Decree may be obtained by mail from the Environmental Enforcement Section of the Department of Justice, Land and Natural Resources Division, P.O. Box 7611, Benjamin Franklin Station, Washington, DC 20044–7611, or in person at the U.S. Department of Justice Building, Room 1541, 10th Street and Pennsylvania Avenue NW., Washington, DC. Any request for a copy of the proposed Consent Decree should be accompanied by a check for copying costs totalling $1.80 ($0.10 per page) payable to "United States Treasurer."

Donald A. Carr,

Acting Assistant Attorney General, Land & Natural Resources Division.

[FR Doc. 89–4076 Filed 2–21–89; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Review by the Office of Management and Budget (OMB)

Background

The Department of Labor, in carrying out its responsibilities under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the reporting and recordkeeping requirements that will affect the public.

List of Recordkeeping/Reporting Requirements Under Review

As necessary, the Department of Labor will publish a list of the Agency recordkeeping/reporting requirements under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Office will, upon request, be able to advise members of the public of the nature of the particular submission they are interested in.

Each entry may contain the following information:

The Agency of the Department issuing this recordkeeping/reporting requirement.

The title of the recordkeeping/reporting requirement.

The OMB and Agency identification numbers, if applicable.

How often the recordkeeping/reporting requirement is needed.

Who will be required to or asked to report or keep records.

Whether small businesses or organizations are affected.

An estimate of the total number of hours needed to comply with the recordkeeping/reporting requirements and the average hours per respondent.

The number of forms in the request for approval, if applicable.

An abstract describing the need for and uses of the information collection.

Comments and Questions

Copies of the recordkeeping/reporting requirements may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, telephone (202) 523-6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue NW., Room N-1301, Washington, DC. 20210. Comments should also be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for (BLS/DM/ESA/ETA/OLMS/MSHA/OSHA/PWBA/VETS), Office of Management and Budget, Room 3208, Washington, DC 20503 (Telephone (202) 395-6880).

Any member of the public who wants to comment on a recordkeeping/reporting requirement which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

New

Employment and Training Administration
A Study of Validation of JTPA Postprogram Follow-up Data
New
One-time only
State or local governments; businesses or other for-profit; small businesses or organizations
254 respondents; 254 total hours; 1 hour per response; no forms

JTPA program management at State and Federal levels is based in part on postprogram follow-up of terminees. Information on the validity of follow-up data is needed to ensure equitable allocation of awards. This study will report on the status of validation efforts and provide the basis for designing technical assistance.

New

Employment and Training administration
Educational Testing Service/ Department of Labor Workplace Literacy Assessment
New
Nonrecurring
Individuals or households; State or local governments; Federal agencies or employees
8,062 respondents; 10,722 total hours; 1 hr. 20 min. per response; no forms.

In order to carry out its mission of providing education and training programs to American workers, ETA needs current information on the literacy levels of its client populations. The proposed survey will meet this demand. American workers, businesses as well as the Federal, State and local government policy makers and program managers will benefit from the product of this survey.

New

Pension and Welfare Benefits Administration
Final Regulation Regarding Loans to Plan Participants and Beneficiaries Who Are Parties in Interest with Respect to the Plan
Other (other-time)
Business or other for-profit; Small business or organizations
206,480 responses; 619,440 hours; 3 hours per response; 0 forms.

This final regulation clarifies requirements under the Employee Retirement Income Security Act of 1974 (ERISA) with respect to loans from pension plans which are made to plan participants and beneficiaries who are parties in interest with respect to the plan.

Signed at Washington, DC this 16th day of February, 1989.

Theresa O'Malley.

Acting Departmental Clearance Office.

[FR Doc. 89-4087 Filed 2-21-89; 8:45 am]

BILLING CODE 4510-30-M

Employment and Training Administration

Investigations Regarding Certifications of Eligibility to Apply for Worker Adjustment Assistance; A.J. Boyd Industries et al.

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 6, 1989.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade adjustment Assistance, at the address shown below, not later than March 6, 1989.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street NW., Washington, DC 20213.

Signed at Washington, DC, this 30th day of January 1989.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (Union/Workers/Firm)	Location	Date received	Date of petition	Petition No.	Articles produced
A.J. Boyd Industries (Company)	Andover, NJ	1/30/89	1/13/89	22,388	Venetian Blinds.
Cyclops Corp., Detroit Strip Div., New Haven Plant (USWA)	Hamden, CT	1/30/89	1/12/89	22,389	Steel.
Dale Electronics (Workers)	El Paso, TX	1/30/89	1/13/89	22,390	Resistors.
Data General (Workers)	Fountain, CO	1/3/89	12/8/88	22,391	Computers.
Dirigo Lumber Co. (Workers)	Greenville, Jct., ME	1/30/89	1/6/89	22,392	Lumber.
Dowell Schlumberger, Oklahoma Reg. (Workers)	Seminole, OK	1/30/89	1/7/89	22,393	Oil & Gas.
Dresser Industries-Guiberson Div. (USWA)	Dallas, TX	1/30/89	1/18/89	22,394	Oil & Gas.
EDDE Motors (Workers)	Falls City, NE	1/30/89	1/4/89	22,395	Autos.
Featherlite Precast Corp. (Workers)	El Paso, TX	1/30/89	1/17/89	22,396	Concrete.
Gesell Pump Sales & Service, Inc. (Workers)	Whittington, IL	1/30/89	1/11/89	22,397	Oil Pumps.
Hunt Oil Co. Southwestern Div., Exploration Staff (Workers)	Midland, TX	1/30/89	1/9/89	22,398	Oil & Gas.

APPENDIX—Continued

Petitioner (Union/Workers/Firm)	Location	Date received	Date of petition	Petition No.	Articles produced
Irvin Industries (Metal Stamping-Plant I (Company)	Richmond, KY	1/30/89	1/5/89	22,399	Hinges.
Irvin Industries (Cannister Bombs-Plant II (Company)	Richmond, KY	1/30/89	1/5/89	22,400	Hinges.
Kaypro Corporation (Workers)	Solana Beach, CA	1/30/89	1/14/89	22,401	Computers
Lady Bird Apparel, (Company)	Roanoke, VA	1/30/89	1/18/89	22,402	Sportswear.
Machen Contracting, Inc. (Workers)	Midland, TX	1/30/89	1/12/89	22,403	Oil & Gas.
Microdyne Corp. (UFCW)	Cumberland, MD	1/30/89	1/4/89	22,404	Satellite Receivers.
Moore's Well Services, Inc. (Workers)	Duck, WV	1/30/89	1/3/89	22,405	Oil & Gas.
Muskogee Inspection Co. (Company)	Muskogee, OK	1/30/89	1/9/89	22,406	Oil & Gas.
Ohio Filter Co. (Workers)	Cleveland, OH	1/30/89	1/18/89	22,407	Auto Filters.
Rector & Stone Drilling Co., (Workers)	Carmi, IL	1/30/89	1/5/89	22,408	Oil & Gas.
Rogers Structural Steel (Workers)	Corry, PA	1/30/89	1/10/89	22,409	Steel.
Siemens Energy & Automation (Company)	New Orleans, LA	1/30/89	1/6/89	22,410	D.C. Contractors.
Sherwood Medical, Inc. Hospital Products Div. (Workers)	Sherburne, NY	1/30/89	1/5/89	22,411	Medical Products.
Shortway Products (Workers)	Clearfield, PA	1/30/89	1/12/89	22,412	Vacuum Tubes.
Simmons Cooperative Industries (Workers)	Chester, NJ	1/30/89	1/11/89	22,413	Cable Assemblies.
Stanton Foundry, Inc. (USWA)	Paramus, NJ	1/30/89	1/12/89	22,414	Steel Castings.
Stewart Well Service (Workers)	Mt. Vernon, IL	1/30/89	1/11/89	22,415	Oil & Gas.
T&M Casing Service, Inc. (Workers)	Grand Junction, Co.	1/30/89	12/20/88	22,416	Oil & Gas.
Teledyne Columbia-Summerill (USWA)	Pittsburgh, PA	1/30/89	1/12/89	44,417	Steel.
Triangle Well Service, Incorp. (Company)	Ellis KS	1/30/89	1/6/89	22,418	Oil & Gas.
Union Pacific Resources (Company)	Houston, TX	1/30/89	1/26/89	22,419	Oil & Gas.
Walden Services, Inc. (Company)	Odessa, TX	1/30/89	1/12/89	22,420	Oil & Gas.
Whirlpool Corp. Findlay Div. (Workers)	Findlay, OH	1/30/89	1/9/89	22,421	Appliances.
Zenith Electronics, Corp. (IBEW)	Springfield, MO	1/30/89	1/3/89	22,422	Televisions.

[FR Doc. 89-4086 Filed 2-21-89; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-21,886 Headquartered in Houston, TX; TA-W-21,886A All Other Locations in Texas

Diamond M Drilling; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor issued a Certification of Eligibility to Apply for Workers Adjustment Assistance on January 17, 1989. The Certification will be published in the Federal Register soon.

The company provided new information to the Department which shows additional locations of Diamond M Drilling throughout Texas where worker separations occurred that were not included in the original certification. Accordingly, the certification is changed to include all the other locations of Diamond M Drilling in the State of Texas where additional worker separations occurred.

The intent of the certification is to cover all workers of Diamond M Drilling in all its locations in Texas. The amended notice applicable to TA-W-21,886 is hereby issued as follows:

"All workers of Diamond M Drilling, Houston, Texas and all other workers of Diamond M Drilling in all other locations in Texas who became totally or partially separated from employment on or after October 1, 1985 and before September 30, 1987 are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974."

Signed at Washington, DC, this 3rd day of February 1989.

Robert O. Deslongchamps,

Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 89-4088 Filed 2-21-89; 8:45am]

BILLING CODE 4510-30-M

[TA-W-20,845 Plant #14 et al.]

General Motors Corporation Pontiac Motor Division, Pontiac, MI; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In the matter of TA-W-20,845, Plant #14; TA-W-21.347A, Plant #15; TA-W-21.347B, Plant #52; TA-W-21.347C, Plant #56; TA-W-21.347D, Plant #21; TA-W-21.347E, Plant #23; TA-W-21,347F, Plant #16; TA-W-21.347G, Plant #28; TA-W-21.347H, Plant #3626.

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on September 22, 1988 applicable to all workers of Plant #14 of the Pontiac Motor Division of General Motors Corporation, Pontiac, Michigan. The certification was published in the **Federal Register** on October 13, 1988 (53 FR 40142). The Department also issued a Notice of Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance on December 30, 1988 certifying workers of Plants 15, 52 and 56 of the Pontiac Motor Division of General Motors Corporation, Pontiac, Michigan.

On the basis of additional information from the company and the United Auto Workers (UAW) that some workers were employed by more than one of the certified plants in the 52 weeks prior to their layoff, the Office of Trade Adjustment Assistance, on its own motion, is amending the certifications to permit all weeks in adversely affected employment to be applied in establishing individual eligibility for trade readjustment allowance (TRA) payments.

The separate certifications are hereby amended as follows:

"All workers at Plants #14, #15, #52 and #56 of Pontiac Motor Division of General Motors Corporation, Pontiac, Michigan who became totally or partially separated from employment on or after their respective impact dates and before their respective expiration dates are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974."

TA-W-	Plant	Impact date	Expiration date
20,845	Plant #14, Pontiac, MI	June 29, 1987	Sept. 22, 1990.
21,347A	Plant #15, Pontiac, MI	Oct. 4, 1987	Dec. 30, 1990.

TA-W-	Plant	Impact date	Expiration date
21,347B	Plant #52, Pontiac, MI	Oct. 4, 1987	Dec. 30, 1990.
21,347C	Plant #56, Pontiac, MI	Oct. 4, 1987	Dec 30, 1990.

I further determine that all workers at Plants #21, #23, #16, #28 and #3626 of CPC Pontiac Motor Division of General Motors Corporation, Pontiac, Michigan are denied eligibility to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 31st day of January 1989.

Stephen A. Wandner,

Deputy Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 89-4089 Filed 2-21-89; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-22, 033]

Excel Energy Corp.; Denver, CO; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated in response to a worker petition received on November 18, 1988 which was filed on behalf of workers producing crude oil and natural gas at Excel Energy Corporation, Denver, Colorado.

The workers of Excel Energy Corporation allege that increased imports of oil resulted in separations at the subject firm.

All workers were separated from the subject firm more than one year prior to the date of the petition. The retroactive provisions of the Omnibus Trade and Competitiveness Act of 1988 do not apply to workers who produce a product. In accordance with section 223 of the Trade Act, as amended by Pub. L. 100-418, no certification may apply to any worker whose last separation occurred more than one year before the date of the petition. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 31st day of January 1989.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 89-4090 Filed 2-21-89; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-22,038]

Gavin Energy Service Titusville, PA; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated in response to a worker petition received on November 18, 1988 which was filed on behalf of workers at Gavin Energy Service, Titusville, Pennsylvania.

The petitioning group of workers is employed by Penn American Energy Corporation, not Gavin Energy Service. Workers at Penn American Energy Corporation are currently certified as eligible to apply for trade adjustment assistance benefits (TA-W-22,055). Consequently, further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed at Washington, DC, this 31st day of January 1989.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 89-4091 Filed 2-21-89; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-22,054]

Peacock, Williams and Co.; Pittsburgh, PA; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated in response to a worker petition received on November 18, 1988 which was filed on behalf of workers at Peacock, Williams and Company, Pittsburgh, Pennsylvania.

The workers signing the subject petition are not authorized representatives of Peacock, Williams and Company, Pittsburgh, Pennsylvania. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 31st day of January 1989.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 89-4092 Filed 2-21-89; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-21,997]

Westburn Drilling Co.; Williston Basin, Williston, ND; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated in response to a worker petition which was filed on November 18, 1988 on behalf of workers at Westburn Drilling Company, Williston, North Dakota.

All workers were separated from the subject firm on February 14, 1984. Section 223 of the Trade Act of 1974 amended by Section 1421(a)(1)(B) of the Omnibus Trade and Competitiveness Act of 1988 provides retroactive benefits to workers separated on or after October 1, 1985. Consequently further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed at Washington, DC, this 31st day of January 1989.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 89-4093 Filed 2-21-89; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-22,251]

R.E. Williams Drilling Co.; Memphis, TN; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on October 31, 1988 in response to a worker petition which was filed on behalf of workers at R.E. Williams Drilling Company, Memphis, Tennessee.

An active certification covering the petitioning group of workers remains in effect (TA-W-21,749). Consequently, further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed at Washington, DC, this 30th day of January 1989.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 89-4094 Filed 2-21-89; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-22,092]

Wintershall Oil and Gas Corp.; Englewood, Co; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974 (19 U.S.C. 2273), as amended by the Omnibus Trade and Competitiveness Act of 1988 (Pub. L. 100-418), an investigation was initiated on November 18, 1988 in response to a worker petition filed on behalf of workers and former workers at Wintershall Oil and Gas Corporation, Englewood, Colorado. The workers are engaged in the production and transport of crude oil and natural gas.

The petitioning group of workers are subject to an ongoing investigation for which a determination has not yet been issued (TA-W-22,001). Consequently, further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed at Washington, DC this 31st day of January 1989.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 89-4095 Filed 2-21-89; 8:45 am]

BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-89-11-C]

Wyoming Fuel Co.; Petition for Modification of Application of Mandatory Safety Standard

Wyoming Fuel Company, Star Route, Weston, Colorado 81091 has filed a petiton to modify the application of 30 CFR 75.326 (aircourses and belt haulage entries) to its Golden Eagle Mine (I.D. No. 05-02820) located in Las Animas County, Colorado. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that entries used as intake and return aircourses be separated from belt haulage entries, and that belt haulage entries not be used to ventilate active working places.

2. Due to poor roof conditions and roof falls, certain areas of the mine cannot be properly ventilated.

3. As an alternate method, petitioner proposes to use belt haulage entries to ventilate active working areas. An early warning fire detection system utilizing a low-level carbon monoxide (CO) detection system would be installed along all belt conveyors, at each tailpiece located in intake aircourses.

4. In support of this request, petitioner states that—

(a) Using the belt entry as an intake would increase the volume of air to the working faces, and reduce accumulation of methane and respirable dust;

(b) The ventilation of belts would allow the current rope slope to be used as a fresh air escape route, and enhance escape possibilities by having two separate fresh air escape routes; and

(c) This method would allow for low-level CO monitoring of all the affected belts, creating a greater safety factor than is currently in place.

5. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 24, 1989. Copies of the petition are available for inspection at that address.

Date: February 15, 1989.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 89-4096 Filed 2-21-89; 8:45 am]

BILLING CODE 4510-43-M

Occupational Safety and Health Administration

Shipyard Employment Standards Advisory Committee; Meeting

AGENCY: Occupational Safety and Health Administration.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given that the Shipyard Employment Standards Advisory Committee, established under the provisions of the Federal Advisory Committee Act (FACA) as amended (5 U.S.C. App. I), will convene on March 28, 1989, at 8:30 A.M. at the Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, Maryland. The meeting will adjourn on March 29, 1989, at approximately 4:00 P.M. The agenda is as follows:

I. Call to order.

II. Review transcript of December 13-14, 1988 meeting.

III. Discussion of the following standards:

(a) 29 CFR 1915, Subpart F, General working conditions. This will include discussion of the treatment of confined spaces in the yard.

(b) 29 CFR 1910.144, Safety color code for marking physical hazards.

(c) 29 CFR 1910.145, Specifications for accident prevention signs and tags.

(d) 29 CFR 1910.151, Medical services and first aid. Should time permit, discussion is also scheduled on 29 CFR 1915, Subpart J, Ship's Machinery and Piping Systems.

IV. Planning.

The Committee will consider oral presentations relating to agenda items. Persons wishing to address the Committee should submit a written request to Mr. Thomas Hall (address below) by close of business, March 21, 1989. The request must include the name and address of the person wishing to appear, the capacity in which the appearance will be made, a short summary of the intended presentation and an estimate of the amount of time needed.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Hall, U.S. Department of Labor, Occupational Safety and Health Administration, Division of Consumer Affairs, Room N-3647, 200 Constitution Avenue, NW., Washington, DC 20210. (202) 523-8617.

Signed at Washington, DC, this 15th day of February 1989.

John A. Pendergrass,

Assistant Secretary.

[FR Doc. 89-3999 Filed 2-21-89; 8:45 am]

BILLING CODE 4510-26-M

Oregon State Standards; Approval

1. Background

Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant

Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On December 28, 1972, notice was published in the **Federal Register** (37 FR 28628) of the approval of the Oregon plan and the adoption of Subpart D to Part 1952 containing the decision. The Oregon plan provides for adoption of Federal standards as State standards by reference.

In response to Federal standards changes, the State has submitted by letter dated November 22, 1988 from John A. Pompei, Administrator, to James W. Lake, Regional Administrator, and incorporated as part of the plan, a State standard amendment comparable to 29 CFR 1910.19, Benzene and Formaldehyde, as published in the **Federal Register** (52 FR 34562) dated September 11, 1987 and (52 FR 46291) dated December 4, 1987 respectively.

The State's rules pertaining to Benzene and Formaldehyde, contained in OAR 437-02-010, were adopted by reference and became effective on November 10, 1988, pursuant to ORS 654.025(2), ORS 656.726(3), and ORS 183.335, as ordered and transmitted under Oregon APD Administrative Order 16-1988. On October 5, 1988, the State mailed the Notice of Proposed Amendment of Rules to those on the Department of Insurance and Finance mailing list, established pursuant to OAR 436-01-000 and to those on the Department's distribution list as their interest appeared. No written comments or requests for a public hearing were received.

2. Decision

Having reviewed the State submission in comparison with the Federal standard, it has been determined that the State standard is identical to the Federal standard.

3. Location of Supplement for Inspection and Copying

A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6003, Federal Office Building, 909 First Avenue, Seattle, Washington 98174; Department of Insurance and Finance, Labor and Industries Building, Salem, Oregon 97310; and the Office of State Programs, Occupational Safety and Health Administration, Room N-3476, 200 Constitution Avenue NW., Washington DC 20210.

4. Public Participation

Under 29 CFR 1953.2(c) the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Oregon State Plan as a proposed change and making the Regional Administrator's approval effective upon publication of the following reasons:

1. The standard amendments are identical to the Federal standard which was promulgated in accordance with Federal law including meeting requirements for public participation.

2. The standard amendments were adopted in accordance with the procedural requirements of State law and further participation would be unnecessary.

This decision is effective February 22, 1989. (Section 18, Pub. L. 91-596, 84 Stat. [29 U.S.C. 667])

Signed at Seattle, Washington this 19th day of December, 1988.

James W. Lake,

Regional Administrator.

[FR Doc. 89-4097 Filed 2-21-89; 8:45 am]

BILLING CODE 4510-26-M

NATIONAL SCIENCE FOUNDATION

Materials Submitted for OMB Review

In accordance with the Paperwork Reduction Act and OMB Guidelines, the National Science Foundation is posting this notice of information collection that will affect the public.

Agency Clearance Officer: Herman G. Fleming, (2020 357-9520).

OMB Desk Officer: Written comments to: Office of Information and Regulatory Affairs, ATTN: Jim Houser, Desk Officer, OMB, 722 Jackson Place, Room 3208, NEOB, Washington, DC 20503.

Title: Survey of Biotechnology R&D Performance in Industry.

Affected Public: Businesses or other for-profit.

Responses/Burden Hours: 500 respondents, 2 burden hours each.

Abstract: Quantitative information on science and technology employment funding in biotechnology related areas is needed to improve the ability of the Federal government to assess its policymaking and budget formulation activities in these areas. Executive Branch agencies and the Congress use responses of industry leaders to make timely decisions on S&T policy questions.

Dated: February 16, 1989.

Herman G. Fleming,

NSF Clearance Officer.

[FR Doc. 89-4045 Filed 2-21-89; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Low-Level Radioactive Waste Policy Amendments Act of 1985; 1990 Milestone Guidance on Governors' Certifications

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of guidance.

SUMMARY: This notice is to inform the public of the Nuclear Regulatory Commission's (NRC's) guidance and other relevant information provided to the States to assist them in complying with the 1990 milestone of the Low-Level Radioactive Waste Policy Amendments Act of 1985 (LLRWPAA or Pub. L. 99-240). Section 5(e)(1)(C) of the LLRWPAA provides two methods of meeting this milestone:

1. Submit a complete license application for a new low-level radioactive waste disposal facility to NRC or the appropriate Agreement State agency; or

2. Provide a written certification to NRC by the Governor (or Chief Executive Officer) that the State will be capable of providing for, and will provide for, storage, disposal or management of any low-level radioactive waste generated within the State and requiring disposal after December 31, 1992. The certification is to include a description of actions to be taken to ensure such capacity exists.

The Act directs NRC to transmit the certifications to Congress and publish them in the **Federal Register.** Section 5(e)(1)(F) of the Act also allows States to meet the 1990 milestone through disposal agreements with sited Compacts. States or Compacts that do not meet the milestone face loss of surcharge rebates from the U.S. Department of Energy (DOE) as well as denial of access to existing Regional disposal facilities by the sited States.

In section 2(9) of the Act, Congress defined low-level radioactive waste (LLW) and went on in section 3(a)(1) to bound State responsibilities to include LLW that "* * * consists of or contains class A, B or C radioactive waste as defined by section 61.55 of title 10, Code of Federal Regulations * * * *" With respect to the 1990 milesotne, States or Compacts are required to demonstrate

through the mechanisms described above (license application, Governor's certification or disposal agreement) that they will be capable of sorting, disposing or managing any low-level radioactive waste generated within the State and requiring disposal after December 31, 1992. For the purposes of this milestone, NRC interprets this responsibility to include not only discrete Class A, B or C waste, but also any Class A, B or C waste which contains non-radioactive hazardous waste (i.e., mixed waste). To assure that all wastes are covered in documentation for the 1990 milestone, States or Regional Compacts may submit multiple documents in cases where they are warranted. For example, if a Regional Compact does not plan to address mixed waste in its license application for a low-level waste disposal facility, a separate Governor's certification should be submitted by each member State to NRC detailing that State's plans for storing, disposing, or managing mixed waste after 1992.

At this time, we estimate that most States subject to the 1990 milestone requirement will file certifications. Any certification which facially complies with the requirements of the Act will be forwarded to the Congress and published in the **Federal Register.** However, NRC has developed and provided to the Governors of the States subject to this milestone the guidance contained in this Notice to help such States begin planning and preparation of certifications to meet this milestone of the Act. This guidance contains suggested format and contents of a certification, specifies procedures for submittal of certifications, and summarizes how NRC will handle the certifications it receives. This Notice provides an opportunity for the public to review this guidance.

FOR FURTHER INFORMATION CONTACT: George Pangburn, Operations Branch, Division of Low-Level Waste Management and Decommissioning, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone (301) 492-0580.

SUPPLEMENTARY INFORMATION: The Low-Level Radioactive Waste Policy Amendments Act (LLWPAA) of 1985 assigns States or Regional Compacts the responsibility for providing for their own low-level radioactive waste disposal. The Act established an interim access period from January 1, 1986 to January 1, 1993. During that period, non-sited States and Compacts would be allowed continued access to the Regional low-level radioactive waste disposal facilities of the Southeast Compact (Barnwell, SC); the Northwest Compact (Hanford, WA); or the Rocky Mountain Compact (Beatty, NV).

In exchange for continued access, these non-sited States and Compacts were subjected to a series of milestones, penalties and incentives intended to assure that when the interim access period ceases, LLW would be safely managed at the State or Regional level. Section 5(e) of the LLRWPAA sets forth the milestone requirements for non-sited States and Compacts to have continued access to Regional disposal facilities. To meet the 1990 milestone, States and Compacts must, by January 1, 1990, either: (1) submit a complete license application to NRC or an Agreement State [Section 5(a)(1)(C)(i)]; or (2) submit to NRC a written certification by the Governor that the State will provide for storage, disposal, or management of any low-level radioactive waste generated within the State and requiring disposal after 1992 [Section 5(e)(1)(C)(ii)]. This certification is to include a description of the actions which will be taken in this regard. The Act directs NRC to transmit the certifications to Congress and publish them in the **Federal Register** [Section 5(e)(1)(E)]. Section 5(e)(1)(F) of the Act also allows States to meet the 1990 milestone through disposal agreements with sited Compacts. States or Compacts which do not meet the milestone face loss of surcharge rebates from the U.S. Department of Energy (DOE) as well as denial of access to existing Regional disposal facilities by the sited States.

The U.S. Department of Energy (DOE) has developed policies and procedures regarding the 1990 milestone and eligibility of States and Compacts for surcharge rebates. These policies and procedures were published in a **Federal Register** notice on January 23, 1989 (54 FR 3106). Additional information about the DOE's policies and procedures can be obtained from Mr. William F. Newberry, Low-Level Waste Program Manager, U.S. Department of Energy, Division of Waste Treatment Projects (NE-24), Office of Nuclear Energy, Washington, DC 20545.

To assist the States in filing the certifications to meet the 1990 milestone, NRC sent the Governors of States subject to this milestone guidance and other relevant information. This guidance is contained in the following paragraphs.

Guidance and Other Information Relevant to the Governor's Certification Provision of the Low-Level Radioactive Waste Policy Amendment Act (LLRWPAA) of 1985

Introduction

This document provides guidance and other information intended to assist States that are seeking to comply with the 1990 milestone of the LLRWPAA by filing Governors' certifications pursuant to section 5(e)(1)(C)(ii) of the Act. The U.S. Nuclear Regulatory Commission (NRC) is issuing this guidance in recognition of its role, under the Act, to serve as recipient of the certifications, to transmit them to Congress, and to publish them in the **Federal Register.** NRC is not a party of the compliance determinations of the Department of Energy relative to surcharge rebates or the sited States (South Carolina, Washington, and Nevada) relative to continued access to Regional disposal facilities. Any certification which facially complies with the requirements of the act will be forwarded to Congress and published in the **Federal Register.** However, NRC considers provision of this guidance to be responsive to the needs of the States and Regional Compacts.

This document is organized into three sections:

1. Technical content of the certifications;
2. Procedures for submittal of certifications to NRC; and
3. What NRC will do with the certifications.

Technical Content of the Certifications

The LLRWPAA requires that the certifications contain a statement of intent as well as a description of actions that will be taken by each State. The requirements of the statement of intent are fairly clear: i.e., the Governor must certify that the State will be capable of providing for, and will provide for, the storage, disposal or management of any low-level radioactive waste generated within the State and requiring disposal after December 31, 1992. However, neither the Act nor the legislative history specifies the content of the required description of the actions to be taken to ensure such capacity exists. NRC has provided preliminary technical guidance on this subject, in response to a request from the Midwest Interstate Compact. In addition, NRC disseminated this guidance to State Liaison Officers, Agreement and Non-Agreement States and Compact Officials, soliciting their views and comments.

Having considered these comments, NRC believes that the description of actions should address the following points:

1. An estimate of the volume and types of waste and who will generate it after 12/31/92.

2. A description of the proposed storage, disposal or management actions to be taken with respect to any low-level radioactive waste generated within the State and requiring disposal after 12/31/92, including low-level radioactive waste contaminated with non-radioactive hazardous waste (i.e., mixed waste). Where the certification provides for continued storage of such waste by the generator, the certification shall set forth the actions to be taken by the State to secure all applicable permits and approvals, including any amendments that may be required in the generator's NRC (or Agreement State) license as well as comments, if any, of such generators on the feasibility and acceptability of on-site storage.

3. A statement that the proposed actions are within existing legal authorities and are consistent with NRC or Agreements State regulations and guidance.

4. The logistics of the proposed action in terms of organizational responsibility, timing and scheduling.

Procedures for Submittal of Certifications to NRC

Upon passage of the LLRWPAA, NRC recognized that it would be useful, if not necesssary, to specify procedures for submitting certification to meet the 1990 milestone of the Act. These procedures are specificed in the following paragraphs:

1. *Format:* The certification should contain the statements required by the Act. The Governor (or Chief Executive Officer, if applicable) should sign and date the original certification.

2. *Copies:* The State should sent to NRC, along with the original signed certification, nine complete official copies of the certification.

3. *Address:* The State should submit the original certification and copies to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Mailing should be done such that the certification is received by January 1, 1990.

4. *Additional Copies:* Although NRC is the designated recipient for the certifications under the LLRWPAA, States should also send copies to the following parties, for their milestone compliance determinations:

a. Mr. William F. Newberry, U.S. Department of Energy, Low-Level Waste Program Manager, Division of Waste Treatment Projects (NE-24), Office of Nuclear Energy, Washington, DC 20545.

b. Mr. Heyward Shealy, Chief, Bureau of Radiological Health, Department of Health and Environmental Control, 2600 Bull Street, Columbia, SC 29211.

c. Ms Elaine Carlin, Low-Level Waste Management Program, Department of Ecology, Mail Stop PV-11, Olympia, WA 98504.

d. Mr. Jerry Griepentrog, Director, Department of Human Resources, 505 East King Street, Room 600, Carson City, NV 89710.

What NRC will do with the certifications

The Act directs that NRC serve as a location for submittal of certifications; transmit them to Congress; and publish them in the **Federal Register**. We believe that NRC should not take any role which could interfere with the 1990 milestone compliance determinations of DOE and the sited States. In the case of DOE, these determinations and the consequent surcharge rebates must, by law, be completed within 30 days of the applicable milestone date. However, we also believe that NRC's broad mission for protecting public health and safety under the Atomic Energy Act, and our Five-Year Plan objective of providing active leadership may call for a broader role. Consequently, NRC will undertake a two-phase approach for the processing of certifications, as outlined in the following paragraphs:

Phase 1—Receipt, Transmittal and Publication

Each certification that NRC receives will be checked to assure that the Governor of the respective State has signed and dated it. We will then transmit each such certification to both houses of Congress as well as to the **Federal Register** for publication. These actions will fulfill NRC's statutory obligation.

Copies of the transmittals to Congress will also be sent to DOE and the sited States for their compliance determinations. NRC will not review the certifications at this time, but will respond to Congressional inquiries on a case-by-case basis.

Phase 2—Content Review

Upon completion of Phase I, if the Governor requests and resources permit, NRC will conduct a review of any technical or implementation issues associated with the program described in that State's certification. This review is not intended to influence any subsequent NRC or Agreement State determination as to the licenseability of planned facilities. Rather, NRC believes this review and communication can be useful to the States in identifying potential problems at an early time as they proceed to meet the mandates of the LLRWPAA.

Dated at Rockville, Maryland, this 13th date of February 1989.

For the Nuclear Regulatory Commission.

Paul H. Lohaus,

Chief, Operations Branch, Division of Low-Level Waste Management and Decommissioning, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 89-4036 Filed 2-21-89; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards (ACRS) Advisory Committee on Nuclear Waste (ACNW); Proposed Meetings

In order to provide advance information regarding proposed public meetings of the ACRS Subcommittees and meetings of the ACRS full Committee, and of the ACNW, the following preliminary schedule is published to reflect the current situation, taking into account additional meetings which have been scheduled and meetings which have been postponed or cancelled since the last list of proposed meetings published January 26, 1989 (54 FR 3875). Those meetings which are definitely scheduled have had, or will have, an individual notice published in the **Federal Register** approximately 15 days (or more) prior to the meeting. It is expected that sessions of ACRS full Committee and ACNW meetings designated by an asterisk (*) will be open in whole or in part to the public. ACRS full Committee and ACNW meetings begin at 8:30 a.m. and ACRS Subcommittee meetings usually begin at 8:30 a.m. The time when items listed on the agenda will be discussed during ACRS full Committee and ACNW meetings and when ACRS Subcommittee meetings will start will be published prior to each meeting. Information as to whether a meeting has been firmly scheduled, cancelled, or rescheduled, or whether changes have been made in the agenda for the March 1989 ACRS full Committee and the ACNW meetings can be obtained by a prepaid telephone call to the Office of the Executive Director of the Committee (telephone: 301/492-7288, ATTN: Barbara Jo White) between 7:30 a.m. and 4:15 p.m., Eastern time.

ACRS Subcommittee Meetings

Mechanical Components, February 28, 1989, Bethesda, MD. The Subcommittee

will continue its discussion on the NRC's proposed generic letter on MOVs.

Occupational and Environmental Protection Systems, March 1–2, 1989. Bethesda, MD. The Subcommittee will discuss the general status of emergency planning for nuclear power plants.

Severe Accidents, March 7, 1989 (8:30 a.m.–12:00 Noon), Bethesda, MD. The Subcommittee will review the NRC staff's proposed Severe Accident Research Plan.

Thermal Hydraulic Phenomena, March 7, 1989 (12:30 p.m.), Bethesda, MD. The Subcommittee will review the NRC staff's proposed final Policy Statement on additional applications of leak-before-break technology.

General Electric Reactor Plant (Peach Bottom Restart). March 8, 1989, Bethesda, MD. The Subcommittee will review the proposed restart plan for the Peach Bottom Plant.

Materials and Metallurgy, March 15–16, 1989, Columbus, OH. The Subcommittee will review the degraded piping program, including NDE and aging of centrifugally cast stainless steel piping material.

Auxiliary and Secondary Systems, March 20, 1989, Bethesda, MD. The Subcommittee will review the adequacy of the staff's proposed plans to implement the recommendations resulting from the Fire Risk Scoping Study.

Joint Materials and Metallurgy/Structure Engineering, March 23, 1989, Bethesda, MD. The Subcommittees will review the proposed amendment to the pressurized thermal shock (PTS) rule updating the formula given in the PTS rule for calculating the level of radiation embrittlement in reactor vessel beltline, and the staff's position on reactor support embrittlement.

Limerick 2, March 28, 1989 (p.m. only), Philadelphia, PA. The Subcommittee will review Limerick 2 for a low power operating license.

Instrumentation and Control Systems, March 30, 1989, Bethesda, MD. The Subcommittee will review the implementation status of the ATWS rule.

Maintenance Practices and Procedures, March 31, 1989, Bethesda, MD. The Subcommittee will review the proposed maintenance rule.

Thermal Hydraulic Phenomena, April 5, 1989 (p.m. only), Bethesda, MD. The Subcommittee will review the final report of the joint NRC/Industry Technical Advisory Group on the need for additional testing to investigate thermal hydraulic phenomena of the B&W OTSG.

Improved Light Water Reactors, April 11–12, 1989, Palo Alto, CA. The Subcommittee will review Chapters 1–5 and preview Chapters 6–9 of the EPRI ALWR Requirement Document.

Materials and Metallurgy, April 27, 1989, Palo Alto, CA. The Subcommittee will discuss the status of the following matters: erosion/corrosion of pipes, hydrogen/water chemistry, zinc addition to primary coolant loop and its effects on materials, decontamination effects on materials, and other related matters.

Plant Operating Procedures, May 9, 1989 (tentative), Bethesda, MD. The Subcommittee will review the status of the NRC program on Technical Specifications update. Also, it will review an anonymous letter to Ms. E. Weiss (Union of Concerned Scientists), dated September 27, 1988, on Technical Specifications inadequacies.

General Electric Reactor Plants (ABWR), May 10–11, 1989, Bethesda, MD. The Subcommittee will continue its review of the GE ABWR. The Subcommittee will also preview Chapters 1, 8, 9, 11, 12, 13, 14 and 17 of the Safety Analysis Report related to GE ABWR.

Materials and Metallurgy, May 24, 1989, Bethesda, MD. The Subcommittee will review low upper shelf fracture energy concerns of reactor pressure vessels.

Instrumentation and Control Systems, Date to be determined (March/April), Bethesda, MD. The Subcommittee will review the proposed resolution of Generic Issue 101, "BWR Water Level Redundancy."

Advanced Pressurized Water Reactors, Date to be determined (April), Bethesda, MD. The Subcommittee will discuss the comparison of WAPWR (RESAR SP/90) design with other modern plants (in U.S. and abroad).

Extreme External Phenomena, Date to be determined (April), Bethesda, MD. The Subcommittee will review planning documents on external events.

Advanced Pressurized Water Reactors, Date to be determined (April/May), Bethesda, MD. The Subcommittee will discuss the licensing review bases document being developed for Combustion Engineering's Standard Safety Analysis Report-Design Certification (CESSAR-DC).

AD/DC Power Systems Reliability, Date to be determined (April/May), Bethesda, MD. The Subcommittee will review the proposed resolution of Generic Issue 128, "Electrical Power Reliability."

Regulatory Policies and Practices, Date to be determined (May), Bethesda, MD. The Subcommittee will review the proposed rule on nuclear plant license renewal.

Thermal Hydraulic Phenomena, Date to be determined (May/June), Bethesda, MD. The Subcommittee will review the NRC staff's proposed resolution of Generic Issue 84, "CE PORVs."

Decay Heat Removal Systems, Date to be determined (May/June), Bethesda, MD. The Subcommittee will review the proposed resolution of Generic Issue 23, "RCP Seal Failures."

Decay Heat Removal Systems, Date to be determined, Bethesda, MD. The Subcommittee will explore the issue of the use of feed and bleed for decay heat removal in PWRs.

Thermal Hydraulic Phenomena, Date to be determined, Bethesda, MD. The Subcommittee will discuss the status of Industry Best-Estimate ECCS Model submittals for use with the revised ECCS Rule.

Auxiliary and Secondary Systems, Date to be determined, Bethesda, MD. The Subcommittee will discuss the: (1) Criteria being used by utilities to design Chilled Water Systems, (2) regulatory requirements for Chilled Water Systems design, and (3) criteria being used by the NRC staff to review the Chilled Water Systems design.

Joint Core Performance/Thermal Hydraulic Phenomena, Date to be determined, Bethesda, MD. The Subcommittee will review the implications of the core power oscillation event at LaSalle, Unit 2.

ACRS Full Committee Meetings

347th ACRS Meeting, March 9–11, 1989—Items are tentatively scheduled.

*A. *Severe Accident Research Program (Open)*—ACRS review and comment regarding proposed NRC Severe Accident Research Program Plan.

*B. *Application of Leak-Before-Break Technology (Open)*—ACRS review and comment on proposed NRC policy regarding additional application of the lead-before-break technology to ECCS design and environmental qualification of components.

*C. *Peach Bottom Nuclear Plant (Open)*—Review and comment on proposed restart of this plant following management and personnel improvements.

*D. *Nuclear Plant Operating Experience (Open/Closed)*—Briefing and discussion of reports regarding systematic assessment of nuclear power plant operating experience by the NRC Office for Analysis and Evaluation of Operational Data.

*E. *Use of Safety Goals (Open)*—Discuss proposed ACRS comments/recommendations regarding the use of Safety Goals for evaluation of the

effectiveness of NRC regulations in protecting the public health and safety.

*F. *Containment Design Criteria (Open)*—Discuss proposed ACRS activities regarding development of containment design criteria for future nuclear power plants.

*G. *ACRS Subcommittee Reports (Open)*—Hear and discuss reports of ACRS subcommittee chairmen regarding the status of assigned activities, as appropriate.

*H. *Anticipated ACRS Activities (Open)*—Discuss anticipated ACRS subcommittee activities and items proposed for consideration by the full Committee.

*I. *Nomination of ACRS Members (Open/Closed)*—Discuss status of appointment of new ACRS members and proposed plan for filling current and anticipated vacancies on the Committee.

*J. *Meeting with EDO (Open)*—Discuss peer review/use of NUREG-1150 and other items of mutual interest.

348th ACRS Meeting, April 6–8, 1989—Agenda to be announced.

349th ACRS Meeting, May 4–6, 1989—Agenda to be announced.

ACNW Full Committee Meetings

8th ACNW Meeting, March 22–23, 1989: Items are tentatively scheduled.

1. *Meeting with the Commission (Open)*—The Committee will meet with the Commission to discuss a variety of topics, such as:

—West Valley Demonstration Project
—Division of High-Level Waste Management FY 89 Program
—Delection of Section 20–205 from the proposed revision of 10 CFR Part 20
—Performance Assessment
—ACRS/ACNW Staffing Plan

2. *HLW Repository (Open)*—The Committee will continue discussions on the status of the Site Characterization Plan, the SCP Review Plan, and the Exploratory Shaft Facility.

3. *Licensing Support System (Open)*—Briefing on the development of the Licensing Support System for the High-Level Waste Repository.

4. *Post Closure Seals (Open)*—Briefing on the technical position on post closure seals in unsaturated media (tentative).

5. The Committee will review the Center for Nuclear Waste Regulatory Analysis (CNWRA) Repository Related Technical Work.

9th ACNW Meeting, April 26–28, 1989—Items are tentatively scheduled.

1. *HLW Repository (Open)*—The Committee will continue discussions on the status of the Site Characterization Plan, the SCP Review Plan, and the Exploratory Shaft Facility.

2. Preliminary Findings of Waste Confidence Review Group.

3. Waste Management Research Program Stategy.

Date: February 16, 1989.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 89–4031 Filed 2–21–89; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards Subcommittee on General Electric Reactor Plants (Peach Bottom Restart); Meeting

The ACRS Subcommittees on General Electric Reactor Plants (Peach Bottom Restart) will hold a meeting on March 8, 1989, Room P–110, 7920 Norfolk Avenue, Bethesda, MD.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows: *Wednesday, March 8, 1989—8:30 a.m. until the conclusion of business* the Subcommittee will review the proposed restart plan for the Peach Bottom Plant.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Herman Alderman (telephone 301/492–7750) between 7:30 a.m. and 4:15 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Date: February 14, 1989.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 89–4033 Filed 2–21–89; 8:45am]

BILLING CODE 7590-01-M

[Docket No. 50–155]

Consumers Power Co. (Big Rock Point Plant); Exemption

I.

The Consumers Power Company (CPC) is the holder of Facility Operating License No. DPR–6 which authorizes the operation of the Big Rock Point Plant (the facility), located in Charlevoix County, Michigan. This license provides, among other things, that it is subject to all rules, regulations, and Orders of the Nuclear Regulatory Commission (the Commission) now or hereafter in effect.

II.

Section 50.71(e)(3)(ii) of 10 CFR Part 50 requires that those plants initially subject to the Commission's Systematic Evaluation Program (SEP) must file a complete updated Final Hazards Summary Report (FHSR) within 24 months after receipt of notification that the SEP has been completed. By letter dated August 27, 1984, the Commission's staff informed CPC that the SEP had been completed for the Big Rock Point Plant and that, pursuant to 10 CFR 50.71(e)(3), CPC was required to file an updated FHSR as outlined in § 5.3.25.1 of the Final Integrated Plant Safety Assessment Report (IPSAR), NUREG–0828, dated May 1984.

By letter dated October 31, 1984, CPC submitted a description of the program which was proposed to provide a workable substitute to updating the Big Rock Point Plant FHSR. That method involved creating a permanent computerized database of pertinent docketed correspondence and keyword/keyphrase list that would be used to search the database. A hard copy report which would show the keywords/keyphrases, the date, the topic, and the locations within CPC of the letter that contained the keyword/keyphrase, would then be generated. The database, the keyword/keyphrase list, and the hard copy report would be updated on an annual basis. The Commission's staff responded by letter dated December 4, 1984, and stated that, although the details for implementing this system were not yet clear, the staff believed that the system being developed would

be an acceptable alternative to an updated FHSR. CPC's conclusion that the method described was acceptable to the Commission was confirmed during a subsequent conference call between members of the Commission's staff and CPC personnel. Thus, based on the results of the conference call, the preceding letters, and the finding contained in § 5.3.25.1 of the IPSAR, CPC proceeded with a good faith effort for the development and implementation of the cross alternative indexing program that had been described to the Commission.

As noted above, CPC identified an alternative to the requirements of 10 CFR 50.71(e) that, originally, was thought to be acceptable to both CPC and the Commission. Based on CPC's understanding that a system to index pertinent docketed correspondence was an acceptable alternative to an updated FHSR, CPC initiated and completed a good faith effort to develop and implement the system. However, the Commission's staff later identified concerns with the proposed system. These concerns were identified and discussed with CPC about the same time as the final updated FHSR was due, and they were summarized by letter dated December 3, 1986. As a result of those discussions, CPC committed to provide an updated FHSR which would address the remaining Commission concerns by December 31, 1988. Therefore, in order to provide sufficient time for the completion of the updated FHSR, since there were only a few days left to complete an updated FHSR, CPC requested an exemption to the schedular requirements of 10 CFR 50.71(e)(3)(ii).

In light of the original understanding by both CPC and the Commission concerning the acceptability of the proposed substitute for the Big Rock Point Plant updated FHSR and the ultimately different Commission staff final position that the alternative would not be acceptable, thus leaving essentially no time for CPC to complete an updated FHSR, special circumstances existed which made compliance with the regulations result in undue hardship that was significantly in excess of those incurred by others similarly situated within the meaning of 10 CFR 50.12(a)(2)(iii). An exemption would have had no significant effect on plant safety. For the foregoing reasons, an exemption to 10 CFR 50.71(e)(3)(ii) was granted such that the required submittal date for the Big Rock Point Plant updated FHSR need not have been met by CPC. During a telephone conference with CPC on November 30, 1986, the schedule for submittal of an updated FHSR was established as December 31, 1988. This date is documented in CPC's letter dated December 3, 1986. By letter dated March 2, 1987, an exemption until December 31, 1988, was granted by the Commission for the submittal of an updated FHSR for the Big Rock Point Plant.

In their letter dated December 3, 1986, CPC acknowledged that "it is difficult to accurately determine a scope and completion date to a project of this magnitude," namely updating the FHSR published November 14, 1961. By letter dated November 22, 1988, CPC formally recognized that the length of time required to perform the FHSR update for 27 years of change has exceeded the time period committed to at the agreed upon level of effort of one staff plus clerical and supervisory support. Therefore, an extension of exemption until December 31, 1989, for submittal of an updated FHSR for the Big Rock Point Plant is considered acceptable.

III.

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), an extension of the existing exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. The Commission has further determined that special circumstances, as provided in 10 CFR 50.12(a)(2)(iii), are present justifying the extension of exemption. Specifically, due to the difficulty in accurately determining a scope and completion date for the task of updating the Big Rock Point Plant FHSR with about 27 years of change, using a level of effort agreed upon by CPC and the Commission's staff, CPC has been unable to provide an updated FHSR by the previously committed date. A more accurate assessment of the costs to meet the time commitment for submitting an updated FHSR as scheduled by this original exemption of March 2, 1987, would have been significantly in excess of those contemplated when the exemption was originally granted and of those incurred by others similarly situated. Therefore, the final completion date for the FHSR update shall be December 31, 1989. Accordingly, the Commission hereby grants an exemption from the requirements of 10 CFR 50.71(e)(3)(ii) such that the submittal date for the Big Pock Point Plant updated FHSR need not be met.

Pursuant to 10 CFR 51.32, the Commission has determined that the issuance of this exemption will have no significant impact on the environment (February 14, 1989, 54 FR 6787).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 14th day of February 1989.

For the Nuclear Regulatory Commission.

Gary M. Holahan,

Acting Director, Division of Reactor Projects—III, IV, V and Special Projects Office of Nuclear Reactor Regulation.

[FR Doc. 89-4034 Filed 2-21-89; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-263]

Northern States Power Co.; Consideration of Issuance of Amendment to Facility Operating License and Opportunity for Hearing

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-22 issued to the Northern States Power Company (the licensee), for operation of the Monticello Nuclear Generating Plant located in Wright County, Minnesota.

In accordance with the licensee's application for amendment dated January 31, 1989, the amendment would revise Table 3.11.1 (page 214) of the plant Technical Specifications to add a 45,000 MWD/STU Maximum Average Planar Linear Heat Generation Rate (MAPLHGR) for fuel types P8DRB265L and BP8DRB265L in order to extend the length of the current operating cycle through to August 1989 and meet expected power demands during the peak load Summer months of 1989.

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 24, 1989, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for 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. 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 that are sought to be litigated in the matter and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

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, 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 Theodore R. Quay: (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 Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington, DC 20037.

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 the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

If a request for hearing is received, the Commission's staff may issue the amendment after it completes its technical review and prior to the 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 January 31, 1989, which is available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC 20555, and at the Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401.

Dated at Rockville, Maryland, this 10th day of February 1989.

For the Nuclear Regulatory Commission.

Theodore R. Quay,

Acting Director, Project Directorate III-1, Division of Reactor Projects III, IV, V and Special Projects.

[FR Doc. 89-4035 Filed 2-21-89; 8:45am]

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 30, 1989 through February 9, 1989. The last biweekly notice was published on February 8, 1989 (54 FR 6185).

NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration and Resources Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room P-216, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland from 7:30 a.m. to 4:15 p.m. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By March 24, 1989, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 325-6000 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to (*Project Director*): petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Regester** 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 50-530, Palo Verde Nuclear Generating Station (PVNGS), Unit 3, Maricopa County, Arizona

Date of amendment request: December 27, 1988.

Description of amendment request: The proposed amendment consists of a number of proposed changes to the Technical Specifications (Appendix A to Facility Operating License No. T1NPF-74) in support of Cycle 2 operation for the plant. The specific proposed changes are discussed below:

(1) Specification 3.1.1.2 - propose to change Figure 3.1-1A, "Shutdown Margin Versus Cold Leg Temperature,"

by changing the Hot Zero Power endpoint from 6.0 to 6.5% delta k/k to maintain plant operation during Cycle 2 within the bounds of the safety analyses.

(2) Specification 3.1.1.3 - propose to change Figure 3.1-1, "Allowable MTC Modes 1 and 2," by broadening the operating bounds of the Moderator Temperature Coefficient (MTC) to accommodate Cycle 2 operation, and by revising the x axis parameter from average moderator temperature to core power level. The change to the Figure is proposed to ensure that the assumptions used in accident and transient analyses remain valid through each fuel cycle.

(3) Specification 3.2.8 - propose to change the operational pressure band of the pressurizer from 1815 - 2370 psia to 2025 - 2300 psia to ensure that the actual value of the pressurizer pressure is maintained within the range of values used in safety analyses.

(4) Specifications 3.1.3.1, 3.1.3.2, 3.1.3.7, 3.10.2 and 3.10.4 - propose to add a new specification (3.1.3.7) to specify insertion limits for part length Control Element Assemblies (CEA), and to delete direct references to the control of part length CEAs from Specifications 3.1.3.1 and 3.1.3.2. The proposed change would add a more explicit limiting condition for operation of the part length CEAs to clarify the allowable duration for these CEAs to remain within the defined ranges of axial position. The proposed changes to Specifications 3.10.2 and 3.10.4 would reference the new Specification 3.1.3.7 to continue to permit the required special test exceptions to part length CEA insertion limits during certain reactor core tests.

(5) Specification 3.3.1 - propose to change Table 3.3-2 in this specification by decreasing the response time from 0.75 to 0.30 seconds, for the DNBR - LOW Reactor Coolant Pump Shaft Speed Trip. The proposed change would be consistent with the faster response time assumed in the Cycle 2 safety analysis.

(6) Specifications 3.1.3.5 and 3.1.3.6 - propose revisions to address the shutdown and regulating CEA insertion limits specifically for 1 or 2 Control Element Assembly Calculators (CEACs) out of service. Additionally the insertion limits for the full length CEAs in Figures 3.1-3 and 3.1-4 are to be made more restrictive due to the proposed changes in Cycle 2 core physics. The revised insertion limits are proposed to ensure that there is sufficient margin to mitigate the effects of a dropped CEA or an ejected CEA.

(7) Specification 3/4.3.1 - propose to change Table 3.3-2 by excluding an allowance to enter Core Protection Calculator (CPC) penalty factors to compensate for Resistance Temperature Detector (RTD) response times greater than 8 seconds. Table 3.3-2a, which specifies the amounts of the allowable CPC penalty factors, would be deleted. The proposed change would be required since the Cycle 2 safety analyses do not consider RTD response times greater than 8 seconds and, therefore, allowances for longer response times would not be permissible during Cycle 2 operation.

(8) Specification 2.1.1.1 and Table 2.2-1 - propose to change the Departure from Nucleate Boiling Ratio (DNBR) limitation from 1.231 to 1.24, and delete references to the calculation of additional rod bow penalties into the DNBR limit. The proposed changes would be required to account for the core changes in Cycle 2.

(9) Specification 3.2.5 - propose to change the minimum Reactor Coolant System (RCS) total flow rate in Mode 1 from 164.0×10^6 to 155.8×10^6 lbm/hr. The proposed value of 155.8×10^6 lbm/hr is higher than the value used in the safety analysis (i.e., is more conservative). The proposed change would eliminate ambiguity regarding compensation for instrument uncertainty.

(10) Specification 3.2.1 - propose to change the Linear Heat Rate (LHR) limit for the fuel assemblies from 14.0 to 13.5 kw/ft and to delineate how LHR is to be monitored. The change also revises the format to improve the TS from a human factors point of view. The change is proposed to ensure that the peak fuel clad temperature does not exceed safety limits during Cycle 2 operation.

(11) Specifications 3.2.4 and 3.3.1 - propose to change Specification 3.2.4 as follows: (a) provide a new format which would address the specific conditions for monitoring DNBR with or without the Core Operating Limit Supervisory System (COLSS) and/or the CEA Calculators (CEACs), (b) provide a new format which would delineate the Actions that should be taken, (c) remove reference to the DNBR Penalty Factor table used in Specification 4.2.4.4, and (d) replace the present graph Figures 3.2-1 and 3.2-2 for the DNBR limits with graph Figures 3.2-1, 3.2-2 and 3.2-2a which would address the DNBR operating limits for the conditions mentioned in (a) above. Propose to change Specification 3.3.1 by: (a) removing references to the operation of the reactor with both CEACs inoperable with or without COLSS in service, and (b) deleting the graph of DNBR margin operating limit based on COLSS for both CEAs inoperable (Figure 3.3-1) since these changes would be incorporated into the proposed changes in Specification 3.2.4. The changes are proposed to ensure operation of Cycle 2 within safety analysis limits and to improve these Specifications from a human factors point of view.

(12) Specification 3.2.3 - propose to change the action value for the Azimuthal Power Tilt allowance, when reactor power level is above 20% and COLSS is in service from 0.10 to a range of values (i.e., 0.20 for a reactor power level of 20-30%, 0.15 for a reactor power level of 30-40%, and 0.10 for power levels above 40%). The proposed change would reduce the delay in power resumption (in order to burn out xenon buildup) following a reactor power cutback, while staying within the bounds of the safety analyses.

(13) Specification 3.3.2 - propose to change Table 3.3-4 by removing the "greater than" sign from the Refueling Actuation Signal (RAS) trip value in order to ensure optimal protection of the Refueling Water Storage Tank pumps by maintaining adequate margin for the RAS trip value within the allowable values specified in Table 3.3-4.

(14) Administrative Changes - propose to change the Bases Sections for Specifications 3/4.3.1, 3/4.3.2 and 2.2.1 to ensure clarity and conciseness. The proposed changes to the Bases Sections for 3/4.3.1 and 3/4.3.2 would update, to the latest approved revision, the report used for controlling changes to the CPC software, and remove Cycle 1 specific information. The proposed changes to the Bases Section for 2.2.1 would refer to the appropriate CE reports to be used for calculating trip setpoint values. Another proposed change to the Bases Section pages B2-5 and B2-6 would change the pressurizer pressure floor incorporated into the DNBR limit from 1861 to 1860 psia. This slight change would make this value the same as all other CE CPC plants.

Another proposed change is to the Bases Section B2.2.1 on page B2-6. This section concerns the basis for the DNBR-low trip and lists the parameter ranges of validity for the CPC DNBR algorithm. This section also states that operation outside these limits will result in a CPC trip. One of the parameters listed is the high limit for the integrated radial peaking factor. The proposed change would revise this range limit from 4.28 to 7.00 in order to reduce the possibility of unnecessary plant trips during cycle 2 operation.

Basis for Proposed No Significant Hazards Consideration Determination: The Commission has provided guidance for determining whether a proposed amendment involves a significant hazards consideration (51 FR 7751).

Examples of amendments that are not likely to involve a significant hazards consideration are as follows:

(i) A purely administrative change to technical specifications: for example, a change to achieve consistency throughout the technical specifications, correction of an error or a change in nomenclature.

(ii) A change that constitutes an additional limitation, restriction or control not presently included in the technical specifications: for example, a more stringent surveillance requirement.

(iii) For a nuclear power reactor, a change resulting from a nuclear reactor core reloading, if no fuel assemblies significantly different from those found previously acceptable to the NRC for a previous core of the facility in question are involved. This assumes that no significant changes are made to the acceptance criteria for the technical specifications, that the analytical methods used to demonstrate conformance with the technical specifications and regulations are not significantly changed, and that NRC has previously found such methods acceptable.

The staff considers the first 12 items of the proposed amendment to be similar to example (iii) since they are directly related to a reactor core reloading and the fuel assemblies are not significantly different than those previously found acceptable for reload cores at Palo Verde. In addition, no significant changes are being made to the previously approved acceptance criteria for the technical specifications or to the analytical methods used to demonstrate conformance with the specifications and regulations.

Items (1) and (3) through (8) are also similar to example (ii) since they involve more restrictive limitations in the technical specifications to ensure that operation of the facility during Cycle 2 remains within the bounds of the safety analyses. Items (9), (10) and (11) are also similar to example (i) since they involve certain clarifications to the technical specification as well as a proposed new format for Specifications 3.2.4 and 3.3.1.

The staff considers Item (13) to be similar to example (ii) since it imposes a more stringent limitation to the RAS trip value.

The staff considers Item (14) to be similar to example (i) since it involves a clarification and administrative changes to the technical specifications.

Accordingly, the Commission has proposed to determine that the above 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 85073.

NRC Project Director: George W. Knighton

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: August 3, 1987

Description of amendment request: The amendment would change the Technical Specifications (TS) for the Brunswick Steam Electric Plant (BSEP) by specifying a staff-approved control rod sequence program. Currently, surveillance Requirement 4.1.4.2 requires verification that the control rod sequence input to the rod worth minimizer computer is correct following its loading into the computer. The proposed revision specifies that this sequence program be GE's generic banked position withdrawal sequence (BPWS) rod pattern program. The licensee normally implements this program, but does not take credit for its use in cycle specific reload topical reports. Specifying the use of BPWS rod patterns allows use of GE's generic control rod drop analysis and eliminates the need for performing cycle specific analyses. In addition, the word "Operational" will be added before the word "Condition" on page 3/4 1-14. This administrative change will add consistency to the TS by addressing operational conditions of the plant.

Basis for proposed no significant hazard consideration determination: The Commission has provided standards for determining whether a no significant hazard consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The Carolina Power & Light Company (CP&L) has reviewed the proposed changes to the TS and has determined that the requested amendment does not involve a significant hazards consideration for the following reasons:

1. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated. A generic, statistical analysis of the Control Rod Drop Analysis (CRDA) has been done by GE for the Banked Position Withdrawal Sequence (BPWS). This analysis verified that the resulting fuel enthalpies in the event of a CRDA would be less than 280 calories per gram as required by the fuel rod enthalpy limits specified in FSAR Section 15.4.6.1. A Safety Evaluation Report was issued by the NRC on October 13, 1983, which approved the analysis. The proposed TS changes will enforce the use of BPWS rod patterns in the Rod Worth Minimizer (RWM). Adherence to the BPWS assures that a CRDA will not result in fuel failure.

2. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated. The RWM and the Rod Sequence Control System (RSCS) are designed to protect against reactivity insertions which would result in fuel enthalpies greater than 280 calories per gram. The BPWS method of rod withdrawal has been analyzed and determined to be a more effective and conservative method of minimizing rod worth during withdrawal of the first 50% of the control rods. Therefore, no increase in the possibility of an excessive reactivity insertion accident is introduced.

3. The proposed amendment does not involve a significant reduction in the margin of safety. The area of main concern for the CRDA is the high rod worth area from 100 percent control rod density to approximately 20 percent power. Enforcement of the BPWS by the RWM will prevent inadvertent movement of control rods in these vulnerable areas where a CRDA could cause major fuel damage. A similar unit and cycle specific control rod sequence program is currently in use at BSEP. Incorporation of the BPWS requirement into the TS will mandate its use thereby maintaining the margin of safety. The NRC has approved this methodology in its SER of October 11, 1985 and concluded that it is preferable for Group Notch Rod Sequence Control System plants to have the improved pattern control of the BPWS.

The Staff has reviewed the CP&L determinations and is in agreement with them. The staff adds the following for the addition of the word "Operational" before the word "Condition" on page 3/4 1-14. One of the Commission's examples of amendments that are considered not likely to involve significant hazards considerations is a purely administrative change to the TS, for example, a change to achieve consistency throughout the TS correction of an error, or a change in nomenclature (see 51 FR 7751). Adding the word "Operational" before the word "Condition" fits this example because it achieves consistency throughout the TS Accordingly, the Commission proposes to determine that these changes do not involve a significant hazards consideration.

Local Public Document Room location: University of North Carolina at

Wilmington, William Madison Randall Library, 601 S. College Road, Wilmington, North Carolina 28403-3297.

Attorney for licensee: R. E. Jones, General Counsel, Carolina Power & Light Company, P. O. Box 1551, Raleigh, North Carolina 27602

NRC Project Director: Elinor G. Adensam

Carolina Power & Light Company et al., Docket No. 50-400, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, North Carolina

Date of amendment request: January 4, 1989

Description of amendment request: The proposed amendment deletes Technical Specification 3.3.3.7, "Chlorine Detection Systems," Limiting Condition of Operation, and the associated Surveillance Requirement 4.7.6.d.5 which verifies that on a high chlorine test signal the control room emergency filtration system automatically isolates the control room.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards in 10 CFR 50.92(c) for determining whether a significant hazards consideration exists. A proposed amendment to an Operating License for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability of consequences of an accident previously evaluated, or (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety.

The licensee has evaluated the proposed amendment against the standards in 10 CFR 50.92 and has determined the following.

1. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated. The Chlorine Detection System consists of two independent chlorine detector trains with each train consisting of a detector at each Control Room Area Ventilation System intake (both normal and emergency) and a detector at the chlorine storage area. The purpose of the system is to ensure that sufficient capability is available to promptly detect and initiate protective action in the event of an accidental chlorine release from either an onsite or an offsite location. Deletion of the Chlorine Detection System does not affect the probability of an accidental release of chlorine, therefore, only the consequences of such an event must be addressed.

The storage area detectors alarm and isolate the control room in the event of a release of chlorine at the storage area. The Company does not store large quantities (i.e., quantities greater than 20 pounds) of liquid chlorine onsite at SHNPP, therefore, there is no possibility of an accidental onsite release of chlorine which could potentially affect operators. As such, deletion of the storage area chlorine detectors can not increase the consequences of an accidental onsite release of chlorine.

The chlorine detectors located at the Control Room Area Ventilation System intakes are intended to provide protection in the event of accidental offsite release of chlorine. The Company has performed a probabilistic risk assessment to determine the probability of an accidental chlorine release in the vicinity of SHNPP. The analyses calculated the probability of accidents involving the transportation of chlorine on U. S. Highway 1 and on the Seaboard Coast railroad line, the only major routes of transportation of liquid chlorine near the SHNPP site. The results of the analysis show that the total probability of an accidental release of chlorine which results in toxic chlorine concentrations in the control room being exceeded before the operators can don breathing apparatus is 2.5×10^{-8} per year. The total probability reflects an accident frequency of 2.2×10^{-8} per year for the railroad line and 3.0×10^{-9} per year for trucks on U. S. Highway 1. Regulatory Guide 1.70 and the Standard Review Plan, NUREG-0800 do not require consideration of accidents with an annual probability of less than 10^{-7} per year. Therefore, deletion of the chlorine detectors located at the Control Room Area Ventilation System intakes will not increase the consequences of an accidental offsite release of chlorine.

2. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated. Deletion of the Chlorine Detection System does not require the use of a new or different system than currently exists, nor does it require existing systems to perform functions for which they were not originally designed. Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed amendment does not involve a significant reduction in the margin of safety. The purpose of the Chlorine Detection System is to ensure that sufficient capability is available to promptly detect and initiate protective action in the event of an accidental chlorine release. Caroline Power & Light Company does not store liquid chlorine in quantities in excess of 20 pounds onsite at SHNPP. As such, an onsite chlorine release accident is not a credible scenario. In addition, the Company has performed a probabilistic risk assessment to determine the probability of an accidental chlorine release in the vicinity of SHNPP. The analyses calculated the probability of accidents involving the transportation of chlorine on U.S. Highway 1 and on the Seaboard Cost railroad line, the only major routes of transportation of liquid chlorine near the SHNPP site. The results of the analysis show that the total probability of an accident [SIC] release of chlorine which results in toxic chlorine concentrations in the control room being exceeded before the operators can don breathing apparatus is 2.5×10^{-8} per year. The total probability reflects an accident frequency of 2.2×10^{-8} per year for the railroad line and 3.0×10^{-9} per year for trucks on U.S. Highway 1. Regulatory Guide 1.70 and Standard Review Plan, NUREG-0800 do not require consideration of accidents with an annual probability of less than 10^{-7} per year. Since both an onsite and an offsite chlorine release accidents are no longer credible events, the proposed amendment to delete the Chlorine Detection System does not reduce the margin of safety.

Based on the above, the licensee has determined that the proposed amendment does not involve a significant hazards consideration. The NRC staff has reviewed the licensee's no significant hazards consideraton determination and agrees with the licensee's analysis. Accordingly, the Commission proposes to determine that the requested amendment does not involve a significant hazards consideration.

Local Public Document Room location: Cameron Village Regional Library, 1930 Clark Avenue, Raleigh, North Carolina 27605.

Attorney for licensees: R. E. Jones, General Counsel, Carolina Power & Light Company, P. O. Box 1551, Raleigh, North Carolina 27602

NRC Project Director: Elinor G. Adensam

Commonwealth Edison Company, Docket Nos. 50-454 and 50-455, Byron Nuclear Power Station, Unit Nos. 1 and 2, Ogle County, Illinois; Docket Nos. 50-456 and 50-457, Braidwood Station, Unit Nos. 1 and 2, Will County, Illinois

Date of application for amendments: December 12, 1988

Description of amendments request: The proposed amendment would revise Technical Specifications 3/4.2.2.2.e of Appendix A of those licenses to replace the values of cycle-specific Fxy limits with a reference to the Operating Limits Report, which contains the values of those limits. (The proposed amendment supersedes the proposed amendment dated July 11, 1988 and noticed in the Federal Register on August 24, 1988, 53 FR 32291.) In addition, the Operating Limits Report has been included in the Definitions Section of the Technical Specifications (TS) to note that it is the unit-specific document that provides these limits for the current operating reload cycle. Furthermore, the definition notes that the values of these cycle-specific parameter limits are to be determined in accordance with the Specification 6.9.1.9. This specification requires that the 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 Fxy limits from TS. Typographical errors in Section 6.9.1.7 are also corrected. 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 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 revision to the License Condition is in accordance with the guidance provided in Generic Letter 88-16 for licensees requesting removal of of the values of cycle-specific Fxy limits from TS. The establishment of these limits in accordance to an NRC-approved methodology and the incorporation of these limits into the Operating Limits Report will ensure that proper steps have been taken to establish the values of these limits. Furthermore, the submittal of the 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 revised specifications with the removal of the values of cycle-specific parameter limits and that addition of the referenced report for these limits does not create the possibility of a new or different kind of accident for those previously evaluated. They also don't involve a significant reduction in the margin of safety since the change does not alter the methods used to establish these limits.

Consequently, the proposed change on the removal of the values of cycle-specific limits do not involve a significant increase in the probability or consequences of an accident previously evaluated.

Because the values of cycle-specific Fxy limits will continue to be determined in accordance with an NRC-approved methodology and consistent with the applicable limits of the safety analysis, these changes are administrative in nature and do not impact the operation of the facility in a manner that involves significant hazards considerations.

The proposed amendment does 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. With the removal of the values of these limits from the technical specifications, they have been incorporated into the Operating Limits Report that is submitted to the Commission. Hence, appropriate measures exist to control the values of these limits. These changes are administrative in nature and do not impact the operation of the facility in a manner that involves significant hazards considerations.

Based on the preceding assessment, the staff believes this proposed amendment involves no significant hazards considerations.

Local Public Document Room location: For Byron Station the Rockford Public Library, 215 N. Wyman Street, Rockford, Illinois 61101; for Braidwood Station the Wilmington Township Public Library, 201 S. Kankakee Street, Wilmington, Illinois 60481.

Attorney to licensee: Michael Miller, Esquire; Sidley and Austin, National Plaza, Chicago, Illinois 60603.

NRC Project Director: Daniel R. Muller

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: January 11, 1989

Brief description of amendments: The proposed amendments to Operating License No. NPF-11 and Operating License No. NPF-18 would revise the LaSalle Units 1 and 2 Technical Specifications by removing the applicability of Specification 3.0.4 from Technical Specification 3.6.5.2.

In order to ensure that the secondary containment meets its design function, isolation valves are provided. The intent of this specification is to ensure that all lines with isolation valves will be isolated if conditions exist which require the secondary containment to perform this function. This intent may be met by either an automatic isolation valve or a closed valve (or otherwise isolated line). Since plant safety is not degraded when an automatic isolation valve is inoperable, but secured in its isolated position in accordance with this specification, the questions of contained plant operation or start-up should only become one of other requirements and not be based solely on secondary containment integrity. Since plant safety is not degraded by operation with an isolated secondary isolation valve, it is reasonable to allow mode changes in this condition.

In addition, this specification should be no more restrictive than similar specifications concerning the primary containment such as Technical Specification 3.4.7 for Main Steam Isolation Valves. Commonwealth Edison's position on this issue was previously accepted by the NRC in a similar technical specification amendment submittal concerning Technical Specification 3.6.3 for Primary Containment Isolation Valves.

In the event the isolation of the secondary containment boundary, in accordance with Technical Specification 3.6.5.2, causes another technical specification system to become inoperable and the exemption from Specification 3.0.4 is not allowed for that system, then the plant is restrained from start-up by that specification. In all cases, the effect upon other systems must be considered and applicable technical specifications followed.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether no 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 an accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has determined, and the NRC staff agrees, that the proposed amendment will not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated because this proposed amendment does not affect or degrade the secondary containment integrity, but merely allows

plant start-up with an inoperable automatic secondary containment isolation valve provided that the affected penetration is isolated in accordance with technical specification requirements. If the closed secondary containment penetration were to affect the operability of another system important to safety, continued plant operation or start-up would be controlled by the requirements of the applicable technical specifications for the affected systems.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated because the proposed revisions merely allow plant start-up with an inoperable automatic secondary containment isolation valve provided that the affected penetration is isolated in accordance with technical specification requirements and thus, does not affect or degrade the secondary containment integrity.

3. Involve a significant reduction in the margin of safety since the requirements to isolate the secondary containment penetration effected by an inoperable automatic isolation valve remain unchanged.

Local Public Document Room location: Public Library of Illinois Valley Community College, Rural Route No. 1, Oglesby, Illinois 61348

Attorney to licensee: Michael Miller, Esq., Sidley and Austin, One First National Plaza, Chicago, Illinois 60603.

NRC Project Director: Daniel R. Muller

Commonwealth Edison Company, Docket No. 50-374, LaSalle County Station, Unit No. 2, LaSalle County, Illinois

Date of application for amendment: December 2, 1988 supplemented January 11, 1989

Description of amendment request: The proposed amendments to Operating License No. NPF-18 would revise the LaSalle Unit 2 Technical Specifications by revising Table 3.8.3.2-1 to reflect new locations of breakers for Valve 2E12-F009, Residual Heat Removal Shutdown Cooling Suction Isolation Valve. In order to increase the reliability of the Residual Heat Removal Shutdown Cooling Isolation Valve (2E12-F009) at LaSalle County Station Unit 2, Commonwealth Edison Company is performing a modification which will replace the existing Limitorque operator with a larger operator. The new, larger operator requires the installation of larger capacity breakers (both normal and emergency feeds) which will not fit into the compartments occupied by the original breakers. The replacement breakers will be installed in larger compartments within the same Motor Control Centers as the originals. The original breaker locations are MCC 236Y-1 Comp. D5 and MCC 235X-1 Comp. C2. The new locations will be MCC 236Y-1 Comp. B2 and MCC 235X-1 Comp. C2/C3, respectively. The proposed Technical Specification amendment is an administrative change intended to reflect the revised breaker compartment location of the new breakers. The proposed Technical Specification amendment also deletes manufacturer part number references from the subject table because of changes to the part numbers.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether no 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 an accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has determined, and the NRC staff agrees, that the proposed amendment will not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated because this proposed amendment reflects the change in location within the same motor control center of the breaker compartment used to control the Residual Heat Removal Shutdown Cooling Suction Isolation Valve 2E12-F009. It also deletes references to manufacturer part numbers because of changes to the part numbers. The parts themselves are unchanged, however, with respect to their form, fit and function. This change does not in any way compromise or change the basic function of the equipment affected. This proposal does not change the intent of the Technical Specifications as defined in the bases.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated because the function of the breakers affected is unchanged and all associated design requirements as required by the Technical Specifications remain unchanged.

3. Involve a significant reduction in the margin of safety because the proposed change is administrative in nature and reflects the revised breaker compartment location of the new breakers and has no effect on the margin of safety.

Local Public Document Room location: Public Library of Illinois Valley Community College, Rural Route No. 1, Ogelsby, Illinois 61348.

Attorney to licensee: Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60603.

NRC Project Director: Daniel R. Muller

Commonwealth Edison Company, Docket Nos. 50-254 and 50-265, Quad Cities Nuclear Power Station, Units 1 and 2, Rock Island County, Illinois

Date of application for amendments: January 9, 1989

Description of amendments request: To improve the clarity of the Quad Cities Units 1 and 2 Facility Operating Licenses DPR-29 and 30, they have been retyped. Commonwealth Edison Company (CECo) requested that they be reissued in their entirety as an amendment to the aforementioned Facility Operating Licenses. This is an extension of Commonwealth Edison's on-going effort to improve the clarity of the Quad Cities Station Technical Specifications (TS). No technical changes were proposed; as a result, the amendment may be considered to be strictly editorial in nature.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from an accident previously evaluated; or (3) involve a significant reduction in a margin of safety. In accordance with 10 CFR 50.92, CECo conducted an analysis of their proposed amendment and concluded that it does not involve significant hazards consideration. This conclusion was based upon the determination that the operation of Quad Cities Station in conformance with the proposed amendment:

(1) Would not involve a significant increase in the probability or consequences of an accident previously evaluated because this amendment does not change the technical content of the currently approved Quad Cities Station

Units 1 and 2 Facility Operating Licenses DPR-29 and 30. This amendment is editorial in nature and is merely sought to improve the clarity and legibility of the Units 1 and 2 licenses.

(2) Would not create the possibility of a new or different kind of accident from any accident previously evaluated because the proposed amendment contains insignificant content changes of the currently approved Units 1 and 2 Facility Operating Licenses (DPR-29 and 30). There are no changes to the license requirements effecting plant conditions of operations.

(3) Would not involve a significant reduction in the margin of safety because the proposed amendment is merely a retyped version of the current NRC approved Units 1 and 2 Facility Operating Licenses (DPR-29 and 30). There are no technical changes associated with this amendment and its considered to be editorial in nature.

NRC staff reviewed the licensee's application and analysis of no significant hazards consideration. Based upon this review and the above discussion, the NRC staff proposes to determine that this amendment request does not involve significant hazards considerations.

Local Public Document Room location: Dixon Public Library, 221 Hennepin Avenue, Dixon, Illinois 61021.

Attorney for licensee: Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60603.

NRC Project Director: Daniel R. Muller

Commonwealth Edison Company, Docket Nos. 50-254 and 50-265, Quad Cities Nuclear Power Station, Units 1 and 2, Rock Island County, Illinois

Date of application for amendments: January 19, 1989

Description of amendments request: Commonwealth Edison Company (CECo) proposed to amend Operating Licenses DPR-29 and DPR-30 for Quad Cities Station with regards to the surveillance requirements for CO_2 fire hose stations. The existing Technical Specification (TS) 4.12.E. does not differentiate between the two types of hoses that exist at Quad Cities Station, i.e. water and CO_2 hoses. Furthermore, the specifications do not differentiate between the type of surveillances that are performed on these hoses. As the hoses are constructed of differing materials (the water hoses are composed of a woven type material while the CO_2 hoses are made of a rubber-based material), it is appropriate that the surveillances differ.

Although the TSs do not differentiate between the types of surveillance requirements for CO_2 and water hoses, the National Fire Protection Association (NFPA) Codes do call out specific requirements for CO_2 hose reel surveillance activities other than those for water hose reels. Quad Cities Station has committed to meet the current code requirements of NFPA 12, Section 1-11.2.7, or replace the CO_2 hoses in accordance with the intervals specified in the Code. The station will administratively ensure, via its surveillance tracking program, that the CO_2 hose surveillances are performed at the NFPA specified intervals. It is CECo's judgment that these administrative controls are adequate and, therefore, there is no need to specify the CO_2 surveillance requirements in the TS. This position is further supported by NRC Generic Letter 88-12 which allows a licensee to delete non-safe shutdown related fire protection equipment from the TS. Local application of CO_2 is not an integral portion of the fire protection/fire fighting plan at Quad Cities Station due to the acquisition of other safer, more versatile fire extinguishing units.

Consequently, for reasons discussed above, CECo has proposed to exempt CO_2 fire hose stations from the requirements of TS 4.12.E. and prescribe instead, an annual operational pressure test (in concert with NFPA requirements).

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from an accident previously evaluated; or (3) involve a significant reduction in a margin of safety. In accordance with 10 CFR 50.92, CECo conducted an analysis of their proposed amendment and concluded that it does not involve a significant hazards consideration. This conclusion was based upon the determination that the operation of Quad Cities Station in conformance with the proposed amendment:

(1) Would not involve a significant increase in the probability or consequences of an accident previously evaluated because the proposed amendment merely clarifies that existing TS surveillance requirements apply only to water hoses. CO_2 hose surveillances will continue to be performed in accordance with the requirements of the NFPA Code which provide definitive guidance for such hoses. Although these CO_2 hose surveillances are not delineated in TS, they will be performed as part of the Station's Surveillance Program. Additionally, these CO_2 hose reels are not required as part of the Quad Cities Station Fire Plans which have been approved for use in shutting down the plant in the event of a fire.

(2) Would not create the possibility of a new or different kind of accident from any accident previously evaluated because there are no changes being made to the plant, plant hardware, or how the plant is operated as a result of this change. Appropriate surveillances will continue to be performed on both the CO_2 and water hoses. This amendment clarifies the surveillance requirements which are performed on water and CO_2 hoses at the Station assuring that the hoses receive the proper type of surveillance which could detect any hose material degradation. It should also be noted that the CO_2 hose reels are not utilized as part of the station's fire plans.

(3) Would not involve a significant reduction in the margin of safety because the proposed amendment does not decrease the frequency over which either the CO_2 or water hoses are tested. But rather, it will differentiate between the type of tests that are to be performed on the hoses based on the type of material and service conditions that the hose encounters. The change attempts to better describe the appropriateness of a given surveillance and ensures that surveillances are performed which would detect potential hose degradation by recognizing the differences between the two hose types. Additionally, the TS bases are unchanged as a result of this change.

NRC staff reviewed the licensee's application and analysis of no significant hazards consideration. Based upon this review, and the above discussion, the NRC staff proposes to determine that this amendment request does not involve significant hazards considerations.

Local Public Document Room location: Dixon Public Library, 221 Hennepin Avenue, Dixon, Illinois 61021.

Attorney for licensee: Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60603.

NRC Project Director: Daniel R. Muller

Consumers Power Company, Docket No. 50-155, Big Rock Point Plant, Charlevoix County, Michigan

Date of amendment request: December 19, 1988

Description of amendment request: The proposed license amendment would change the Big Rock Point Plant Facility Operating License (FOL) to allow for an increase in the amount of byproduct material the plant may possess and use from 10.5 curies of Cesium-137 to 45 curies of Cesium-137 as sealed sources. The proposed change would permit the purchase of a new calibration source of greater strength which could provide the capability to functionally check and calibrate portable radiation detection instruments on all ranges with greater accuracy. The new sealed calibration source and the associated housing would be J L Shepherd Model 89 design.

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)(1). The Commission has reviewed the licensee's evaluation and agrees with it. The licensee noted that the NRC, in granting registration for the J L Shepherd Model 89 source under 10 CFR 30.32(g)(1) and 10 CFR 32.210, required an NRC evaluation of radiation safety information to ensure that the radiation safety properties of the source were adequate to protect health and minimize danger to life and property. By granting registration, the NRC has concluded that the registered source meets the safety criteria of applicable industry standards and/or NRC formulated requirements. The licensee concluded that the change to the FOL proposed for the use of a licensed calibration source of greater strength than previously in use involves no significant hazards consideration because:

(1) The change does not involve a significant increase in the probability or consequences of an accident previously evaluated because the proposed change does not involve a change to plant safety equipment, or a change to the current requirements of the Limiting Conditions of Operation or the Surveillance Requirements specified in the Technical Specifications.

(2) The change does not create the possibility of a new or different kind of accident from any accident previously evaluated since the change does not involve a change to plant safety equipment, or other equipment that may impact plant safety equipment. The change will permit calibration of portable radiation detection instruments with greater accuracy.

(3) The change does not involve a significant reduction in a margin of safety because the change does not impact any Limiting Condition of Operation, Action Statement, or Surveillance Requirement specified in the Technical Specifications.

Based on the above, the Commission proposes to determine that the proposed amendment involves no significant hazards consideration.

Local Public Document Room location: North Central Michigan College, 1515 Howard Street, Petoskey, Michigan 49770.

Attorney for licensee: Judd L. Bacon, Esquire, Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201.

NRC Project Director: Theodore R. Quay, 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: October 5, 1988, as supplemented December 30, 1988, and January 27, 1989

Description of amendment request: The proposed amendments would revise the Technical Specifications (TSs) to: (a) allow one-time waiver to the requirements for a complete diesel generator (DG) overhaul and for the testing as stated in the first footnote to Table 4.8-1, (b) change the counting of failures on DGs from a "per nuclear unit basis" to a "per diesel generator basis" - TS 4.8.1.1.3, and (c) correct the numbers of surveillances referenced in the first footnote to Table 4.8-1. Each unit at Catawba Nuclear Station has two independent DGs manufactured by IMO Delaval, Incorporated. These DGs are used to provide an emergency standby source of power to the equipment required to safely shutdown the reactor in the event of a loss of offsite power.

Each DG is controlled by a separate 60 psi pneumatic control system that will trip the engine when the setpoints of various parameters are reached. This process is achieved by the use of six sensors on the engine and one on the control panel. All of these seven sensors are manufactured by California Controls Company, Inc. (Calcon) and are of one particular model Calcon B4400. The last four valid failures of DG 1A can be attributed to the failure of this Calcon B4400 pressure sensor. These failures took place on April 12, April 19, April 25, and May 5, 1988. More information relating to the specifics of these failures can be found in the licensee's letter dated May 25, 1988.

As stated in its 10 CFR 21 notice of April 29, 1988, and supplemented May 12, 1988, Calcon recommended and approved the remanufacturing of the B4400 sensors. The Catawba sensors were actually remanufactured on site by a Calcon representative. All Calcon B4400 sensors were replaced on DGs with the remanufactured Calcon sensors. Based on the discoveries made by Calcon, it is concluded that the 6th, 7th, 8th, and 9th valid failures within the last 100 valid starts on Unit 1A DG are attributed to the same root cause: inadequate design and manufacture of the Calcon B4400 pressure sensors. On October 25, 1988, an invalid failure of DG 1B occurred. This was not of the same failure mode as the failures of DG 1A. More information may be found in the licensee's letter dated November 23, 1988.

It is the licensee's intention to modify the DG trip system. The modifications would delete all pneumatic trip instrumentation from the DGs and replace it with electric trip function. However, these modifications are not connected to the waiver request for rezeroing the four failures on 1A Diesel Generator. The new pneumatic control system pressure sensors were specifically approved by the manufacturer and acceptable reliability of the pneuamtic control system has been demonstrated.

The proposed changes to TS 4.8.1.1.3 revise the reporting requirement from a per nuclear unit basis to a per DG basis. Test failures are already determined on a per DG basis as discussed in the footnote to Table 4.8-1. The reporting requirement is being changed to a per DG basis to be consistent with the testing criteria, and to avoid the need for a dual counting system, one for determining test frequency and one for determining reports. The testing frequency determination assures that a reliability of 95% is maintained.

The proposed changes to the footnote to Table 4.8-1 merely correct

typographical errors. The correct surveillance numbers will be referenced.

Basis for proposed no significant hazards consideration determination: The Commission has provided certain examples (51 FR 7744) of actions likely to involve no significant hazards considerations. One of the examples (i) is a purely administrative change to TSs. Change (c) to correct typographical errors related to the numbers of surveillances referenced in the first footnote to Table 4.8-1 matches this example. Changes (a) and (b) do not match the examples. However, 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 safely.

Proposed change (a) to allow a one-time waiver to discount failures associated with the Calcon pressure sensors does not involve a significant increase in the probability or consequences of an accident previously evaluated because the new pressure sensors have been tested, their installation was approved by the manufacturer, and acceptable reliability of DG 1A was demonstrated by 47 valid successful starts since May 5, 1988. Forty-five of these tests were conducted in accordance with the routine surveillance requirements of 4.8.1.1.2a.4) and 4.8.1.1.2a.5). The remaining two tests were performed in accordance with the 184-day testing requirement of 4.8.1.1.2a.4) and 4.8.1.1.2a.5). The only difference between these two methods is a pre-lubing of the turbocharger bearings.

Proposed change (b) to modify the reporting requirements does not involve a significant increase in the probability or consequences of an accident previously evaluated because this change would make the reporting requirements consistent with the testing requirements and would avoid having to keep up one set of numbers for testing and another set for reporting.

Proposed changes (a) and (b) do not create the possibility of a new or different kind of accident from any accident previously evaluated because DG 1A will continue to function as before, and no new modes of operation are introduced. In addition, proposed change (a) would improve the reliability of DG 1A because it would reduce the wear and tear associated with frequent testing.

Proposed change (a) does not involve a significant reduction in a margin of safety because the new pressure sensors would enhance the reliability of DG 1A. Proposed change (b) would not affect the operation of DG 1A.

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, Docket Nos. 50-369 and 50-370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of amendment request: May 14, 1986, as supplemented September 21, 1986, and revised April 25, 1988

Description of amendment request: The proposed amendments would delete Technical Specification (TS) Table 3.6-1, "Secondary Containment Bypass Leakage Paths," and TS Table 3.6-2, "Containment Isolation Valves." TS Bases 3/4 6.3 would be supplemented to note that "Containment isolation valves are listed in FSAR Table 6.2.4-1. Those valves with a required isolation time have a value given in the 'MAX ISOLATION TIME (SEC)' column. Penetration test type (type B, type C, or none) is listed in the 'TEST TYPE' column of the table for each containment penetration." References to these tables within TSs 4.6.1.1, 3.6.1.2c, 3.6.3 and 4.6.3.1 would be similarly deleted.

TS 3.6.3 specifies four alternate actions to be taken in Modes 1, 2, 3, and 4 if at least one containment isolation valve is operable in each affected containment penetration that is open, but with one or more isolation valves inoperable. The proposed amendments would add a fifth action to permit the operation of manual penetration valves on an intermittent basis under administrative control.

Basis for proposed no significant hazards consideration determination: TS Table 3.6-1 lists containment penetrations and identifies their service, location and 10 CFR 50 Appendix J test types. TS Table 3.6-2 lists containment isolation valves and identifies their function and maximum allowed isolation time. The contents of existing TS Tables 3.6.1 and 3.6.2 have been added to the McGuire FSAR as Table 6.2.4-1. Hence, deletion of the tables from the TS and changes to reference the corresponding FSAR table would not change the limiting conditions for operation (LCO) or surveillance requirements (SRs).

In the event future changes are needed to this information in the FSAR, the proposed changes would be evaluated in accordance with the process described in 10 CFR 50.59. Under 10 CFR 50.59, proposed changes determined by the licensee not to involve an unreviewed safety question, may be made without prior Commission approval. A report of such changes, including a summary of the safety evaluation of each, would be submitted annually to the Commission. The Commission has determined as part of its implementation policy for TS improvements that the subject penetrations and valves are appropriate for this process.

Certain manual valves are permitted to be opened during operation as long as they are administratively controlled. Operation of these valves currently allows testing, maintenance and other activities on the following systems: reactor coolant pump motor oil drain, equipment decontamination, containment hydrogen sampling and refueling water. Presently, the footnote "may be opened on an intermittent basis under administrative control" is in TS Table 3.6-2. Upon deletion of the entire table, this provision would be retained within the TS by adding it to TS 3.6.3. Thus, no change in existing requirements would be made.

The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). We have reviewed the licensee's proposed changes to the TS and conclude that the proposed changes would not:

(1) Involve a significant increase in the probability of occurrence or consequences of an accident previously analyzed. Since there would be no changes to the LCO or SR, no changes in operability of the subject equipment would occur. Accordingly, there would be no effect on a previously analyzed accident.

(2) Create the possibility of a new or different kind of accident from any previously analyzed. Since there would

be no changes in hardware or in the way the plant is operated, the potential for an unanalyzed accident would not be created. No new failure modes would be introduced.

(3) Involve a significant reduction in a margin of safety. Since the proposed changes would not affect the consequences of any accident previously analyzed or create new or different ones, there would be no reduction in any margin of safety.

Accordingly, the staff proposes to determine that the application for amendments involves no significant hazards consideration.

Local Public Document Room location: Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223

Attorney for licensee: Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242

NRC Project Director: David B. Matthews

Duke Power Company, Docket Nos. 50-369 and 50-370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of amendment request: June 19, 1987, as supplemented February 24 and November 23, 1988, and January 6, 1989

Description of amendment request: The proposed amendments would grant a one-time extension of the allowed outage time for each of the two trains of the Control Area Ventilation (VC) System to provide for system modifications to improve reliability. Technical Specification (TS) 3.7.6 requires both independent VC Systems to be operable in all modes. With one VC System inoperable during Modes 1, 2, 3 or 4, the TS requires the operators to restore the inoperable system to operable status within 7 days or both McGuire Units are to be in at least Hot Standby within the next 6 hours and in Cold Shutdown within the following 30 hours. Similarly, with one VC System inoperable during Modes 5 or 6, the operator is to restore the inoperable system to operable status within 7 days or initiate and maintain operation of the remaining operable VC System in the recirculation mode. The proposed change would add a footnote to TS 3.7.6, referenced after the specified 7 days, to state that an allowed outage time extension to 21 days is granted for each train, one at a time, to allow system modifications related to replacement of the two 50% capacity outside air filter fans with one 100% capacity fan.

Basis for proposed no significant hazards consideration determination: The VC System is designed to maintain the habitability of the Control Room area. A modification to replace the existing fans in the outside air pressure filter train is needed because these fans are unreliable (as evidenced by the need for frequent bearing replacement and stress cracks in the frames) and because nuclear grade replacement parts can not be obtained from the manufacturer who is no longer in business. Presently, each filter train contains two 50% capacity fans that operate in parallel. The modification would replace the two 50% capacity fans with a single 100% fan per filter train. Associated changes to ducts, instrumentation, and dampers would also be made.

Only one of the two redundant trains is needed to maintain Control Room habitability after a severe accident, and operability of the opposite train will be demonstrated by testing prior to starting the modification. The system design provides for cross-connect capability between trains and supporting systems, sufficient to compensate for most credible failures during the modification. Thus, sustained failure of the remaining train during modification of the opposite train is highly unlikely. The occurrence probability for a severe accident during the few days of modification is even smaller. Nevertheless, should it be needed, air masks and self-contained breathing apparatus are available in the Control Room as a backup. Thus, the risks associated with implementing the modification are negligible, while the benefits to safety of the completed modification (a more reliable system) are significant.

The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). We have reviewed the proposed changes to the TS and conclude on the basis above, that they would not (1) involve a significant increase in the probability of occurrence or consequences of an accident previously analyzed, or (2) involve a significant reduction in a margin of safety. Additionally, the function of the system would be achieved in the same manner without the introduction of any new or novel equipment, procedures or techniques. Therefore, the proposed changes would not (3) create the possibility of a new or different kind of accident from any previously analyzed. Rather, the changes are proposed to enhance safety by achieving a more reliable system.

Accordingly, the Commission proposes to determine that the proposed changes involve no significant hazards consideration.

Local Public Document Room location: Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223

Attorney for licensee: Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242

NRC Project Director: David B. Matthews

Duke Power Company, Docket No. 50-370, McGuire Nuclear Station, Unit 2, Mecklenburg County, North Carolina

Date of amendment request: December 7, 1985

Description of amendment request: The proposed amendment would delete paragraph 2.C(12) and referenced Table 1 from McGuire Unit 2 Operating License NPF-17. This paragraph is titled "Reactor Trip Breakers" and states that:

a. By June 3, 1983, the licensee shall provide a program plan for conducting a life-test of the undervoltage trip attachment. The life-test program is to be reviewed by the staff before implementation.

b. The licensee shall modify the design of the automatic shunt trip of the main reactor trip breakers to install an independent fusing scheme. This modification shall be implemented on a schedule consistent with the schedule requirements of the NRC Salem Task Force generic program.

c. The licensee shall implement the reactor trip breaker and reactor trip bypass breaker testing and reporting as described in Table 1.

d. Within 60 days from issuance of this amendment, the licensee shall provide the upgraded post-trip review procedures for NRC staff review.

Table 1 specifies periodic testing and reporting requirements for reactor trip breakers and reactor trip bypass breakers.

Basis for proposed no significant hazards consideration determination: In early 1983, following failures of Westinghouse DS-416 circuit breakers throughout the industry and at McGuire, the Commission added paragraph 2.C(12) to the operating license for McGuire Unit 2 to require specific measures to improve the reliability of reactor trip breakers. The licensee notes that the specific measures required by each of the above subparagraphs have been completed and that paragraph 2.C(12) of NPF-17 is, therefore, unnecessary and should be deleted. Specifically:

a. The program plan required by 2.C(12)a was provided to the NRC by letter dated June 3, 1983, and subsequently approved.

b. The design modifications required by 2.C(12)b have been performed.

c. Testing of reactor trip breakers and reactor trip bypass breakers has been addressed and approved subsequent to issuance of paragraph 2.C.(12)c. and referenced Table 1 by McGuire Unit 2

Amendment 55 (and Unit 1 Amendment 74). The amendments added periodic testing requirements to the McGuire Technical Specifications (TS) in accordance with NRC Generic Letter 85-09, "Technical Specifications for Generic Letter 83-28, Item 4.3."

d. The procedures required by 2.C(12)d. were provided by letter dated July 22, 1983.

Thus, the proposed amendments would remove obsolete (completed) requirements or requirements expressed elsewhere in the license as a TS requirement.

The Commission has provided guidance concerning the application of the standards for determining whether a significant hazard exists by providing certain examples (51 FR 7744). One of the examples of actions involving no significant hazards considerations is example (i) "a purely administrative change to technical specifications; for example, a change to achieve consistency throughout the technical specifications, correction of an error, or a change in nomenclature." The requested change to delete obsolete text or redundant requirements has no safety implication, is purely administrative, and matches this example.

Accordingly, the Commission proposes to determine that the proposed amendment would involve no 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

Duquesne Light Company, Docket No. 50-334, Beaver Valley Power Station, Unit No. 1, Shippingport, Pennsylvania

Date of amendment request: January 18, 1989

Description of amendment request: The proposed amendment would revise Table 3.6-1, "Containment Penetrations," to identify penetrations 57-3 and 57-4 as spares. These penetrations contain tubing for the sealed pressure system which is currently used for Type A leakage testing of the containment. However, other methods are available and the licensee, therefore, proposes to cut the tubing and cap the ends, and treat the penetrations as spares from then on.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists in accordance with 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazard consideration if operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety.

The proposed amendment would permit the licensee to weld caps onto tubing that are currently closed by isolation valves. The caps will serve as a more secure boundary than the isolation valves. The hardware modification would eliminate the tubing as a potential containment leak path. The affected tubing does not by itself cause design basis accidents, and its capping shut reduces potential leakage after accidents. Therefore, the answers to questions (1) and (2) would be negative. The affected tubing was not factored into any safety analysis; its capping would have no effect on previous analyses. The answer to question (3) is also negative.

The staff, therefore, proposes to determine that the requested amendment involve no significant hazards.

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Attorney for licensee: Gerald Charnoff, Esquire, Jay E. Silberg, Esquire, Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John F. Stolz

Duquesne Light Company, Docket Nos. 50-334 and 50-412 Beaver Valley Power Station, Unit Nos. 1 and 2, Shippingport, Pennsylvania

Date of amendment request: January 5, 1989

Description of amendment request: The Technical Specifications for Beaver Valley Units 1 and 2 would be amended in the following ways:

(1) The Unit 1 index would be updated. This is a purely editorial change.

(2) Section 4.4.5.2, steam generator inspection requirements would be revised by removing reference to the specific year of the ASME code used for tube inspection. This would eliminate future need for amendments whenever the ASME code is updated, and is consistent with the current section 4.0.5. This change is editorial.

(3) Section 6.9.1, monthly operating reports, radial peaking factor limit reports, and special reports will be specified to be submitted to the NRC Document Control Desk, rather than specific NRC organization units. This change is consistent with 10 CFR 50.4(b)(1), and is editorial.

(4) Basis section 3/4.2.2 and 3/4.2.3, paragraph on fuel rod bowing penalty would be revised to reflect updated approved information. This change is editorial.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of these standards (51 FR 7744). One of the examples, example (i), involves "purely administrative change to technical specification: for example, a change to achieve consistency throughout the technical specification, correction of an error."

The requested changes fully match this example and the staff, therefore, proposes to determine that the changes involve no significant hazards.

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Attorney for licensee: Gerald Charnoff, Esquire, Jay E. Silberg, Esquire, Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John F. Stolz

Duquesne Light Company, Docket Nos. 50-334 and 50-412, Beaver Valley Power Station, Unit Nos. 1 and 2, Shippingport, Pennsylvania

Date of amendment request: January 5, 1989

Description of amendment request: The proposed amendment would revise Specification 3.1.3.1 to clarify the LCO and action requirements concerning control rod operability. These changes reflect recommended wording provided to the NRC by a Westinghouse letter (NS-NRC-84-2990 December 2, 1984) and subsequently incorporated into the Millstone Unit 3 Technical Specifications.

The proposed changes provide editorial clarification of the control rod action requirements and incorporate a new action statement to address multiple immovable, but trippable, control rods. These control rods may become immovable as a result of a rod control system failure and will not step in or out, but would drop if a reactor trip were initiated. The additional action statement allows continued plant operation when in this condition since

the control rods would still be capable of performing their safety function. Without this additional action statement and more than one control rod is immovable, but trippable, the plant would otherwise be forced to repair the failure within 6 hours or shutdown.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists in accordance with 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazard consideration if operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety.

As stated above, all changes are editorial clarification except the addition of a new action statement. While the new action statement would permit the plant be operated for a limited period when multiple control rods are immovable, it does require that these rods be trippable, i.e. capable of performing their intended safety function. No hardware change is involved. Thus the answers to the first two questions are negative. No assumptions of any safety analysis in the licensing basis is affected; thus the answer to the third question is also negative.

The staff, therefore, proposes to determine that the requested amendment involve no significant hazards.

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Attorney for licensee: Gerald Charnoff, Esquire, Jay E. Silberg, Esquire, Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John F. Stolz

Duquesne Light Company, Docket Nos. 50-334 and 50-412, Beaver Valley Power Station, Unit Nos. 1 and 2, Shippingport, Pennsylvania

Date of amendment request: January 12, 1989

Description of amendment request: The proposed amendment would revise specification 3.4.6.1 for each unit to permit both containment atmosphere particulate and gaseous radiation monitors (both are RCS leakage detection instruments) be inoperable for up to 12 hours due solely to calibration or maintenance activities. The current specification would require commencement of shutdown activities within one hour. The hardware of these instruments is installed in such a way that both radiation monitors must be taken out of service to perform the required periodic calibration and/or maintenance on either radiation monitor. The time required to perform a complete calibration on these radiation monitors is greater than six hours, while the current specification allows only one hour of outage time. The proposed new action statement would avert the need for a reactor shutdown just to perform such calibration and/or maintenance. RCS leakage will continue to be monitored by the containment sump instrumentation, and by an enhanced RCS water inventory balance measurement.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists in accordance with 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazard consideration if operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety.

The proposed amendment would relax the time both radiation monitors are allowed out of service, but a compensatory measure would be imposed during that time. There is no modification to existing plant hardware or operating procedures. The monitors themselves do not cause design basis accidents or are they used to mitigate the consequences of such accidents. Hence the answers to both questions (1) and (2) are negative. There is furthermore no change in the assumptions of any previous analysis; the answer to question (3) is also negative.

The staff therefore proposes to determine that the requested amendment involve no significant hazards.

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 and Light Company, Docket Nos. 50-250 and 50-251, Turkey Point Plant Units 3 and 4, Dade County, Florida

Date of amendments request: September 27, 1988

Description of amendments request: The amendments would modify Turkey Point Technical Specifications (TS) Sections 3.0 and 4.0 in accordance with the guidance supplied by NRC Generic Letter (GL) 87-09. The guidance provided in the GL addresses the problems of unnecessary shutdowns, and conflicts in surveillance requirements related to mode changes.

Basis for proposed no significant hazards consideration determination: The Commission has provided criteria 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 addressed the above three criteria in the amendment application and made a proposed no significant hazards consideration determination. In regard to the first criterion the licensee provided the following analysis:

For the changes intended to achieve consistency with the recommendations of Generic Letter 87-09 "Sections 3.0 and 4.0 of the Standard Technical Specifications (STS) on the Applicability of Limiting Conditions for Operation and Surveillance Requirements," the Staff has previously evaluated these changes in the generic letter and determined that the modifications will result in improved technical specifications.

Specification 3.0.4 unduly restricts facility operation when conformance to the ACTION requirements provides an acceptable level of safety for continued operation. For an LCO (Limiting Commission for Operation) that has ACTION requirements permitting continued operation for an unlimited period of time, entry into an operational mode or other specified condition of operation should be permitted in accordance with those ACTION requirements. This is consistent with the NRC's regulatory requirements for an LCO.

It is overly conservative to assume that systems or components are inoperable when a surveillance requirement has not been

performed. A 24-hour time limit has been included in Specification 4.0.3 allowing a delay of the required actions to permit the performance of the missed surveillance. The NRC has concluded that the 24-hour time limit would balance the risks associated with an allowance for completing the surveillance within this period against the risks associated with the potential for a plant upset and challenge to safety systems when the alternative is a shutdown to comply with ACTION requirements before the surveillance can be completed.

The NRC has concluded that the potential for a plant upset and challenge to safety systems is heightened if surveillances are performed during a shutdown to comply with ACTION requirements. Specification 4.0.4 has been modified to note that its provisions shall not prevent passage through or to operational modes as required to comply with ACTION requirements.

For the changes intended to achieve consistency with the Westinghouse - Standard Technical Specifications (WSTS), Draft Revision 5, the intent of the Specifications will not be changed nor will operating limitations of the Technical Specifications be changed.

Therefore, the proposed changes will not significantly affect the probability or consequences of accidents previously analyzed.

With respect to the second criterion the licensee stated:

The changes being proposed by FPL Florida Power and Light to achieve consistency with Generic Letter 87-09 and the WSTS will not lead to material procedure changes or to physical modifications. Therefore, the proposed changes do not create the possibility of a new or different kind of accident.

In regard to the third criterion the licensee provided the following statement:

For the changes intended to achieve consistency with the recommendations of Generic Letter 87-09 "Sections 3.0 and 4.0 of the Standard Technical Specifications (STS) on the Applicability of Limiting Conditions for Operation and Surveillance Requirements," the Staff has previously evaluated these changes in the generic letter and determined that the modifications will result in improved technical specifications.

Specification 3.0.4 unduly restricts facility operation when conformance to the ACTION requirements provides an acceptable level of safety for continued operation. For an LCO that has ACTION requirements permitting continued operation for an unlimited period of time, entry into an operational mode or other specified condition of operation should be permitted in accordance with those ACTION requirements. This consistent with the NRC's regulatory requirements for an LCO.

It is overly conservative to assume that systems or components are inoperable when a surveillance requirement has not been performed. A 24-hour time limit has been included in Specification 4.0.3 allowing a delay of the required actions to permit the performance of the missed surveillance. The NRC has concluded that the 24-hour time limit would balance the risks associated with an allowance for completing the surveillance within this period against the risks associated with the potential for a plant upset and challenge to safety systems when the alternative is a shutdown to comply with ACTION requirements before the surveillance can be completed.

The NRC has concluded that the potential for a plant upset and challenge to safety systems is heightened if surveillances are performed during a shutdown to comply with ACTION requirements. Specification 4.0.4 has been modified to note that its provisions shall not prevent passage through or to operational modes as required to comply with ACTION requirements.

For the changes intended to achieve consistency with the Westinghouse - Standard Technical Specifications (WSTS), Draft Revision 5, the intent of the Specifications will not be changed nor will operating limitations of the Technical Specifications be changed.

Therefore, use of the modified specification would not involve a significant reduction in the margin of safety.

The staff has reviewed the analysis provided by the licensee in support of a proposed no significant hazards consideration determination. The staff agrees with the licensee's analysis and believes that the licensee has met the criteria for such a determination. Therefore, the staff proposes to determine that the proposed changes do not involve a significant hazards consideration.

Local Public Document Room location: Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199

Attorney for licensee: Harold F. Reis, Esquire, Newman and Holtzer, P.C., 1615 L Street, NW., Washington, DC 20036

NRC Project Director: Herbert N. Berkow

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50-321 and 50-366, Edwin I. Hatch Nuclear Plant, Units 1 and 2, Appling County, Georgia

Date of amendment request: December 2 and December 22, 1986, May 31, August 8, and December 14, 1988

Description of amendment request: In accordance with the requirements of 10 CFR 73.55, the licensees submitted an amendment to the Physical Security Plan for the Edwin I. Hatch Nuclear Plant, Units 1 and 2, to reflect recent changes to that regulation. The proposed amendments would modify paragraph 2.C.(4) of Facility Operating License DPR-57 and paragraph 2.D. of Facility Operating License NPF-5.

Basis for proposed no significant hazards consideration determination: On August 4, 1986 (51 FR 27817 and 27822), the Nuclear Regulatory Commission amended Part 73 of its regulations, "Physical Protection of Plants and Materials," to clarify plant security requirements to afford an increased assurance of plant safety. The amended regulations required that each nuclear power reactor licensee submit proposed amendments to its security plan to implement the revised provisions of 10 CFR 73.55. The licensee submitted its revised plan on December 2 and 22, 1986, May 31, August 8, and December 14, 1988, to satisfy the requirements of the amended regulations. The Commission proposes to amend the licenses to reference the revised plan.

In the Supplementary Materials accompanying the amended regulations, the Commission indicated that it was amending its regulations "to provide a more safety conscious safeguards system while maintaining the current levels of protection" and that the "Commission believes that the clarification and refinement of requirements as reflected in these amendments is appropriate because they afford an increased assurance of plant safety."

The Commission has provided guidance concerning the application of the criteria for determining whether a significant hazards consideration exists by providing certain examples of actions involving no significant hazards considerations and examples of actions involving significant hazards considerations (51 FR 7750). One of these examples of actions involving no significant hazards considerations is example (vii) "a change to conform a license to changes in the regulations, where the license change results in very minor changes to facility operations clearly in keeping with the regulations." The changes in this case fall within the scope of the example. For the foregoing reasons, the Commission proposes to determine that the proposed amendments involve no significant hazards consideration.

Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia 31513

Attorney for licensee: Bruce W. Churchill, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: David B. Matthews

GPU Nuclear Corporation, et al., Docket No. 50-289, Three Mile Island Nuclear Station, Unit No. 1, Dauphin County, Pennsylvania

Date of amendment request: December 2, 1988

Description of amendment request: This amendment would remove the restriction that offsite licensee personnel be used to conduct annual fire protection inspections and audits.

Basis for proposed no significant hazards consideration determination: GPU Nuclear Corporation has determined that this Technical Specification Change Request poses no significant hazards as defined by NRC in 10 CFR 50.92.

1. Operation of the facility in accordance with the proposed amendment would not involve a significant increase in the probability of occurrence or consequences of an accident previously evaluated. This change is related to previously evaluated plant fire effects and the fire hazards analysis in that the change effects the composition of the annual audit team which inspects plant fire protection equipment taken credit for in the fire hazards analysis. The proposed amendment removes the requirement that offsite personnel shall be used to perform the annual fire protection and loss prevention program inspection and audit. Based on existing procedural controls which define the composition of the audit team, this change does not reduce the quality or effectiveness of the annual audit. The annual audit will continue to adequately assess plant fire protection equipment and program implementation. Therefore, the proposed amendment does not increase the probability of occurrence or consequences of an accident previously evaluated.

2. Operation of the facility in accordance with the proposed amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed amendment removes the requirement that offsite personnel shall be used to perform the annual fire protection and loss prevention program inspection and audit, and is unrelated to the possibility of creating a new or different kind of accident.

3. Operation of the facility in accordance with the proposed amendment would not involve a significant reduction in a margin of safety. The proposed amendment does not reduce the quality or effectiveness of the annual audit. Therefore, there is no reduction in a margin of safety.

The NRC staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Accordingly, the Commission proposes to determine that the proposed amendment involves no significant hazards consideration.

Local Public Document Room location: 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

GPU Nuclear Corporation, et al., Docket No. 50-289, Three Mile Island Nuclear Station, Unit No. 1, Dauphin County, Pennsylvania

Date of amendment request: December 19, 1988

Description of amendment request: This amendment would revise the reactor coolant temperature at which low temperature overpressure protection is enabled.

Basis for proposed no significant hazards consideration determination: GPUN has determined that the Technical Specification Change Request poses no significant hazards as defined by NRC in 10 CFR 50.92.

1. Operation of the facility in accordance with the proposed amendment would not involve a significant increase in the probability of occurrence or consequences of an accident previously evaluated. The proposed amendment raises the HPI pump breaker rack out temperature from 275° F and 320° F to 332° F. The design basis accident related to High Pressure Injection (HPI) operability is a LOCA when the reactor is critical. Technical Specification Section 3.1.3 requires that reactor coolant system temperature be above 525° F before the reactor is made critical. Therefore, raising the HPI pump breaker rack out or makeup valve closure temperature from 320° F to 332° F is unrelated to increasing the probability of occurrence or the consequences of an accident previously evaluated.

2. Operation of the facility in accordance with the proposed amendment would not create the possibility of a new or different kind of accident from any previously evaluated. The rack out of HPI pump breakers or closure of makeup valves at 332° F shifts the region in which HPI is not automatically available from 320° F to 332° F. The existing Technical Specification Section 3.1.3 requires that the Reactor Coolant System temperature be above 525° F before the reactor is made critical. Therefore, raising the rackout temperature to 332° F represents a slightly different initial condition for a transient without automatic HPI availability. Since HPI operability is not required below 525° F, this change does not represent a different type of accident from those previously considered. The proposed amendment provides additional protection against reactor vessel overpressurization events and is unrelated to the possibility of creating a new or different kind of accident.

3. Operation of the facility in accordance with the proposed amendment would not involve a significant reduction in a margin of safety. The proposed amendment provides sufficient margin of safety for reactor vessel overpressurization events by preventing HPI initiation below 332° F. The margin of 1.0 on primary membrane stress is justified at these elevated operating temperatures on the basis of the low probability of occurrence of such overpressurization events and the large margin that exists between the material reference toughness used for the analysis and the material crack initiation toughness values. HPI pump breaker rack out or makeup valve closure at 332° F instead of 320° F does not reduce the safety margins related to core cooling. A LOCA initiated at either temperature will not result in core uncovery when operator actions are taken in accordance with plant abnormal transient procedures. Therefore, it is concluded that operation of the facility in accordance with the proposed amendment does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Accordingly, the Commission proposes to determine that the proposed amendment involves no significant hazards consideration.

Local Public Document Room location: 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

Northeast Nuclear Energy Company, Docket No. 50-245, Millstone Nuclear Power Station, Unit No. 1, New London County, Connecticut

Date of amendment request: January 20, 1989

Description of amendment request. This amendment to the Technical Specifications (TS) would (1) remove cycle-specific parameter limits from Section 3/4.11 in response to Generic Letter 88-16, (2) decrease the Minimum Critical Power Ratio (MCPR) Safety Limit from 1.07 to 1.04 in accordance with an approved generic safety analysis, and (3) remove approval to initiate reactor start-up with flow indication from 1 of the 20 jet pumps unavailable.

The proposed amendment to remove cycle-specific parameter limits from the TS would replace those limits with a reference to a Supplemental Reload Licensing Submittal (SRLS). In addition, the SRLS has been included in the Definitions Section of the TS to note that it is the unit-specific document that provides these limits for the current operating reload cycle. Furthermore, the definition notes that the values of these parameter limits are to be determined in accordance with specification 6.9.1.9.

This specification requires that the Operating Limits be determined for each reload cycle in accordance with the referenced NRC-approved methodology and be 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, provided guidance to licensees on requests for removal of values of the cycle-specific parameter limits from the TS. The licensee's proposed amendment is in response to this Generic Letter.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as defined in 10 CFR 50.92(c).

The licensee has determined and the staff agrees that the proposed amendment will not:

1. Involve a significant increase in the probability of an accident previously evaluated.

a. Generic Letter 88-16—This portion of the proposed change, which removes cycle-specific values of LHGR, MCPR, and APLHGR from the Technical Specifications and includes them in the Supplemental Reload Licensing Submittal, has no impact on the consequences of any design basis event due to the fact that the change is administrative in nature.

b. MCPR Safety Limit Change—The proposed change involves a modification to the MCPR safety limit. For the limiting MCPR event there is no increase in consequences of any design basis event since the criterion of importance, 99.9 percent of all rods do not experience boiling transition, is maintained even though the value of safety limit has been lowered by 0.03.

c. Inoperable Jet Pump Flow Instrumentation—This portion of the change removes approval to start up with Jet Pump "K" flow instrumentation inoperable. This change is conservative in nature, and makes Specification 3.6.G.2 more restrictive.

2. Create the possibility of a new or different kind of accident from any previously analyzed.

The proposed changes do not modify plant response to any operational or accident event, nor do they create the possibility of a new or different kind of accident.

3. Involve a significant reduction in a margin of safety.

a. Generic Letter 88-16—This portion of the change modifies Technical Specification wording without changing actual operational limits, and therefore does not impact the margin of safety as defined in the Bases of any Technical Specification.

b. MCPR Safety Limit Change—The MCPR safety limit and LCO are set to protect the fuel cladding from undergoing boiling transition following any design basis transient of moderate frequency. The protective boundary (fuel cladding) is maintained, as is the margin of safety, as long as 99.9 percent of all rods do not experience boiling transition following any design basis transient. This criterion is met even though the safety limit is changed from 1.07 to 1.04. This change from a MCPR safety limit of 1.07 to 1.04, as a result of a calculational refinement, was generically approved by NRC letter dated December 27, 1987. Thus there is no negative impact on the margin of safety as defined in the Bases of any Technical Specification.

c. Inoperable Jet Pump Flow Instrumentation—This portion of the change removes administrative approval to start up with jet pump flow instrumentation inoperable. As such, it does not impact the margin of safety.

The proposed revision to the License Condition 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 TS. The establishment of these limits in accordance to an NRC-approved methodology and the incorporation of these limits into the [Core] Operating Limits Reports 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.

Accordingly, the staff has made a determination that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385.

Attorney for licensee: Gerald Garfield, Esquire, Day, Berry & Howard, Counselors at Law, City Place, Hartford, Connecticut 06103-3499.

NRC Project Director: John F. Stolz

Northeast Nuclear Energy Company, et al., Docket No. 50-423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut

Date of amendment request: January 24, 1989

Description of amendment request: The proposed amendment would change the Millstone Unit 3 Technical Specifications (TS) to allow Cycle 3 operation as follows:

(1) TS 3/4.2.2 "Heat Flux Hot Channel Factor - Four Loops Operating and Three Loops Operating" would be changed to eliminate the reference to fuel assembly grid locations, (2) TS 5.3.1., "Fuel Assemblies" would be changed to properly describe the Cycle 3 fuel assemblies, (3) TS 5.3.2, "Control Rod Assemblies" would be changed to allow use of silver-indium-cadmium control rods and (4) TS 6.9.1.6, "Radial Peaking Factor Limit Report" would be changed to allow submittal of the report prior to each cycle's initial criticality.

Basis for proposed no significant hazards consideration determination: The fuel assemblies to be utilized for Cycle 3 operation (Vantage V - Hybred) incorporate several refinements compared to the fuel assemblies currently in use at Millstone Unit 3. The new fuel assemblies are reconstitutable to meet cycle-specific requirements. In addition, an improved, debris-resistent, lower nozzle and slightly lengthened assembly results in the fuel assembly grids being offset by less than ½" compared to the existing fuel assemblies. Higher initial enrichment would be utilized. A second refinement for Cycle 3 would allow the use of silver-indium-cadmium control rods.

With regard to fuel assembly grids, TS 3/4.2.2 allows the licensee to exempt the measured values of the planar radial peaking factor (F_{xy}) when measured at the specified elevations where the grids are located. This is due to the effects of the grids which make the flux measurement inaccurate. Since the new fuel assemblies will have slightly off-set grid locations, the existing TS is not applicable. The licensee has proposed that the specific grid elevations in TS 4.2.2.1.2f.3 and 4.2.2.2.2f.3 be eliminated and replaced with a more general requirement that up to 20% of the core height, between 5% and 85% core height, can be eliminated from F_{xy} measurement.

As indicated in the licensee's January 4, 1989 application, "The proposed change to delete specific grid plane centerlines will not affect the total percent of the core monitored for F_{xy}. The previous requirement to monitor the core between 15% and 85% of core height except within 272% of grid centerlines is essentially equal to the new requirement. There are 5 grids in the region to be monitored which amounts to 20% being excluded due to the effect of the grids and another 30% excluded at the top and bottom of the core. The total excluded area with the new requirement is also 20% due to grids and 30% at the top and bottom of the core." We concur with this assessment.

The licensee has also proposed changes to Section 5 of the TS. Changes to TS 5.3.1 and 5.3.2 describe the Cycle 3 fuel assemblies and the use of silver-indium-cadmium control rods, respectively. While the proposed changes to TS 5.3.1 and 5.3.2 would permit the subject modifications to be used, any impact on reactor operation due to revised safety analysis results would be reflected in changes to the

Limiting Conditions for Operation and/or the Surveillance Requirements; no such changes have been proposed for Cycle 3. The changes described in proposed TS 5.3.1 and 5.3.2 represent refinements, rather than substantial changes, whose efficacy has been previously demonstrated in other operating facilities.

Finally, the licensee has proposed a change to TS 6.9.1.6 to allow submittal of the Radial Peaking Factor Limit Report prior to initial-cycle criticality rather than 60 days prior to the time that the applicable limits become effective. The proposed change would allow the completion of cycle-specific calculations during the refueling outage when changes in core configuration, due to discovery of fuel leakage, may result.

On March 6, 1988, the NRC published guidance in the **Federal Register** (51 FR 7751) concerning examples of amendments that are not likely to involve a significant hazards consideration. One example of amendments not likely to involve significant hazards considerations is example (iii) which involves, "For a nuclear power reactor, a change resulting from a nuclear reactor core reloading, if no fuel assemblies significantly different from those found previously acceptable to the NRC for a previous core at the facility in question are involved. This assumes that no significant changes are made to the acceptance criteria for the technical specifications, that the analytical methods used to demonstrate conformance with the technical specifications and regulations are not significantly changed, and that NRC has previously found such methods acceptable." The proposed changes to the TS are within the scope of example (iii).

Accordingly, the staff has made a proposed determination that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385.

Attorney for licensee: Gerald Garfield, Esquire, Day, Berry & Howard, One Constitution Plaza, Hartford, Connecticut 06103-3499.

NRC Project Director: John F. Stolz

Omaha Public Power District, Docket No. 50-285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of amendment request: January 6, 1989.

Description of amendment request: This proposed amendment would revise the Technical Specifications (TS) to (1) change the containment spray system surveillance testing requirements to provide a quantitative value to define the minimum acceptance criteria, (2) change the Basis of the Containment spray system surveillance requirements by providing the minimum spray flow requirements determined from analysis, (3) reduce the maximum power level permitted on Figure 2-7, Limiting Condition for Operation for Departure from Nucleate Boiling (DNB) Monitoring, (4) correct the neutron fluence value stated to occur at 14 Effective Full Power Years (EFPY) at the inner surface of the reactor vessel wall at the critical weld location from 1.4×10^{19} n/cm^2 to 1.21×10^{19} n/cm^2, (5) revise Figure 2-3, Predicted Ration Induced NDTT Shift, based on calculations using Regulatory Guide 1.99, Revision 2, and (6) change the references in TS 3.6 from "FSAR" to "USAR" and add an additional reference of USAR Section 14.16.

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 of consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The licensee addressed the above three standards in the amendment application.

(1) Change the containment spray system surveillance testing requirements. With regard to the three standards, the licensee states that operation of the facility in accordance with this amendment would not:

(a) Involve a significant increase in the operability or consequences of an accident previously evaluated. This change establishes the acceptance criteria, based on Combustion Engineering's Analysis "Reexamination of Containment Pressure Response for the DBA LOCA and DBA MSLB Events at Fort Calhoun Station" dated December 1988, which defines the operational requirements for the containment spray system which are necessary to prevent or mitigate the Containment Pressure from exceeding 60 psig. No new accidents are created nor are the consequences of any existing accidents increased by this change. Therefore, this change does not increase the probability or consequences of a previously evaluated accident.

(b) Create the possibility of a new or different kind of accident from any accident previously evaluated. The change defines the acceptance criteria, based on Combustion Engineering's analysis "Reexamination of Containment Pressure Response for the DBA LOCA and DBA MSLB Events at Fort Calhoun Station" dated December 1988. It has been determined that a new or different kind of accident is not created because no new or different modes of operation are proposed for the plant. The continued use of the same Technical Specification administrative controls prevents the possibility of a new or different kind of accident.

(c) Involve a significant reduction in a margin of safety. Administrative specifications involving a change to the basis of the Technical Specification ensure that the operability requirements of the containment spray system, 3155 gpm, are defined and, therefore, will not reduce the margin of safety.

(2) Change to the Basis of the Containment Spray System Surveillance Requirements. With regard to the three standards, the licensee states that operation of the facility in accordance with this amendment would not:

(a) Involve a significant increase in the operability or consequences of an accident previously evaluated. This change establishes the acceptance criteria, based on Combustion Engineering's Analysis "Reexamination of Containment Pressure Response for the DBA LOCA and DBA MSLB Events at Fort Calhoun Station" dated December 1988, which defines the operational requirements for the containment spray system which are necessary to prevent or mitigate the Containment Pressure from exceeding 60 psig. No new accidents are created nor are the consequences of any existing accidents increased by this change. Therefore, this change does not increase the probability or consequences of a previously evaluated accident.

(b) Create the possibility of a new or different kind of accident from any accident previously evaluated. The change defines the acceptance criteria, based on Combustion Engineering's analysis "Reexamination of Containment Pressure Response for the DBA LOCA and DBA MSLB Events at Fort Calhoun Station" dated December 1988. It has been determined that a new or different kind of accident is not created because no new or different modes of operation are proposed for the plant. The continued use of the same Technical Specification administrative controls prevents the possibility of a new or different kind of accident.

(c) Involve a significant reduction in a margin of safety. Administrative specifications involving a change to the basis of the Technical Specification ensure that the operability requirements of the containment spray system, 3155 gpm, are defined and, therefore, will not reduce the margin of safety.

(3) Reduce the maximum power level permitted on Figure 2-7. With regard to the three standards, the licensee states that operation of the facility in

accordance with this amendment would not:

(a) Involve significant increase in the probability or consequences of an accident previously evaluated. The decrease in allowable power level is a conservative change. The reduction would eliminate the possibility of exceeding the power level allowed by other portions of the Technical Specifications. No new accidents are created nor are the consequences of any existing accident increased by the administrative change. Therefore, this change does not increase the probability or consequences of a previously evaluated accident.

(b) Create the possibility of a new or different kind of accident from any accident previously evaluated. It has been determined that a new or different kind of accident is not created because no new or different modes of operation are proposed for the plant. The continued use of the same Technical Specification administrative controls prevents the possibility of a new or different kind of accident.

(c) Involve a significant reduction in the margin of safety. Administrative changes involving a change in the maximum power level allowed to ensure consistency with other sections of the Technical Specifications will not reduce the margin of safety.

(4) Correct the neutron fluence value stated to occur at 14 EFPY. With regard to the three standards, the licensee stated that operation of the facility in accordance with this amendment would not:

(a) Involve a significant increase in the probability or consequence of an accident previously evaluated. This change merely changes the value of the fluence to correctly correspond to the applicability date of the Technical Specification Heatup and Cooldown curves. This change has no impact on any consequences or accidents previously analyzed and, therefore, does not increase the probability or consequence of a previously evaluated accident.

(b) Create the possibility of a new or different kind of accident from any accident previously evaluated. It has been determined that a new or different type of accident is not created because no new or different modes of operation are proposed for the plant. The continued use of the same Technical Specification administrative controls prevents the possibility of a new or different kind of accident.

(c) Involve a significant reduction in a margin of safety. This change is only updating the value of the fluence to correctly correspond to 14 EFPY. Therefore, this change will not cause any reduction in the margin of safety.

(5) Revise Figure 2-3, Predicted Radiation Induced NDTT Shift. With regard to the three standards, the licensee states that operation of the facility in accordance with this amendment would not:

(a) Involve a significant increase in the probability or consequence of an accident previously evaluated. This change merely updated Figure 2-3 to be in accordance with the current Regulatory Guide 1.99, Revision 2, as required by Generic Letter 88-11. This figure has no impact on any accident previously analyzed and, therefore, will not increase the probability or consequence of an accident previously analyzed.

(b) Create the possibility of a new or different kind of accident from any accident previously evaluated. It has been determined that a new or different type of accident is not created because no new or different modes of operation are proposed for the plant. The continued use of the same Technical Specification administrative controls prevents the possibility of a new or different kind of accident.

(c) Involve a significant reduction in a margin of safety. Figure 2-3 only shows the shift in RT_{NDT} over vessel life and this shift is used to adjust the Heatup and Cooldown curves so that the same margin of safety is always maintained. Therefore, this change will not reduce the margin of safety.

(6) Change the references in TS 3.6 from "FSAR" to "USAR" and adding an additional reference of USAR Section 14.15. With regard to the three standards, the licensee states that operation of the facility in accordance with this amendment would not:

(a) Involve a significant increase in the probability or consequences of an accident previously evaluated. This change merely allows the Technical Specifications to reference the proper updated document with no changes in administrative specifications. Therefore, this change does not increase the probability or consequence of a previously evaluated accident.

(b) Create the possibility of a new or different kind of accident from any accident previously evaluated. It has been determined that a new or different kind of accident is not created because no new or different modes of operation are proposed for the plant. The continued use of the same Technical Specification administrative controls prevents the possibility of a new or different kind of accident.

(c) Involve a significant reduction in a margin of safety. Administrative specifications involving the referencing of the USAR will not reduce the margin of safety.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the analysis. Accordingly, the staff proposes to determine that the proposed changes to the Technical Specifications do not involve a significant hazards consideration.

Local Public Document Room location: W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102

Attorney for licensee: LeBoeuf, Lamb, Leiby, and MacRae, 1333 New Hampshire Avenue, NW., Washington, DC 20036

NRC Project Director: Jose A. Calvo

Pacific Gas and Electric Company, Docket Nos. 50-275 and 50-323, Diablo Canyon Power Plant, Unit Nos. 1 and 2, San Luis Obispo County, California

Date of amendment request: November 29, 1988 (Reference LAR 88-08)

Description of amendment request: The proposed amendment would revise the combined Technical Specifications (TS) for the Diablo Canyon Power Plant (DCPP) Unit Nos. 1 and 2 to permit core reload and operation with Westinghouse 17x17 VANTAGE 5 fuel assemblies. Both units are presently operating with Westinghouse 17x17 low-parasitic (LOPAR) fuel assemblies. The transition from a complete LOPAR core to a complete VANTAGE 5 core will be accomplished over three cycles in each unit. The proposed revisions to the Technical Specifications support operation with each of the transition cores and all subsequent cores using only VANTAGE 5 fuel.

Design features of the VANTAGE 5 fuel include integral fuel burnable absorbers, intermediate flow mixers, reconstitutible top nozzles, axial blankets, optimized fuel rod diameter, and extended burnup capability. Changes to the Technical Specifications are required due to the use of VANTAGE 5 fuel and use of the following analytical methods and assumptions:

(1) The Improved Thermal Design Procedure

(2) The WRB-1 and WRB-2 departure from nucleate boiling (DNB) correlations;

(3) Large break loss-of-coolant accident (LOCA) analyses using the 1981 evaluation model and the BASH model;

(4) Small break LOCA analyses using the NOTRUMP model; and

(5) $F_Q(z)$ surveillance.

As a result of the above, changes to the following Technical Specifications are proposed:

(1) Core Safety Limits (TS 2.1.1, Figures 2.2-1a and 2.2-1b);

(2) Reactor Coolant Flow Trip Setpoint and Allowable Values (TS 2.2.1, Table 2.2-1);

(3) Overtemperature delta T and Overpower delta T Reactor Trip Setpoints (TS 2.2.1, Table 2.2-1);

(4) DNB Correlations, DNBR Limits, Power Range Neutron Flux High Rate, and F delta H Limit Uncertainties (Bases 2.1.1);

(5) Rod Drop Time (TS 3.1.3.4);

(6) Axial Flux Difference (TS 3/4.2.1);

(7) Heat Flux Hot Channel Factor - $F_Q(Z)$ (TS 3/4.2.2, Bases 3/4.2.2);

(8) Reactor Coolant System Flow Rate and Nuclear Enthalpy Rise Hot Channel Factor (TS 3/4.2.3, Figures 3.2-3a and 3.2-3c);

(9) DNB Parameters (TS 3/4.2.5, Table 3.2-1, Bases 3/4.2.5);

(10) Engineered Safety Features Actuation System Instrumentation Trip Setpoints (TS 3/4.3.2, Table 3.3-4);

(11) Group Height, Insertion, and Power Distribution Limits (TS 3/4.10.2); and

(12) Radial Peaking Factor Limit Report (TS 6.9.1.8).

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a e.g., no 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, in its submittal of November 29, 1988, evaluated the proposed changes against the significant hazards criteria of 10 CFR 50.92 and against the Commission guidance concerning application of this standard. Based on the evaluation given below, the licensee has concluded that the proposed changes do not involve a significant hazards consideration. The licensee's evaluation is as follows:

a. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The VANTAGE 5 fuel assemblies are mechanically and hydraulically compatible with the current LOPAR fuel assemblies, control rods, and reactor internals interfaces. Also, implementation of VANTAGE 5 fuel does not cause a significant change in the physics characteristics of the DCPP Units 1 and 2 cores beyond the normal range of variation seen from cycle to cycle. The proposed changes have been assessed from a core design and safety analysis standpoint. No increase in the probability of occurrence of any accident was identified. Extensive reanalyses were undertaken to demonstrate compliance with the revised DCPP Technical Specifications. The methods used to perform the analyses have been previously approved by the NRC. The results, which include transition core effects, show changes in consequences of accidents previously evaluated. However, the results are all clearly within NRC acceptance criteria and demonstrate the plant's capability to operate safely.

Seismic and LOCA structural integrity analyses were performed for homogeneous and transition cores of VANTAGE 5 fuel. The use of VANTAGE 5 fuel does not affect the probability of a seismic or LOCA event. For a homogeneous core of VANTAGE 5 fuel, the combined forces of a seismic and LOCA event do not result in grid deformation and the peak cladding temperature (PCT) is less than the 10 CFR 50.46 limit. Limited grid deformation is predicted in the peripheral fuel assemblies for the limiting combined loads from LOCA and seismic forces in transition cores. A coolable geometry analysis was performed and the PCT limit was met. For transition cores, the analyses show changes in the consequences of accidents previously evaluated. However, the results are all clearly within NRC acceptance criteria. The spent fuel pool high density racks were evaluated for storage of VANTAGE 5 fuel. The evaluation determined that the storage of VANTAGE 5 fuel does not affect the conclusions in PG&E'S LAR 85-13 (DCL-85-333, dated October 30, 1985) and all supporting documentation regarding reracking of the spent fuel pools at Diablo Canyon Units 1 and 2. The radiological consequences of previously analyzed accidents were reviewed for transition to VANTAGE 5 fuel. All offsite doses remain less than 10 CFR 100 values.

Therefore, the proposed amendment does not result in an increase in the probabilities or consequences of a previously evaluated accident.

b. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed changes do not significantly affect the overall method and manner of DCPP operation and can be accommodated without compromising the performance or qualification of safety-related equipment.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

c. Does the change involve a significant reduction in the margin of safety?

The evaluations and analyses to support the Technical Specification changes and operation of DCPP Units 1 and 2 with VANTAGE 5 fuel show some changes in the consequences of previously analyzed accidents. In some cases, an increase in event consequences occurs. However, in all cases the results of the changes are clearly within all plant design and NRC safety acceptance criteria.

Therefore, the proposed amendment does not significantly reduce the margin of safety.

The NRC staff has reviewed the licensee's no significant hazards consideration determination. The staff has concluded that while the margins may be reduced and event consequences may be increased, these impacts are not significant because: (1) the core reload uses VANTAGE 5 fuel which is not significantly different from previous cores at the Diablo Canyon Power Plant; (2) the changes to the Technical Specifications result from the core reload and not from any significant change made to the acceptance criteria for Technical Specifications; and (3) the analytical methods used in the required reload analysis have been previously found acceptable by the NRC. Therefore, the staff agrees with the conclusion of the licensee's determination. Accordingly, the Commission proposes to determine that these changes do not involve a significant hazards consideration.

Local Public Document Room location: California Polytechnic State University Library, Government Documents and Maps Department, San Luis Obispo, California 93407

Attorneys for licensee: Richard R. Locke, Esq., Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120 and Bruce Norton, Esq., c/o Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120.

NRC Project Director: George W. Knighton

Philadelphia Electric Company, Docket No. 50-352, Limerick Generating Station, Unit 1, Montgomery County, Pennsylvania

Date of amendment request: September 14, 1988

Description of amendment request: The proposed amendment would change the Limerick Unit 1 Technical Specifications (TSs) to increase the minimum level of water that must be maintained in the spray pond.

Basis for proposed no significant hazards consideration determination: At the Limerick site, there is a large spray pond located just north of the two cooling towers on the hill above the plant. The spray pond is the ultimate heat sink (UHS) for the plant. The spray pond serves the safety-related functions of providing cooling water, and acting as a heat sink for the Emergency Service Water (ESW) system and the Residual Heat Removal Service Water (RHRSW) system during accident conditions. The UHS is designed to provide sufficient cooling water to the ESW and RHRSW systems, permitting simultaneous safe shutdown and cooldown of both units, and maintaining them in a safe shutdown condition. Further system description, design and operation information can be found in the Limerick Generating Station Final Safety Analysis Report (FSAR) Section 9.2.6.

For two-unit operation, the minimum volume of water which must be maintained in the spray pond is 28.92 x 10^6 gallons. Given the size and shape of the spray pond, this volume of water will be available if the water level is maintained at 250'10" (above mean sea

level). The analysis supporting 250'10" is presented in FSAR Section 9.2.6 and demonstrates the ability of the spray pond to provide a 30-day cooling supply below the maximum pond temperature limit without make-up or blowdown, considering the design basis heat input and meteorological conditions. The NRC approval of the spray pond is set forth in SER Section 9.2.5 (NUREG 0991) and Supplements 3 and 4. For one-unit operation, the TS limit was set to 250'0", a value lower than what is required for two-unit operation to avoid the unnecessary operating restrictions which may result from having to maintain an excess spray pond volume. Construction of Limerick Unit 2 is nearing completion. Once Unit 2 is operating, the minimum water level that must be maintained in the spray pond has to be increased to the level approved for two-unit operation. The change to the TSs proposed by the licensee is to increase the minimum water level in the TSs from the present 250'0" to 250'10". This change would not be required and thus, would not go into effect until Limerick Unit 2 is issued an operating license.

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.

In the application of September 14, 1988, the licensee has determined that the requested amendment does not involve a significant hazards consideration for the following reasons:

(1) The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Raising the minimum level to 250'10" is within the bounding conditions for the accident/design analysis referred to in FSAR section 9.2.6 and accepted by the NRC in section 9.2.5 of the Safety Evaluation Report (SER) and Supplements 3 and 4 for the Limerick Generating Station. The requirement to provide a 30 day cooling supply for two unit operation while complying with all the design requirements of the Standard Review Plan (as discussed in SER Section 9.2.5 and Supplements 3 and 4) is provided by raising the minimum level to 250'10". The cooling supply is designed to accommodate:

i) single unit LOCA and safe shutdown of the other unit,

ii) safe shutdown of both units.

The design basis accident analyses described in FSAR Chapter 15 are unaffected: therefore there is no significant increase in the probability or consequences of an accident previously evaluated.

(2) The proposed change does not change or create the possibility of a new or different kind of accident previously evaluated.

As discussed in criterion one, the requested change provides spray pond level requirements within the scope of the accepted FSAR analysis. Therefore, the proposed change does not create the possibility of a new or different kind of accident previously evaluated.

(3) The proposed change does not involve a significant reduction in a margin of safety.

The proposed change raises the minimum spray pond level to provide a margin of safety consistent with that previously approved for two-unit operation in Section 9.2.5 of the LGS SER and Supplements 3 and 4 and is detailed in FSAR section 9.2.6. A spray pond level of 250'10" will provide a 30 day cooling supply for two unit operation while complying with the design requirements of the Standard Review Plan (as discussed in SER 9.2.5 and Supplements thereto). The current specification provides the cooling supply for a single unit only. Design requirements are identical for the current Specification and the proposed Specification so that there is no reduction in a margin of safety.

The staff has reviewed the licensee's submittal and significant hazards analysis and concurs with the licensee's determination as to whether the proposed amendment involves a significant hazards consideration. Therefore, the staff proposes to determine that the proposed amendment involves no significant hazards consideration.

Local Public Document Room location: Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

Attorney for licensee: Conner and Wetterhahn, 1747 Pennsylvania Avenue, NW., Washington, DC 20006

NRC Project Director: Walter R. Butler

Philadelphia Electric Company, Docket No. 50-352, Limerick Generating Station, Unit 1, Montgomery County, Pennsylvania

Date of amendment request: January 23, 1989

Description of amendment request: The proposed amendment would revise the Technical Specifications (TSs) to permit the use of filters with an increased pore size when periodically testing the amount of particulate contamination in the diesel generator fuel oil.

The Limerick plant has eight emergency diesel generators (EDGs). Each EDG is provided with an independent fuel oil system. Each fuel oil system provides fuel oil to diesel engine fuel injectors and consists of a fuel oil storage tank, a fuel oil transfer pump, a day tank, an engine-driven fuel pump, a dc motor-driven auxiliary fuel pump, and associated piping, valves, strainers, filters and instrumentation. The fuel oil transfer pumps are equipped with a suction strainer to prevent the entrance of any large particles or debris. Any particulates passing through the fuel oil transfer pump would be trapped by the strainers and filters located between the fuel oil transfer pump discharge and the diesel engine. Basket strainers are located on the fuel oil day tank supply piping and one on the suction of both the engine-driven fuel oil pump and the dc motor-driven fuel oil pump. Line filters are located on the discharge of both of these pumps to provide fine filtration of the fuel oil immediately prior to admission to the injectors.

The licensee proposes to revise the TSs to increase the pore size of the filters (from 0.8 to 3.0 microns) which are used during the performance of the surveillance test which determines the level of EDG fuel oil particulate contamination. Testing for particulates in diesel-generator fuel oil is performed as required by TS Surveillance Requirement section 4.8.1.1.2. This test utilizes the process described in ASTM D2276-78, "Standard Test Methods for Particulate Contamination in Aviation Turbine Fuels". The basis of this surveillance process is that when a known amount of fuel oil is passed through a filter of known weight, particulates larger than the filter pore size will not pass through the filter. The filter is then dried and reweighed to determine the mass of the trapped particulates. The mass of particulates per unit volume of fuel oil is verified to be within the acceptance criteria of 10mg/liter. This proposed TS change does not involve a change to the 10mg/liter limit; it only will change the filter pore size. The test does, however, provide an indication of fuel oil quality by providing information on the quantity of particulates which are larger than the test filter pore size that is present in the fuel oil. This test is only one of many surveillance tests which determine EDG fuel oil acceptability at Limerick.

The current filter pore size used in the surveillance test, as specified in ASTM D2276-78, is 0.8 microns. The proposed TS change would increase the filter pore size used during the surveillance test from 0.8 microns to 3 microns. This proposed change would prevent the entrapment of particulates in the size

range of 0.8 to 3.0 microns during surveillance testing. Entrapment of particulates in this size range is unnecessary as the in-line filters, which are the final step in the fuel oil filtration process before entering the engines, only trap particulates above 3-5 microns in diameter.

The proposed change has been previously reviewed and approved by the NRC for Peach Bottom Atomic Power Station Units 2 and 3 on May 31, 1988. (See Amendment Nos. 131 and 134 to Facility Operating License Nos. DPR-44 and DPR-56, Docket Nos. 50-277 and 50-278).

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 the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated, (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety.

The licensee addressed the above three standards in the amendment application as follows:

1. The proposed change to the diesel fuel oil surveillance test does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change will not result in an increase in the quantity of particulates larger than 3.0 microns. The possible consequences of implementing the proposed change could be an increase in the concentration of particulates in the 0.8 to 3.0 micron size range. Although particulates smaller than 3.0 microns will pass through the in-line fuel filtering system there will be no adverse consequences on the operability of the EDGs. Accordingly, this change will not result in any increase in the probability of any accident previously evaluated in Chapter 15, "Safety Analysis" of the Limerick Generating Station FSAR. Therefore, the proposed increase in the test filter pore size does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed change to the diesel fuel oil surveillance test does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change is limited to the test filter pore size for determining the level of particulate contamination of the EDG fuel oil. This change will not affect the operability of the EDGs. The presence of particulates below the size of 3.0 microns are of no consequence in the operation of the EDG as confirmed by the EDG manufacturer. Since the proposed change only affects the concentration of particulates in the 0.8 to 3.0 micron size range, the proposed increase in the test filter pore size does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change to the diesel fuel oil surveillance test does not involve a significant reduction in the margin of safety.

The proposed change does not result in an increased concentration of particulates larger than 3.0 microns. The only particulate sizes which can be affected by this proposed change are those smaller than 3.0 microns. These size particulates will pass through the in-line filters but will not affect EDG operability; therefore, there is no significant reduction in the margin of safety.

The staff has reviewed the licensee's submittal and significant hazards analysis and concurs with the licensee's determination as to whether the proposed amendment involves a significant hazards consideration. Therefore, the staff proposes to determine that the proposed amendment involves no significant hazards consideration.

Local Public Document Room location: Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

Attorney for licensee: Conner and Wetterhahn, 1747 Pennsylvania Avenue, NW., Washington, DC 20006

NRC Project Director: Walter R. Butler

Philadelphia Electric Company, Docket No. 50-352, Limerick Generating Station, Unit 1, Montgomery County, Pennsylvania

Date of amendment request: January 27, 1989

Description of amendment request: The submittal requests changes to the Technical Specifications (TSs) to accommodate the second refueling of the reactor with new, previously irradiated and reconstituted fuel bundles. Limerick Unit 1 shutdown on January 11, 1989 for the second refueling outage. Starting in late March 1988, the facility experienced an increasing number of fuel failures which caused gradual power reductions to limit offgas releases. At the time of shutdown, the plant was operating at 41 percent rated power. The number of failed fuel rods will not be known until the fuel is inspected and sipped. Prior to the fuel failures, the licensee had planned to replace 224 of the original cycle 1 fuel assemblies for cycle 3 operation, compared to the 268 fuel assemblies that were replaced during the first reload in the summer of 1987. All of these new fuel assemblies contain four rather than two water rods. Because of the fuel failures and to reduce the potential for failures in the next cycle, the licensee is going to load 40 new, lower enriched (1.63 percent) fuel assemblies from Limerick 2 in the interior of the core. The licensee is also planning to fully reconstitute 84 of the initial bundles that were removed during the first refueling, replacing all non-heat treated pins with heat treated pins from donor bundles after verifying the heat treated pins via visual inspections. The licensee is also planning to reinsert 148 fuel assemblies that were removed during the first refueling and are now in the spent fuel pool. These have been inspected for oxide deposition and will be located toward the edge of the core. All of the irradiated fuel will have been visually inspected for oxide deposition and have been sipped to detect failed fuel pins prior to use in cycle 3. None of the initial cycle 1 fuel assemblies that are presently in the core will be used in cycle 3. To account for the above arrangement, the licensee has submitted a bounding reload analysis for cycle 3. The proposed changes to the TSs being requested are to specify the operating limits for all fuel types discussed above for Cycle 3 operation. Other changes to the TSs proposed by the licensee are revisions to permit use of hybrid hafnium control blade assemblies. In Amendment No. 7 to the Limerick Unit 1 license approving the first reload, the rod block monitor (RBM) setpoint was increased from 106 to 107 percent. The licensee proposes in this reload application to reduce the RBM setpoint back to 106 percent to reduce the delta critical power ratio associated with a postulated rod withdrawal error.

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 proposed changes to the TSs consist of five items as discussed above (identified as A through E below). In their January 27, 1989 letter, the licensee provided a separate analysis and discussion of each item as follows

supporting a finding of no significant hazards consideration determination:

A. New Fuel MAPLHGRs

i) The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

10CFR50.46 establishes acceptance criteria for fuel and Emergency Core Cooling Systems (ECCS). MAPLHGR limits are established to ensure that the acceptance criteria are met.

This change provides MAPLHGR limits for the BC318A and BC322A (GE8x8EB) fuel assemblies. The MAPLHGRs have been calculated using NRC approved methods, and the results of the analysis (General Electric Company Document NEDE-31401-P) demonstrate that the acceptance criteria of 10CFR50.46 are met with substantial margin. This change, therefore, does not increase the probability or consequences of an accident previously evaluated (i.e. Loss of Coolant Accident, LOCA).

ii) The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Because MAPLHGR limits can not initiate an accident, and imposing the limits does not require any changes to the current mode of operation, this change does not create the possibility of a new or different kind of accident than previously evaluated.

iii) The proposed change does not involve a significant reduction in a margin of safety.

The acceptance criteria of 10CFR50.46 establish the margins of safety for fuel and the ECCS. Calculations using NRC approved methods yield results well within these acceptance criteria. The maximum Peak Cladding Temperature (PCT) for the BC318A and BC322A fuel assemblies is 2074 degrees F, providing 126 degrees F margin to the 2200 degrees F limit. The maximum PCT in previous cycles was 2090 degrees F for BP8x8R fuel providing a margin of 110 degrees F to the 2200 degrees F limit. Therefore, the proposed change does not result in a reduction in the margin of safety.

B. Reconstituted Fuel MAPLHGRs

i) The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

10CFR50.46 establishes acceptance criteria for fuel and ECCS. MAPLHGR limits are established to ensure that the acceptance criteria are met. This change provides MAPLHGR limits for the BPCRB248A (BP8x8R) fuel assembly. This fuel assembly is a reconstituted initial core fuel assembly in which up to four original irradiated gadolinia fuel rods are replaced with fresh natural uranium fuel rods. Natural uranium fuel rods are a normal, approved component of BP8x8R fuel assemblies. Bounding MAPLHGRs for this fuel assembly, assuming all four gadolinia fuel rods are replaced with natural uranium fuel rods, have been calculated using NRC approved methods, and the results of the analysis (General Electric Company Document NEDE-31401-P) demonstrate that the acceptance criteria of 10CFR50.46 are met with substantial margin. This change, therefore, does not increase the probability or consequences of an accident previously evaluated (i.e., LOCA).

ii) The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Reconstitution of this fuel assembly results in an additional variant of the BP8x8R fuel type which requires a new analysis to determine MAPLHGR limits. Because MAPLHGR limits can not initiate an accident, and imposing the limits does not require any changes to the current mode of operation, this change does not create the possibility of a new or different kind of accident than previously evaluated.

iii) The proposed changes do not involve a significant reduction in a margin of safety.

The acceptance criteria of 10CFR50.46 establish the margins of safety for fuel and the ECCS. Calculations using the NRC approved methods yield results well within these acceptance criteria. The maximum PCT of the original fuel assembly is 2090 degrees F, providing 110 degrees F margin to the 2200 degrees F limit. Reconstitution of the fuel assembly results in a maximum PCT less than 2090 degrees F. Therefore, the proposed change does not result in a reduction in the margin of safety.

C. New Operating Limit MCPRs

i) The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The operating limit MCPR is set such that the safety limit MCPR cannot be violated in the unlikely event of an Anticipated Operational Occurrence (AOO). The operating limit MCPR is determined by adding the delta-CPR for the worst AOO to the safety limit MCPR. The AOO delta-CPR is calculated using NRC approved methods described in General Electric Document NEDE-24011-P-A-9.

The limiting AOOs have been re-evaluated in detail for standard conditions: generator load rejection with bypass failure, inadvertent High Pressure Coolant Injection (HPCI) activation, and feedwater controller failure. The limiting AOO, feedwater controller failure, was re-evaluated in detail for operation in the Extended Load Line Limit analysis region, and for operation at Increased Core Flow with or without Final Feedwater Temperature Reduction.

The Cycle 3 operating limits are based on the results given in General Electric Document No. 23A5926. Operation above these limits means that no fuel damage is calculated to occur in the event of an AOO. Since the Cycle 3 operating limits accomplish the same purpose as the previous limits, this change does not increase the probability or consequences of an accident previously evaluated.

ii) The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The operating limit MCPR is not the initiating event of any accident and it does not require a change in the current mode of operation, so the possibility of a new or different kind of accident than previously evaluated is not created.

iii) The proposed change does not involve a significant reduction in a margin of safety.

The operating limit MCPR is set to prevent calculated fuel damage during the worst AOO. The delta-CPR for the worst AOO is determined using NRC approved methods and procedures described in General Electric Document NEDE-24011-P-A-9.

Margin is included in the delta-CPR for the worst AOO by assuming conservative input parameters and by conservatively treating uncertainties. Margin is also included in the determination of the safety limit MCPR.

Changing the operating limit MCPR does not reduce the margin of safety included in the delta-CPR and safety limit MCPR calculations.

D. Change In RBM Setpoint

i) The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The purpose of the Rod Block Monitor (RBM) is to prevent withdrawal of a control rod to the point where fuel damage is expected to occur. Evaluations have been performed using NRC approved procedures and methods (General Electric Document NEDE-24011-P-9) to demonstrate the adequacy of the RBM setpoint. The results of this evaluation are provided in General Electric Document No. 23A5926.

The delta-CPR associated with withdrawing the maximum reactivity control rod during a Rod Withdrawal Error, to various RBM setpoints is determined. The MCPR limit for this event is determined by adding the delta-CPR at the setpoint of interest (106%) to the safety limit MCPR. Operation of the plant above the MCPR limit means that, in the unlikely event of a rod withdrawal to its maximum allowed by the RBM setpoint, fuel damage will not be calculated to occur.

The operating limits for Cycle 3 (justified in General Electric Document No. 23A5926) preclude the possibility of calculated fuel damage during all AOOs, including Rod Withdrawal Error with a RBM setpoint of 106%. Therefore, this change does not increase the probability or consequences of an accident previously evaluated.

ii) The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Adjusting the RBM setpoint impacts only the Rod Withdrawal Error, which is analyzed in General Electric Document No. 23A5926, so the possibility of a new or different kind of accident is not created.

iii) The proposed change does not involve a significant reduction in a margin of safety.

The delta-CPR for rod withdrawal to the RBM setpoint of 106% is calculated using NRC approved procedures and methods (General Electric Document NEDE-24011-P-A-9). Margin is included in the delta-CPR by the conservative manner in which it is calculated. Margin is also included in the determination of the safety limit MCPR. Changing the RBM setpoint does not reduce the margin of safety included in these calculations. The Rod Withdrawal Error AOO is bounded by the feedwater controller failure as shown in General Electric Document No. 23A5926.

E. Design Features

i) The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

This administrative change is proposed to permit the use of new, improved fuel assemblies and control blade assemblies. These fuel assemblies and control blade assemblies have been previously approved by the NRC. Therefore, this change does not increase the probability or consequences of an accident previously evaluated.

ii) The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

This change permits use of fuel assemblies and control blade assemblies that have been previously approved as direct replacements for original equipment. Therefore, the possibility of a new or different kind of accident is not created.

ii) The proposed change does not involve a significant reduction in a margin of safety.

Since this change permits use of fuel assemblies and control blade assemblies that have been approved as direct replacements for previously installed fuel and control blade assemblies, it will not involve a significant reduction in a margin of safety.

The staff has reviewed the licensee's submittal and significant hazards analysis and concurs with the licensee's determination as to whether the proposed amendment involves a significant hazards consideration. Therefore, the staff proposes to determine that the proposed amendment involves no significant hazards consideration.

Local Public Document Room location: Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

Attorney for licensee: Conner and Wetterhahn, 1747 Pennsylvania Avenue, NW., Washington, DC 20006

NRC Project Director: Walter R. Butler

Public Service Company of Colorado, Docket No. 50-267, Fort St. Vrain Nuclear Generating Station, Weld County, Colorado

Date of amendment request: January 13, 1989

Description of amendment request: This amendment request results from the licensee's need to have a 500 curie source of cesium-137 on site to perform calibration of a high range detection instrumentation. Amendment 41 to the Fort St. Vrain Technical Specifications directed Public Service Company of Colorado to, at a future time, replace the listing of specific isotopes with a statement similar to that now requested in 2.c. The current Radiological control Program maintains adequate control of the use and storage of calibration sources. This will serve to place the Fort St. Vrain License in a format more similar to the recently issued Licenses. This amendment request supersedes the request dated September 23, 1988 and noticed in the **Federal Register** on November 16, 1988 at 53 FR 46154. The changes reflect a letter from the NRC to the licensee dated November 18, 1988.

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. involve a significant increase in the probability or consequences of an accident previously evaluated. The use of sources for calibration purposes does not effect the design or function of any plant system/component. The updating of this license condition to not specify individual isotopes will allow more flexibility, and is being done based on an NRC recommendation.

2. create the possibility of a new or different kind of accident from any accident previously evaluated. The calibration of detection instrumentation does not create the possibility of any accident different from those already analyzed. Non-specific designation of the calibration sources will not create any new failure modes.

3. involve a significant reduction in a margin of safety. The current radiological control program provides adequate control over the use and storage of calibration sources, as stated in the Safety Evaluation by the Nuclear Regulatory Commission related to Amendment No. 41 to Facility Operating License DPR-34.

The staff has reviewed the licensee's no significant hazards consideration determination. Based on the review and the above discussions, the staff proposes to determine that the proposed changes do not involve significant hazards considerations.

Local Public Document Room location: Greeley Public Library, City Complex Building, Greeley, Colorado

Attorney for licensee: J. K. Tarpey, Public Service Company Building, Room 900, 550 15th Street, Denver, Colorado 80202

NRC Project Director: Jose A. Calvo

Public Service Electric & Gas Company, Docket Nos. 50-272 and 50-311, Salem Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of amendment request: October 29, 1987

Description of amendment request: These proposed amendments to Salem Unit 1 and Salem Unit 2 Technical Specifications will add Reactor Vessel Level Instrumentation System (RVLIS) to Tables 3.3-11 and 4.3-11, and Table Notation pages associated with Specification 3.3.3.7, Accident Monitoring Instrumentation. Also, Tables 3.3-11a and 3.3-11b in the Salem Unit 1 Technical Specifications have been combined into a single Table (3.3-11). The Total Number of Channels column has been omitted from Table 3.3-11 in both Salem 1 and Salem 2 Technical Specifications.

Basis for proposed no significant hazards consideration determination: These proposed changes will add specifications for instrumentation dealing with inadequate core cooling. These specifications will provide assurance that the Reactor Vessel Level Instrumentation System (RVLIS) equipment installed at Salem 1 and Salem 2 is operated and maintained within acceptable limits. These proposed changes are in response to NUREG-0737, Clarification of TMI Action Plan Requirements; guidance provided in Generic Letter 83-37, NUREG-0737 Technical Specifications; and an additional request, by letter from the NRC dated November 17, 1983, for Technical Specifications for Inadequate Core Cooling instrumentation.

The RVLIS equipment has been installed on the Salem units in response to NUREG-0737. The Westinghouse designed system was approved by NRC and the installation of the system subjected to a 10 CFR 50.59 Safety Evaluation. The RVLIS is an informational system with no control functions performed by the system. RVLIS neither replaces nor couples with any existing safety system. The RVLIS adds to the information available to the control room operator during normal and post-accident conditions, thereby providing an additional measure of safety.

The combining of the two tables in the Salem 1 Technical Specifications and the deletion of the Total Number of Channels column from the Salem 1 and Salem 2 Technical Specifications are administrative in that there are no changes in any requirements.

The Commission has provided guidance concerning the application of

its standards set forth in 10 CFR 50.92 by providing certain examples (51 FR 7751). One of the examples, (ii), of an amendment relates to "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 addition of RVLIS technical specifications relates to this example because it would impose limits on a new system.

A second example (i) of an amendment relates to "A purely administrative change to technical specifications: for example, a change to achieve consistency throughout the technical specifications, correction of an error, or a change in nomenclature." The combining of the two tables in the Salem Unit 1 Technical Specifications and the deletion of the Total Number of Channels column from the Salem 1 and Salem 2 Technical Specifications relate to this example because there are no changes in any requirements.

Based on the above discussion of the proposed changes, the staff proposes to determine that the requested amendments do not involve a significant hazards consideration.

Local Public Document Room location: Salem Free Public library, 112 West Broadway, Salem, New Jersey 08079

Attorney for licensee: Mark J. Wetterhahn, Esquire, Conner and Wetterhahn, Suite 1050, 1747 Pennsylvania Avenue, NW., Washington, DC 20006

NRC Project Director: Walter R. Butler

Public Service Electric & Gas Company, Docket Nos. 50-272 and 50-311, Salem Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of amendment request: September 12, 1988

Description of amendment request: The proposed amendments would add to the Salem Unit 1 and Salem Unit 2 Technical Specifications the requirements for the reactor vessel head vents as requested in Generic Letter 83-37 and Item II.B.1 of NUREG-0737, "Clarification of TMI Action Plan Requirements." A Limiting Condition for Operation would be added to require at least one reactor vessel head vent path to be operable with the valves closed. An Action Statement would be added that allows the vent path to be inoperable for up to 30 days. Surveillance requirements are added that demonstrate the operability of the vent path every 18 months by verifying manual valve positions, cycling the valves and verifying flow through the vent lines. The bases for the Reactor Vessel Head Vents are also added.

Basis for proposed no significant hazards consideration determination: This change was submitted to comply with Item II.B.1 of NUREG-0737, Clarification of TMI Action Plan Requirements; and Generic Letter 83-37, NUREG-0737 Technical Specifications, for the Reactor Vessel Head Vent System technical specifications. The specific plant design for the reactor vessel head vents was previously reviewed and approved by the NRC.

The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has analyzed the proposed amendment to determine if a significant hazards consideration exists:

Operation of Reactor Vessel Head Vent System in accordance with the proposed Technical Specification change does not involve a significant hazards consideration.

a. The probability of occurrence or the consequences of an accident or malfunction of equipment important to safety previously evaluated in the safety analysis report will not be significantly increased.

The proposed change requires that a Reactor Vessel Head Vent path be operable with the valves shut when the reactor is in Mode 1-4.

A positive indication of the valve position is provided in the control room. The probability of the vent path failing to close, once opened, is minimized by design in circuitry that a single failure within the power and control aspects will not prevent reclosure and isolation of the head vent system when required. Head vents are normally closed. Opening of the Reactor Head Vents is expected only during accident response to vent non-condensible from the RCS or venting the reactor during startup. The size of the vent is designed to vent a volume equal to one half the RCS volume in one hour. However, a flow restricting orifice limits the flow from a pipe rupture or inadvertent opening to less than capability of the reactor coolant makeup system. Therefore, even if the vent path leaked or was opened at power, and no mitigating actions were taken, flow through the line would be within the normal capacity of the charging system. This will minimize the challenges to the emergency core cooling system (ECCS) since the leakage or inadvertent opening of the vent would not require ECCS actuation.

The Salem Technical Specifications do not currently address the operability of the Reactor Vessel Head Vent. Inclusion of this proposed amendment would impose an additional limitation and more stringent requirements not presently included in the Technical Specifications with respect to the Reactor Vessel Head Vents. This proposed change is comparable to the Technical Specification wording suggested in Generic Letter No. 83-37.

b. The possibility of an accident or malfunction of a different type than any evaluated previously in the safety analysis will not be created. This assessment was made by the Commission on a generic basis during their consideration of the requirements for reactor head vents.

The Reactor Vessel Head Vent system conforms to the requirements of Appendices A and B of 10CFR50. The system does not change plant operation to create a different type of accident. The head vent system will be remotely operable from the control room and will not aggravate the challenge to containment during the course of any accident.

c. The margin of safety as defined in the basis for any Technical Specification is not reduced.

This proposed change will both ensure the availability of the Reactor Vessel Head Vents and maintain the capability to ensure reactor coolant pressure boundary integrity in the event of inoperability of PORVs. An operable Reactor Vessel Head Vent system allows for more effective mitigation of postulated accidents in which non-condensible gases might accumulate in the reactor vessel. The system is designed to ensure a low probability of inadvertent or irreversible actuation and a high probability of operating when needed.

The staff has reviewed the licensee's submittal and significant hazards analysis and concurs with the licensee's determination that the proposed amendment does not involve a significant hazards consideration. Therefore, the staff proposes to determine that the proposed amendment involves no significant hazards consideration.

Local Public Document Room location: Salem Free Public library, 112 West Broadway, Salem, New Jersey 08079

Attorney for licensee: Mark J. Wetterhahn, Esquire, Conner and Wetterhahn, Suite 1050, 1747 Pennsylvania Avenue, NW., Washington, DC 20006

NRC Project Director: Walter R. Butler

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 31, 1989 (TS 89-15)

Description of amendment requests: The Tennessee Valley Authority (TVA) has proposed to modify Section 3.1.3, Movable Control Assemblies, of the Sequoyah, Units 1 and 2 Technical Specifications (TS). The proposed changes would revise the limiting conditions for operation (LCO) 3.1.3.4 and 3.1.3.5 and the Figure 3.1-1 to define the fully withdrawn condition for shutdown and control rod banks as a position within the interval of equal to or greater than 222 steps withdrawn and of equal to or less than 231 steps withdrawn. TVA also proposed adding a section in the Bases of the TS to define the fully withdrawn condition for shutdown and control rod banks.

Basis for proposed no significant hazards consideration determination: TVA provided the following information on the proposed TS changes in its submittal:

Fretting wear of reactor cluster control assembly (RCCA) rodlets because of flow-induced vibratory contact between the rodlets and guide blocks during long periods of steady state operation has been identified as a potential problem for Westinghouse Electric Corporation pressurized water reactor facilities. This problem was further identified by NRC in IE Information Notice 87-19, which was issued on April 9, 1987. Westinghouse has recommended that RCCAs be axially repositioned to slightly change the position of fully withdrawn RCCAs in order to distribute the wear. IE Information Notice 87-19 indicates that several licensees have been given approval for axial repositioning as a mitigation step for RCCS guide block wear.

Several reports have been received recently that indicate the need for axial repositioning of RCCAs may be greater than previously anticipated. Two reports (non-U.S. plants) indicated that rodlet separation from RCCA has been attributed to guide card wear. Some U.S. plants have reported severe wear, including clad perforation, after two or three cycles of operation.

Changing the technical specifications to define the fully withdrawn position of RCCAs will permit axial repositioning to mitigate guide block wear. This action will improve RCCA reliability and extend the RCCS lifetime.

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 technical specification 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 RCCAs remain engaged in the top of the fuel assembly even if repositioned to the maximum allowed all rods out (ARO) position (step 231). The initial RCCA position does not affect the probability of any accident previously analyzed. The only adverse effects because of repositioning are a slight reduction in shutdown margin and an increase in rod drop time. The assumptions used in the safety analyses are unaffected by the repositioning (i.e., the effects of repositioning are bound by the safety analyses). Therefore, the repositioning will not increase the consequences of a previously evaluated accident.

(2) Create the possibility of a new or different kind of accident from any previously analyzed. The RCCAs are still engaged in the top of the fuel assemblies. Therefore, there are no new mechanisms for impaired rod movement. Repositioning creates no new possibilities of inadvertent positive reactivity additions or insufficient negative reactivity insertions.

(3) Involve a significant reduction in a margin of safety. Repositioning has the potential to reduce control rod worth and increase control rod drop time. At an ARO position of 222 steps, the control rod worth is reduced by 0.12-percent delta rho. However, this penalty is accounted for in the technical specification shutdown margin requirements. At the ARO position of 231 steps, there will be a slight increase in rod drop time (approximately 0.03 second). This increase is small relative to the existing margin (approximately 0.6 second) and would not impact the technical specification requirement of 2.2 seconds. Adequate shutdown margin and rod drop times are verified [in] each cycle of operation. Therefore, there are no reductions in margins [of] safety because of repositioning.

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

Virginia Electric and Power Company, Docket Nos. 50-280 and 50-281, Surry Power Station, Unit Nos. 1 and 2, Surry County, Virginia

Date of amendment request: July 1, 1988

Description of amendment request: The proposed amendments would revise Technical Specifications (TS) 3.1.D.3 and 3.1.D.4 as allowed by NRC Generic Letter 85-19, "Reporting Requirements on Primary Coolant Iodine Spikes." The Generic Letter states that licensees may eliminate the existing requirement to shut down a plant if coolant iodine activity limits are exceeded for 800 hours in a 12-month period. No corresponding shutdown requirement exists in the Surry Technical Specifications. However, TS 3.1.D.3 currently requires that a Special Report be submitted if coolant iodine activity limits are exceeded for 300 hours in a 6-month period. Because the Generic Letter also states that the reporting requirements for iodine spiking can be reduced from a short-term report (i.e., License Event Report or Special Report) to an item which is included in an annual report, TS 3.1.D.3 would be eliminated with the appropriate reporting requirement being fulfilled under TS 6.6.A.3. Because Surry does not submit an annual report, TS 6.6.A.3 would be revised to include the iodine spiking information in the Monthly Operating Report.

In accordance with the Generic Letter, the information regarding fuel burnup by core region would also be deleted from TS 3.1.D.4.

As discussed in the Generic Letter, the quality of nuclear fuel has been greatly improved over the past decade with the result that coolant iodine activity is normally well below the TS limit. In addition, 10 CFR 50.72(b)(1)(ii) requires the licensee to immediately notify the NRC if fuel cladding failures exceed expected values or are caused by unexpected factors. Thus, the 300 hour limit is no longer considered necessary on the basis that proper fuel management and existing reporting requirements should preclude ever approaching the limit.

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 determined and the NRC staff agrees that the proposed amendments will not:

(1) involve a significant increase in the probability or consequence of an accident previously evaluated. The changes involve administrative changes specified in Generic Letter 85-19. The deletion of the requirement to submit a Special Report if the coolant activity limit is exceeded for more than 300 hours in any 6-month period is not considered necessary because of the increased quality of nuclear fuel production and management, and the requirement of 10 CFR 50.72(b)(1)(ii) for immediate notification if fuel clad failures exceed expected values should preclude approaching the limit.

(2) create the possibility of a new or different kind of accident from any accident previously identified. The changes involve administrative changes specified in Generic Letter 85-19. The deletion of the requirement to submit a Special Report if the coolant activity limit is exceeded for more than 300 hours in any 6-month period is not considered necessary because of the increased quality of nuclear fuel production and management, and the requirement of 10 CFR 50.72(b)(1)(ii) for immediate notification if fuel clad failures exceed expected values should preclude approaching the limit.

(3) involve a significant reduction in a margin of safety. The changes involve administrative changes specified in Generic Letter 85-19. The deletion of the requirement to submit a Special Report if the coolant activity limit is exceeded for more than 300 hours in any 6-month period is not considered necessary because of the increased quality of nuclear fuel production and management, and the requirement of 10 CFR 50.72(b)(1)(ii) for immediate notification if fuel clad failures exceed expected values should preclude approaching the limit.

Accordingly, the staff proposes to determine that the proposed changes 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: August 5, 1988, as supplemented by submittal dated January 25, 1989

Description of amendment requests: The proposed Technical Specifications (TS) changes will revise the requirements governing the operability of the Individual Rod Position Indicating System (IRPIS). The basic thrust of the proposed changes is to shift the emphasis from the IRPIS to the demand position indication system (the step counters) for rod group position information during shutdown and certain transient operational modes such as reactor startup. For those conditions where confirmatory information demonstrating rod motion on demand is important, the IRPIS will be available to provide this information. The supplementary submittal of January 25, 1989 clarified the operability requirements of the IRPIS during a reactor startup and power operations.

Surry has experienced operational difficulties with the IRPIS due to system nonlinearities and both transient and steady state temperature sensitivities. The licensee has stated that there are two basic deficiencies in the IRPIS performance. First, the instrumentation readout design is based on the assumption that secondary output voltage is a linear function of rod position. In fact, the steady-state calibration curve is an arc-shaped or even an S-shaped curve. This deviation from linearity is normally absorbed by a 2712 step TS allowance for rod misalignment.

The second drawback is that the instrument response is highly temperature sensitive, and there is a transient (nonequilibrium) temperature response associated not only with Reactor Coolant System (RCS) temperature changes but also with rod motion, leading to inaccuracies with respect to rod position indication. This transient thermal response problem has been characterized as an "overshoot" for most plants. In other words, if a rod is withdrawn, the IRPIS will show greater withdrawal than actual for a period of time, and then as the system returns to thermal equilibrium the indication will settle back to the "true" calibrated value. Similarly, if the rod is inserted, the IRPIS will initially indicate a greater insertion than actual. The "thermal soak" time, or the time for the IRPIS to reach equilibrium following rod motion, is reported to range between 20 and 45 minutes.

To enhance rod position indication accuracy, the licensee has proposed the following changes:

1. The IRPIS operability requirements during shutdown conditions will be removed and replaced by a requirement for a 272 step demand counter accuracy.

2. The incorporation of a "soak time" of up to 1 hour in every 24, below 50% power.

The TS sections that would be revised as a result of the proposed changes are: (1) TS 3.12.C.1 - Inoperable Rod Definition, (2) TS 3.12.E.1 - Rod Position Indication Requirements, (3) TS 3.12.E.2.a - IRPIS Inoperability, and (4) TS Table 4.1-1 - Surveillance Requirements. A discussion will also be added to the Bases section, which will address the "Thermal Soak" allowance for nonequilibrium effects, noting its justification and limitations.

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 determined and the NRC staff agrees with their determination that:

(1) The proposed changes will increase neither the probability of occurrence of any of the UFSAR [Updated Final Safety Analysis Report] accidents nor their potential consequences. The probability of a misaligned rod remaining undetected is exceedingly small, because of the tolerance requirement and the historically excellent performance of the step demand counters, and because of the availability of the IRPIS to verify the occurrence and direction of rod movement upon demand. Further, since the proposed changes shift rod tracking responsibility to the step demand counters when the IRPIS is least reliable, rod control will be more precise and accident probability will if anything be reduced.

Neither will the potential consequences of any postulated accident increase. Peaking factors which occur as a consequence of severely misaligned or dropped rods are verified on a reload basis as not resulting in a violation of any safety limit; the assumed misalignments easily bound any potential misalignment under the proposed Technical Specifications, so that these changes cannot result in an increase in an accident consequence.

(2) No new or unique accident precursors are introduced by the proposed changes since no physical plant changes are involved. The procedural change is a move from less precise plant control to more precise control, without an attendant increase in procedural complexity or a change in hardware. Thus, the possibility of an accident of a type different from those already considered in the UFSAR is not created.

(3) The margin of safety is not reduced. The results of the UFSAR accident analyses will continue to bound operation under the proposed changes, so that the existing safety limits remain inviolate. Specifically, the peaking factor criteria during potential misaligned and dropped rod events will

continue to be verified on a reload basis. As such, there is no safety margin reduction.

Accordingly, the staff proposes to determine that the proposed change does 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

Wolf Creek Nuclear Operating Corporation, Docket No. 50-482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: July 6, 1988

Description of amendment request: This proposed amendment revises Wolf Creek Generating Station (WCGS), Unit No. 1, Technical Specification Tables 3.3-3 and 4.3-2, which address the Engineered Safety Features Actuation System Instrumentation. This amendment request removes the Mode 2 applicability requirements from Table 3.3-3 Functional Unit 6.g and Table 4.3-2 Functional Unit 6.g, "Trip of All Main Feedwater Pumps - Start Motor Driven Pumps".

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 amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response

The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated. No credit was taken in the safety analysis for the auxiliary feedwater actuation signal as a result of the trip of all main feedwater pumps in either MODE 1 or MODE 2. The proposed change does not effect the availability of any other protective features.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response

The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated. This proposed amendment does not effect an auxiliary feedwater actuation on low-low steam generator level, which assures a heat sink for the reactor. This change does not involve any design changes to existing plant systems or the addition of any new equipment or systems.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response

The proposed amendment does not involve a significant reduction in a margin of safety. This signal is strictly an anticipatory function. There is no change to a margin of safety.

Based on the previous discussion, the licensee concluded that the proposed amendment request does not involve a significant increase in the probability of a new or different kind of accident from any accident previously evaluated; nor involve a significant reduction in the required margin of safety. The NRC staff has reviewed the licensee's no significant hazards considerations determination and agrees with the licensee's analysis. The staff has, therefore, made a proposed determination that the licensee's request does not involve a significant hazards consideration.

Local Public Document Room Location: Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801 and Washburn University School of Law Library, Topeka, Kansas 66621

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037

NRC Project Director: Jose A. Calvo

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.

Boston Edison Company, Docket No. 50-293, Pilgrim Nuclear Power Station, Plymouth County, Massachusetts

Date of application for amendment: November 19, 1985, as supplemented on December 5, 1986, February 18, 1987, July 24, 1987 and March 14, 1988.

Brief Description of amendment: The amendment revises the Technical Specifications by reducing the frequency and the number of control rods tested in a given cycle. This change would reduce control rod system wear and would bring the Technical Specifications for control rod testing into reasonable conformance with the standard Technical Specifications for Boiling Water Reactors.

Date of issuance: February 1, 1989

Effective date: February 1, 1989

Amendment No.: 124

Facility Operating License No. DPR-35: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 26, 1986 (51 FR 6820). The request was renoticed on November 4, 1987 (52 FR 42358). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 1, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: Plymouth Public Library, 11 North Street, Plymouth, Massachusetts 02360.

Carolina Power & Light Company, et al., Docket No. 50-325, Brunswick Steam Electric Plant, Unit 1, Brunswick County, North Carolina

Date of application for amendment: May 27, 1988

Brief description of amendment: The amendment changed the Technical Specifications to lower the reactor water level setpoints for the isolation of the Group 1 primary containment isolation valves from low level 2 to low level 3. The amendment also added and changed instrument numbers to be consistent with plant modifications to be made as a result of the setpoint changes.

Date of issuance: February 6, 1989

Effective date: February 6, 1989

Amendment No.: 122

Facility Operating License No. DPR-71: Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** November 16, 1988 (53 FR 46137). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 6, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of North Carolina at Wilmington, William Madison Randall Library, 601 S. College Road, Wilmington, North Carolina 28403-3297.

Carolina Power & Light Company, et al., Docket No. 50-325, Brunswick Steam Electric Plant, Unit 1, Brunswick County, North Carolina

Date of application for amendment: July 11, 1988

Brief description of amendment: The amendment revises the Technical Specifications to change the operability and surveillance requirements related to anticipated transient without scram (ATWS) recirculation pump trip instrumentation. Specifically, it allows modification of the recirculation pump trip logic from one-out-of-two to two-out-of-two. In addition, it permits replacing the existing digital pressure instrumentation with analog instrumentation.

Date of issuance: February 6, 1989

Effective date: February 6, 1989

Amendment No.: 123

Facility Operating License No. DPR-71: Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** November 30, 1988 at 53 FR 48325. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 6, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of North Carolina at Wilmington, William Madison Randall Library, 601 S. College Road, Wilmington, North Carolina 28403-3297.

Carolina Power & Light Company, et al., Docket No. 50-325, Brunswick Steam Electric Plant, Unit 1, Brunswick County, North Carolina

Date of application for amendment: September 25, 1987 and August 1, 1988.

Brief description of amendment: The amendment changes the Technical Specifications to: (1) revise the minimum critical power ratio (MCPR) safety limit, (2) modify operating limits for average power range monitor (APRM) setpoints, MCPR values, maximum average planar linear heat generation rate (MAPLHGR) values and linear heat generation rate (LHGR) requirements) for Cycle 7, (3) revise the values of mu and sigma found in Specification 3.2.3.2 to conform to the advanced GEMINI/ODYN analysis methods and add a reference to notch 36 for Specification 3.2.3.2, (4) redefine Critical Power Ratio and Physics Tests, (5) permit fuel burnup not to exceed 60,000 megawatt days per metric ton (6) change the bases statements accordingly to reflect the above described changes.

Date of issuance: February 6, 1989

Effective date: February 6, 1989

Amendment No.: 124

Facility Operating License No. DPR-71: Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** November 30, 1988 at 53FR48325. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 6, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of North Carolina at Wilmington, William Madison Randall Library, 601 S. College Road, Wilmington, North Carolina 28403-3297.

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: July 12, 1988

Brief description of amendments: These amendments revise the LaSalle County Station, Units 1 and 2 Technical Specifications by reducing the Onsite Nuclear Safety Group minimum staffing requirements from four engineers to three engineers.

Date of issuance: January 31, 1989

Effective date: January 31, 1989

Amendment Nos.: 62, 43

Facility Operating License Nos. NPF-11 and NPF-18. Amendments revised the Technical Specifications for NPF-11 and NPF-18.

Date of initial notice in **Federal Register:** August 24, 1988 (53 FR 32292). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 31, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Public Library of Illinois Valley Community College, Rural Route No. 1, Oglesby, Illinois 61348.

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: January 19, February 24, 1987 and May 24, 1988

Brief description of amendments: These amendments allow the continued operation of one unit for a period of 7 days while the common plant Division 1 diesel generator O is out of service for the performance of certain Technical Specification surveillance requirements.

Date of issuance: February 7, 1989

Effective date: February 7, 1989

Amendment Nos.: 63 and 44

Facility Operating License Nos. NPF-11 and NPF-18. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** June 3, 1987 (52 FR 20797). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 7, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Public Library of Illinois Valley Community College, Rural Route No. 1, Oglesby, Illinois 61348

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: May 23 and August 9, 1988

Brief description of amendments: These amendments revise the LaSalle County Station, Units 1 and 2 Technical Specifications by modifying the table of primary containment isolation valves to identify new excess flow check valves being installed during the second refuel outage and remove license conditions which are obsolete as a result of the modification.

Date of issuance: February 7, 1989

Effective date: Forty-five days following date of issuance

Amendment Nos.: 64 and 45

Facility Operating License Nos. NPF-11 and NPF-18. Amendments revised the Technical Specifications for NPF-11 and NPF-18 and deleted License Conditions in NPF-11 and NPF-18.

Date of initial notice in **Federal Register:** August 24, 1988 (53 FR 32291) and September 7, 1988 (53 FR 34601). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 7, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Public Library of Illinois Valley Community College, Rural Route No. 1, Oglesby, Illinois 61348.

Commonwealth Edison Company, Docket No. 50-254, Quad Cities Nuclear Power Station, Unit 1, Rock Island County, Illinois

Date of application for amendment: May 10, 1988

Brief description of amendment: Appendices A and B of DPR-29 were retyped in their entirety to improve legibility and remove typographical and grammatical errors.

Date of issuance: February 7, 1989

Effective date: February 7, 1989

Amendment No.: 114

Facility Operating License No. DPR-29. Amendment revised the Technical Specifications and Environmental Protection Plan (Non-Radiological).

Date of initial notice in **Federal Register:** June 15, 1988 (53 FR 22399). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 7, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Dixon Public Library, 221 Hennepin Avenue, Dixon, Illinois 61021.

Commonwealth Edison Company, Docket No. 50-265, Quad Cities Nuclear Power Station, Unit 2, Rock Island County, Illinois

Date of application for amendment: July 7, 1988

Brief description of amendment: To revise drywell pressure indicator panel location and correct miscellaneous typographical errors on related pages.

Date of issuance: February 6, 1989

Effective date: February 6, 1989

Amendment No.: 110

Facility Operating License No. DPR-30. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 16, 1988 (53 FR 46140). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 6, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Dixon Public Library, 221 Hennepin Avenue, Dixon, Illinois 61021.

Consolidated Edison Company of New York, Docket No. 50-247, Indian Point Nuclear Generating Unit No. 2, Westchester County, New York

Date of application for amendment: August 29, 1988

Brief description of amendment: The amendment revises the Technical Specifications to correct Table 3.13-2 (1 of 2) concerning the elevation of the Hose station at the Southeast end of the fuel storage building. The Table currently states the Hose Station is at elevation 104. It should read elevation 140.

Date of issuance: February 6, 1989

Effective date: February 6, 1989

Amendment No.: 136

Facility Operating License No. DPR-26: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 14, 1988 (53 FR 50324). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 6, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610.

Florida Power and Light Company, et al., Docket No. 50-389, St. Lucie Plant, Unit No. 2, St. Lucie County, Florida

Date of amendment requests: August 27, 1985, supplemented May 7, 1986 and superseded October 19, 1987, and application dated December 12, 1986.

Description of amendment request: This amendment changed the diesel generator Technical Specifications to reflect the recommendations contained in Generic Letter 84-15 "Proposed Staff Actions to Improve and Maintain Diesel Generator Reliability." These changes were requested by letter dated October 19, 1987. The amendment also deleted existing diesel generator fuel oil sampling requirements and replaced them with more effective sampling requirements, requested by letter dated December 12, 1986.

Date of Issuance: February 7, 1989

Effective Date: February 7, 1989

Amendment No.: 39

Facility Operation License No. NPF-16: Amendment revised the Technical Specifications.

Date of initial notices in **Federal Register:** October 9, 1985 (50 FR 41247), December 2, 1987 (952 FR 45886), and January 14, 1987 (52 FR 1549). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 7, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: Indian River Junior College Library, 3209 Virginia Avenue, Ft. Pierce, Florida.

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket No. 50-424, Vogtle Electric Generating Plant, Unit 1, Burke County, Georgia

Date of application for amendment: December 6, 1988

Brief description of amendment: The amendment modified the Technical Specifications (TS) to reflect the control room configuration for two-unit operation. These changes were necessitated by differences between the current Unit 1 limiting conditions for operation, action statements, and surveillance requirements, and those proposed for the combined Unit 1 and Unit 2 TS.

Date of issuance: February 9, 1989

Effective date: February 9, 1989

Amendment No.: 17

Facility Operating License No. NPF-68: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 16, 1988 (53 FR 50607). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 9, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: Burke County Library, 412 Fourth Street, Waynesboro, Georgia 30830

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket No. 50-424, Vogtle Electric Generating Plant, Unit 1, Burke County, Georgia

Date of application for amendment: December 12, 1988, as supplemented January 13, 30, and 31, 1989

Brief description of amendment: The amendment replaced the Unit 1 Techncial Specifications (TS) with combined TS for Units 1 and 2.

Date of issuance: February 9, 1989
Effective date: February 9, 1989
Amendment No.: 18
Facility Operating License No. NPF-68: Amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** December 27, 1988 (53 FR 52266). Because the January 13, 30, and 31, 1989, submittals contained minor editorial changes the substance of the changes noticed in the **Federal Register** and the proposed no significant hazards determination were not affected.
The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 9, 1989.
No significant hazards consideration comments received: No.
Local Public Document Room location: Burke County Library, 412 Fourth Street, Waynesboro, Georgia 30830

Gulf States Utilities Company, Docket No. 50-458, River Bend Station, Unit 1 West Feliciana Parish, Louisiana

Date of amendment request: November 18, 1988, as supplemented December 20, 1988
Brief description of amendment: The amendment provided the bundle Maximum Average Planar Linear Heat Generation Rate (MAPLHGR) and the higher Linear Hear Generation Rate (LHGR) limits for the new fuel being added for the second reload. The new fuel being added is GE8X8EB which is similar to other bundles currently in the River Bend core and has an increased LHGR limit of 14.4 kW/ft. The amendment revised Specification 3/4.2.1 to include new figures and Specification 3.2.4 to include the high LHGR limit.
The amendment also revised three additional areas of the Technical Specifications (TS). Technical Specification Section 5, Design Features, Item 5.3.1 was revised to generalize the fuel details to allow referencing future fuel designs included in the "General Electric Standard Application for Reactor Fuels" (GESTAR). Technical Specification Bases 3/4.2.1 was revised to reference Technical Specification 3.2.1 instead of referencing individual MAPLHGR curves. Figure 3.2.1 was also revised to show the current flow dependent Minimum Critical Power Ratio (MCPR) operating limit curve.
Date of issuance: January 30, 1989
Effective date: January 30, 1989
Amendment No.: 33
Facility Operating License No. NPF-47. The amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** December 14, 1988 (53 FR 50326). The December 16 and 20, 1988 submittals provided plant-specific and additional clarifying information and did not change the finding of the initial notice or the scope of the amendment request.
The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 30, 1989.
No significant hazards consideration comments received: No.
Local Public Document Room location: Government Documents Department, Louisiana State University, Baton Rouge, Louisiana 70803

Louisiana Power and Light Company, Docket No. 50-382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: September 21, 1988
Brief description of amendment: The amendment revised the Technical Specifications by deleting the Ammonia Detection System. Ammonia detection will be provided by the Broad Range Toxic Gas Detection System which is currently in the Technical Specifications.
Date of issuance: February 6, 1989
Effective date: February 6, 1989
Amendment No.: 49
Facility Operating License No. NPF-38. Amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** November 16, 1988 (53 FR 46148). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 6, 1989.
No significant hazards consideration comments received: No.
Local Public Document Room location: University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, Louisiana 70122.

Louisiana Power and Light Company, Docket No. 50-382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: September 20, 1988 and November 28, 1988
Brief description of amendment: The amendment revised the Technical Specifications and License Condition 2.C.9 by removing certain fire protection requirements in response to Generic Letters 86-10 and 88-12.
Date of issuance: February 7, 1989
Effective date: February 7, 1989
Amendment No.: 50
Facility Operating License No. NPF-38. Amendment revised the Technical Specifications and license.
Date of initial notice in **Federal Register:** December 30, 1988 (53 FR 53094). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 7, 1989.
No significant hazards consideration comments received: No.
Local Public Document Room location: University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, Louisiana 70122.

Nebraska Public Power District, Docket No. 50-298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: June 10, 1987 as modified March 4, 1988.
Brief description of amendment: The amendment changed the Technical Specifications relating to the fire protection program.
Date of issuance: February 3, 1989
Effective date: February 3, 1989
Amendment No.: 127
Facility Operating License No. DPR-46. Amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** November 4, 1987 (52 FR 42366). The March 4, 1988 submittal 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 February 3, 1989.
No significant hazards consideration comments received: No.
Local Public Document Room location: Auburn Public Library, 118 15th Street, Auburn, Nebraska 68305.

Philadelphia Electric Company, Docket No. 50-352, Limerick Generating Station, Unit 1, Montgomery County, Pennsylvania

Date of application for amendment: November 5, 1986 as supplemented November 5, 1987
Brief description of amendment: The amendment revised the Technical Specifications relating to the trip setpoints and allowable values for the low pressure coolant injection valve differential pressure instrument loops.
Date of issuance: February 9, 1989
Effective date: 30 days after date of issuance
Amendment No. 16
Facility Operating License No. NPF-39. This amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** November 30, 1988 (53 FR 48335). The Commission's related evaluation of the amendment is

contained in a Safety Evaluation dated February 9, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

Public Service Electric & Gas Company, Docket No. 50-354, Hope Creek Generating Station, Salem County, New Jersey

Date of application for amendment: July 12, 1988

Brief description of amendment: This amendment removed the organization charts from Section 6.0 of the TS and replaced them with a narrative description of offsite and onsite organizations functional requirements per guidance provided by NRC Generic Letter 88-06. It also made a couple of other minor administrative changes to Section 6.0. On December 5, 1988 the licensee clarified position titles for this amendment.

Date of issuance: January 31, 1989

Effective date: January 31, 1989

Amendment No. 21

Facility Operating License No. NPF-57. This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 24, 1988 (53 FR 32294). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 31, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Pennsville Public Library, 190 S. Broadway, Pennsville, New Jersey 08070

Southern California Edison Company, et al., Docket No. 50-206, San Onofre Nuclear Generating Station, Unit No. 1, San Diego County, California

Date of application for amendment: October 30, 1987

Brief description of amendment: The amendment provides limiting conditions for operation and surveillance requirements for reactor coolant system leakage detection systems.

Date of issuance: February 6, 1989

Effective date: This license amendment is effective the date of issuance and must be fully implemented no later than 30 days from date of issuance.

Amendment No.: 119

Provisional Operating License No. DPR-13. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 13, 1988 (53 FR 26531). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 6, 1989.

No significant hazards consideration comments received: No comments.

Local Public Document Room location: General Library, University of California, Post Office Box 19557, Irvine, California 92713.

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: April 17, 1987 (TS 87-09)

Brief description of amendments: These amendments revise the Sequoyah Units 1 and 2 Technical Specifications to add the diesel generator system (DGS) electrical board rooms in the Diesel Generator Building to the limiting condition for operation 3.7.11.3 for the low-pressure carbon dioxide system. These additions to the TS add the requirement that this carbon dioxide system must also be operable for the DGS electrical board rooms for both units.

Date of issuance: January 22, 1989

Effective date: January 22, 1989

Amendment Nos.: 96, 85

Facility Operating Licenses Nos. DPR-77 and DPR-79. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 12, 1987 (52 FR 29930). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 22, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: February 1, 1988 (TS 87-45) and August 10, 1988 (TS 88-08)

Brief description of amendments: These amendments revise the Sequoyah, Units 1 and 2 Technical Specifications (TS). The changes are to revise Table 3.3-11, "Fire Protection Instruments," to correct typographical errors and omissions and to add or remove instrumentation to reflect plant modifications.

Date of issuance: January 22, 1989

Effective date: January 22, 1989

Amendment Nos.: 97, 86

Facility Operating Licenses Nos. DPR-77 and DPR-79. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 20, 1988 (53 FR 13023) for TS 87-45 and September 7, 1988 (53 FR 34613) for TS 88-08. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 22, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: July 27, 1988 as supplemented by letter dated October 20, 1988. (TS 88-13)

Brief description of amendments: These amendments modify the Sequoyah Nuclear Plant, Units 1 and 2 Technical Specifications. The changes are to revise the containment systems surveillance requirement 4.6.5.1.b.3 for both units. These changes will replace the visual inspection requirement utilizing a 0.38-inch criterion for the ice condenser system with a surveillance program to ensure that the flow blockage does not exceed 15 percent.

Date of issuance: January 30, 1989

Effective date: January 30, 1989

Amendment Nos.: 98, 87

Facility Operating Licenses Nos. DPR-77 and DPR-79. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 24, 1988 (53 FR 32293). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 30, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: June 13, 1988 (TS 88-04)

Brief description of amendments: The amendments revise the Sequoyah Units 1 and 2 Technical Specifications (TS). The revisions are to the Action Statements a, b and c for the Limiting Condition for Operation (LCO) 3.8.1.1 to extend the timeframe for performing diesel generator surveillance in Surveillance Requirement (SR) 4.8.1.1.2.a.4 when the LCO is not met.

LCO 3.8.1.1 requires a minimum of two alternating current (ac) electrical offsite power sources and four onsite ac power sources (diesel generator sets) to be operable. In the event ac power sources are lost, compliance with one of four Actions Statements is required depending on the number of sources lost. The amendments extend the timeframe for performing the SR 4.8.1.1.2.a.4 for the following three cases. For the first case, where either an offsite circuit or a diesel generator set is inoperable (Action a), performance of SR 4.8.1.1.2.a.4 is extended to 24 hours. For the second case, where one offsite circuit and one diesel generator set are inoperable (Action b), performance of SR 4.8.1.1.2.a.4 is extended to eight hours. For the third case, where two offsite circuits are inoperable (Action c), performance of SR 4.8.1.1.2.a.4 is extended to eight hours.

Date of issuance: January 31, 1989

Effective date: January 31, 1989

Amendment Nos.: 100, 89

Facility Operating Licenses Nos. DPR-77 and DPR-79. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** June 29, 1988 (53 FR 24521). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 31, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND FINAL DETERMINATION OF NO SIGNIFICANT HAZARDS CONSIDERATION AND OPPORTUNITY FOR HEARING (EXIGENT OR EMERGENCY CIRCUMSTANCES)

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual 30-day Notice of Consideration of Issuance of Amendment and Proposed No Significant Hazards Consideration Determination and Opportunity for a Hearing. For exigent circumstances, the Commission has either issued a **Federal Register** notice providing opportunity for public comment or has used local media to provide notice to the public in the area surrounding a licensee's facility of the licensee's application and of the Commission's proposed determination of no significant hazards consideration. The Commission has provided a reasonable opportunity for the public to comment, using its best efforts to make available to the public means of communication for the public to respond quickly, and in the case of telephone comments, the comments have been recorded or transcribed as appropriate and the licensee has been informed of the public comments.

In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant or in prevention of either resumption of operation or of increase in power output up to the plant's licensed power level, the Commission may not have had an opportunity to provide for public comment on its no significant hazards determination. In such case, the license amendment has been issued without opportunity for comment. If there has been some time for public comment but less than 30 days, the Commission may provide an opportunity for public comment. If comments have been requested, it is so stated. In either event, the State has been consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the application for amendment, (2) the amendment to Facility Operating License, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects.

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendments. By March 24, 1989, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible

effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 325-6000 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to (*Project Director*): petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: January 27, 1989 (TS 89-17)

Brief description of amendments: The amendments revise the Sequoyah, Units 1 and 2 Technical Specifications. The revisions modify the acceptance criteria for the diesel generator surveillance requirements 4.8.1.1.2.d.2 and 4.8.1.1.2.d.3. The acceptance criteria have been changed from voltage to a percentage of the initial pretest voltage to reflect that the initial pretest voltage may vary from 6900 volts. In addition, a new upper limit on transient voltage has been added. A waiver of compliance was authorized by telephone on January 25, 1989 and confirmed by letter dated January 26, 1989.

Date of issuance: January 30, 1989

Effective date: January 30, 1989

Amendment Nos.: 99, 88

Facility Operating Licenses Nos. DPR-77 and DPR-79. Amendments revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: No

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 30, 1989.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, E11 B33, Knoxville, Tennessee 37902.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Dated at Rockville, Maryland, this 14th day of February, 1989.

For the Nuclear Regulatory Commission

Martin J. Virgilio,

Acting Director, Division of Reactor Projects - III, IV, V and Special Projects Office of Nuclear Reactor Regulation

[Doc. 89-3932 Filed 2-21-89; 8:45 am]

BILLING CODE 7590-01-D

SECURITIES AND EXCHANGE COMMISSION

Agency Information Collection Activities Under OMB Review

Agency Clearance Officer—Kenneth A. Fogash (202) 272-2142.

Upon written request, copy available from: Securities and Exchange Commission, Office of Consumer Affairs and Information Services, Washington, DC 20549.

Revision

SEC File No. 270-1, Rule 13e-3
SEC File No. 270-3, Regulation S-X
SEC File No. 270-13, Form 1-A
SEC File No. 270-48, Form 10-K
SEC File No. 270-56, Regulation 14A
SEC File No. 270-119, Form S-18
SEC File No. 270-155, Form X-17A-5
SEC File No. 270-156, Form 20-F
SEC File No. 270-168, Form U5S
SEC File No. 270-190, Rule 13e-4
SEC File No. 270-282, Form N-4

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for approval proposed technical amendments to conform various rules, forms and the Codification of Financial Reporting Policies with recent changes in Statements of Financial Accounting Standards issued by the Financial Accounting Standards Board.

Information collected and records prepared pursuant to the proposed rules would focus on compliance with generally accepted accounting principles.

There will generally be a response to the information and record collection request once each year.

The potential respondents include all entities that file financial statements with the Commission pursuant to the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Company Act of 1940, or the Public Utility Holding Company Act of 1935. It has been estimated that there will not be an increase in burden hours because the proposed amendments will not require additional information beyond that required to be disclosed under

generally accepted accounting principles.

The estimated average burden hours for compliance with the following SEC rules/forms remain unchanged by this technical amendments proposal:

OMB No.	Form or rule	Number of annual respondents at estimated average burden hours
3235-0007	Rule 13e-3	221 respondents at 150 hours.
3235-0059	Regulation 14A	8733 respondents at 104.84 hours.
3235-0063	Form 10-K	9486 respondents at 1701 hours.
3235-0098	Form S-18	988 respondents at 1280 hours.
3235-0123	Form X-17A-5	61600 respondents at 12 hours.
3235-0164	Form U5S	13 respondents at 8.46 hours.
3235-0203	Rule 13e-4	121 respondents at 239 hours.
3235-0286	Form 1-A	326 respondents at 900 hours.
3235-0288	Form 20-F	133 respondents at 2110 hours.
3235-0318	Form N-4	183 respondents at 138.85 hours.

The estimated average burden hours are made solely for purposes of the Paperwork Reduction Act, and are not derived from a comprehensive or even a representative survey or study of the costs of SEC rules and forms. Direct any comments concerning the accuracy of the estimated average burden hours for compliance to Kenneth A. Fogash, Deputy Executive Director, 450 Fifth Street, NW., Washington, DC 20549-6004 and to Gary Waxman at the address listed below.

Submit general comments to OMB Desk Officer: Gary Waxman (202) 395-7430, Office of Management and Budget, Paperwork Reduction Project 3235-0009, Office of Information and Regulatory Affairs, Room 3208, NEOB, Washington, DC 20503.

Jonathan G. Katz,

Secretary.

February 15, 1989.

[FR Doc. 89-4080 Filed 2-21-89; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-26550; File No. SR-Amex-88-30]

Self-Regulatory Organizations; Filing and Order Granting Accelerated Approval of Proposed Rule Change by American Stock Exchange, Inc. Relating to Size Precedence for Orders to Cross Blocks of 25,000 Shares or More

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 December 9, 1988, the American Stock Exchange, Inc. ("Amex" or "Exchange") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Amex. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The text of the proposed rule change is available at the Office of the Secretary, Amex and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Amex included statements concerning the purpose of and basis for the proposed rule change and discussed comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Amex has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

In October 1986, the Amex implemented a three-month pilot program under Amex Rule 126(g), during which orders to cross blocks of 50,000 shares or more were permitted to have precedence over other bids and offers. (*See* Securities Act Release No. 23593, October 9, 1986, for details of the pilot program). The pilot would not change Amex's priority rules, which require that the highest bid and lowest offer have price priority, and that orders at the same price be granted priority according to the time the order was received at the specialist post. Since the initial filing, the Exchange has applied for, and the Commission has approved, three extensions of the pilot program.[1]

In the Amex's last filing requesting an extension of the pilot, the Exchange proposed a limited expansion of the pilot program to permit orders to cross blocks of 25,000 shares or more to establish size precedence pursuant to Rule 126(g). The Exchange is now requesting permanent approval of an amendment to Rule 126(g) which provides that orders to cross blocks of 25,000 shares or more have precedence over other bids or offers. The Exchange believes that precedence for blocks of 25,000 shares or more will facilitate the execution of large blocks on the Amex and will reduce the incentive of member firms to route such orders to a regional exchange in order to avoid losing an excessive number of shares to other orders under existing priority rules.

(2) Basis

The proposed rule change is consistent with Section 6(b) of the Act in general and furthers the objectives of Section 6(b)(5) in particular in that it is intended to remove impediments to and perfect the mechanism of a free and open market and a national market system and to facilitate transactions in securities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will impose no burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were either solicited or received with respect to the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and

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[1] *See* Securities Exchange Act Release No. 24240, March 20, 1987, 52 FR 10430, extending the pilot until May 1, 1987; Securities Exchange Act Release No. 24858, August 27, 1987, 52 FR 33485, extending the pilot until May 1, 1988; and Securities Exchange Act Release No. 25653, May 4, 1988, 53 FR 16803, extending the pilot until November 1, 1988.

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 Amex. All submissions should refer to File No. SE-Amex-88-30 and should be submitted by [insert date 21 days from date of publication].

IV. Commission Findings and Order Granting Accelerated Approval

As discussed above, the Amex proposal requests permanent approval of an amendment to Rule 126(g) permitting orders to cross blocks of 25,000 shares or more to have precedence over other bids and offers. The proposal to provide size precedence for orders to cross blocks of shares was originally approved as a three month pilot program and was limited to blocks of 50,000 shares or more.[2] This pilot was extended by the Commission in order to provide the Amex with time to gather and evaluate sufficient data on the operation of the pilot.[3] The pilot expired on November 1, 1988.

In the Commission's order initially approving the Rule 126(g) block precedence pilot program, we noted that under current Amex rules the highest bid and lowest offer has priority in execution.[4] Where bids and offers are at the same price, priority is based on the time in which they were made.[5] bids or offers at the same price and made simultaneously would have parity and would share equally in an execution at the specified price.[6] By contrast with the New York Stock Exchange ("NYSE"), which provides precedence based on the size of an order,[7] size was not a factor in determining the sequence by which bids and offers were executed on the Amex prior to the approval of this pilot.

In its original filing proposing the precedence based on size pilot program, the Amex expressed its concern that an increasing number of block transactions in Amex listed securities were being executed on regional exchanges rather than on the Amex. The Exchange believed that the principal reason for routing such block transactions to regional exchanges was not the cost of transactions on the Amex, but rather the difficulty of effecting on the Amex block cross transactions of a large size without losing an excessive number of shares to other orders.

In the Commission's order approving the pilot, we stated that it was unclear from the data provided by the Amex that the Exchange was losing a significant amount of block order business to regional exchanges because of its inability to provide such orders with size precedence. The Commission approved the pilot on a three month basis, however, on the strength of commitments from the Amex that it would closely monitor the pilot and on the Commission's determination that, because precedence under the pilot was limited to orders to cross blocks of 50,000 shares or more, the pilot would apply primarily to the more active liquid issues.

As noted above, in its final request for an extension of the pilot program, the Amex also requested that the minimum size of block crosses eligible for size precedence under the pilot be reduced from 50,000 shares to 25,000 shares. The Amex stated that the inclusion of blocks of 25,000 shares or more would provide the Exchange with a larger trading data base to permit it to assess the success of the pilot in facilitating the excution of large blocks on the Amex. In addition, Amex noted that even with a reduction of the minimum size of blocks eligible for size precedence to the 25,000 share level, the pilot would continue to be limited to blocks of a large size and would effect primarily the active liquid issues. The Commission granted partial approval to the proposed Amex role change extending the pilot until November 1, 1988, and published for comment the proposed change in the size of blocks eligible for size precedence under the pilot.[8] In now requesting permanent approval of the program to provide precedence to orders to cross blocks of 25,000 shares or more the Exchange states that it believes that precedence for blocks of this size will facilitate the execution of large blocks on the Amex and will reduce the incentive of member firms to route such orders to a regional exchange as a result of existing priority rules.

The Commission has closely reviewed the proposed Amex rule change and has concluded that it is consistent with the requirements of the Act and, accordingly, that it should be approved. In particular, the Commission believes that the proposed rule change is consistent with the requirements of section 6(b)(5) and 6(b)(8) of the Act by allowing Amex to compete with other exchanges for block size orders more fairly while upholding the price and time priority rules. The reasons for the Commission's conclusion are set forth below.

First, the Amex's block precedence proposal is similar to the NYSE's precedence based on size rule. Both rules provide price and time priority, and enhance the ability to cross blocks on the exchange. Indeed, the Amex's proposal is less broad than the NYSE's in that the Amex proposes to restrict procedence to orders of 25,000 shares or more. Second, the Amex has provided data to indicate that during the pilot period the precedence proposal has had a relatively minor impact on those smaller orders which were placed behind a block of 25,000 shares or more based on precedence.[9] Third, it is apparent that the number of block trades of 25,000 shares or more in Amex stocks executed on regional exchanges, although relatively small in absolute

[2] *See* File No. SR-Amex-86-14 Securities Exchange Act Release No. 23693, October 9, 1986, 51 FR 37358.

[3] *See* note 1, *supra*.

[4] *See* Amex Rule 126 (e) and (f).

[5] *See* Amex Rule 126 (e)(1) and (f).

[6] *See* Amex Rule 126 (e)(2) and (f).

Under NYSE rules the highest bid and lowest offer have priority in all cases. NYSE Rule 71. Where bids are made at the same price priority goes to the first bid made. *See* Rule 72(I)(a). Where a bid has no time priority, bids for a number of shares equaling or exceeding the number of shares in the offer have precedence over bids for less than the number of shares in the offer. *See* Rule 72(I)(b). Where no bid is entitled to priority under Rule 72(I)(a) or precedence under Rule 72(I)(b), the bid for the largest number of shares has precedence. *See* Rule 72(I)(c). The priority, parity and precedence of offers made at the same price are determined by the same procedures used for bids. *See* Rule 72(II).

[7] Under the Amex proposal, size precedence will be a factor in determining the sequence of execution only when no other bid or offer has price or time priority.

[8] *See* note 1, *supra*. No comments were received by the Commission on the proposed rule change.

[9] For example, for the period from March 3, 1987, through January 5, 1988, the block precedence exemption was used only 25 times with a block volume of 4,050,400 shares and with a dollar volume of $72,416,913. Altogether, the total size of bids and offers "sized out" by precedence granted block orders under the pilot was only 163,600 shares. Of those, 38.8% of the bids and 26.5% of the offers were executed during the same trading session as the block transaction. Similar results were reported by AMEX for the period October 29, 1986, through February 28, 1987. *See* letters from Jules Winters, Senior Vice President, AMEX, to Sharon Lawson, Branch Chief, Division of Market Regulation, dated April 24, 1987, and April 14, 1988.

numbers, does represent a significant portion of the total block volume in these stocks.[10] Thus, Amex's ability to compete with regional exchanges in terms of block execution is significant to the Exchange's competitive position. Finally, the Commission notes that during the entire period of the Amex's size precedence pilot from October 29, 1986, until November 1, 1988, the Commission did not receive any comments or complaints from Amex members, customers, or other interested persons regarding the operation of the size precedence pilot program.

The Commission also finds good cause for approving the proposed Amex rule change prior to the thirtieth day after the date of publication of notice of filing thereof in view of the fact that ample notice and opportunity for public comment has already been given the substance of the pilot,[11] its three subsequent extensions,[12] and of the Amex's intention to extend precedence to orders to cross blocks of 25,000 shares or more.[13] In addition, as stated previously, the Commission has not received any negative comments on the Amex pilot during the entire period of its operation.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: February 15, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-4013 Filed 2-21-89; 8:45 am]

BILLING CODE 8010-01-M

[10] From January through July 1988, 3,778 trades between 25,000 and 49,999 shares were executed on the AMEX with a volume of 119,865,000 shares. For that period, there were 2,235 block transactions of 50,000 shares or more on the AMEX with a volume of 239,518,000 shares. During the same period on the regional exchanges there were 411 trades between 25,000 and 49,999 shares Amex listed stocks for a volume of 13,831,000 shares. There were also 317 block trades of 50,000 shares or more in Amex stocks for a volume of 33,302,000 shares. *See* letter from Michael Cavalier, Assistant General Counsel, AMEX, to Howard Kramer, Assistant Director, Division of Market Regulation, dated September 16, 1988.

[11] *See* note 2, *supra*.

[12] *See* note 1, *supra*.

[13] *Id.*

[Release No. 34-26544; File No. SR-CSE-88-5]

Self-Regulatory Organizations; Proposed Rule Change by the Cincinnati Stock Exchange Relating to a Signature Guarantee Program

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on August 16, 1988.

The Cincinnati Stock Exchange (the "Exchange") filed with the Securities and Exchange 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 persons.

I. The Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Cincinnati Stock Exchange proposes to add Rule 13.5 in order to establish a signature guarantee program "(*see* Exhibit A)."

II. The Self-Regulatory Organization's Statement Regarding the Proposed Rule Change

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed Rule change is to authorize the Exchange to establish and operate a signature guarantee program. The Securities Transfer Association ("STA") rules require that the signature of the registered holder of a stock certificate be guaranteed before it can be accepted by a transfer agent for cancellation and reissue. As a result of STA rules, clearing corporations and depositors also require that the signature of a registered holder be guaranteed in order to establish "good delivery". The guarantee must be given either by a national bank or a national securities exchange member who is also a member of the exchange's signature guarantee program. Approval of proposed Rule 13.5 will enable the CSE to offer a signature guarantee program to its members.

Rule 13.5 is consistent with section 6(b)(5) of the Act in that it is designed to foster coordination with persons engaged in settling transactions in securities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed Rule change will not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The Exchange neither solicited nor received comments on the proposed Rule change from members, participants, or others.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such Proposed Rule Change, or

(B) Institute proceedings to determine whether the Proposed Rule Change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the Proposed Rule Change that are filed with the Commission, and all written communications relating to the Proposed Rule Change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 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 File No. SR-CSE-88-5 and should be submitted by March 15, 1989.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: February 14, 1989.

Jonathan G. Katz,

Secretary.

Exhibit A

Rule 13.5—*Assigning of Registered Securities in Name of Member or Member Organization*

A member or member organization may authorize one or more persons who are his or its employees to assign registered securities in the name of such member or member organization and to guarantee assignments of registered securities with the same effect as if the name of such member or member organization had been signed under like circumstances by such member or by one of the partners of the member firm or by one of the authorized officers of the member corporation by executing and filing with the Exchange, in a form prescribed by it, a separate Power of Attorney for each person so authorized.

[FR Doc. 89-4081 Filed 2-21-89; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-26546; File No. SR-NSCC-88-11]

Self-Regulatory Organization; Filing and Immediate Effectiveness of Proposed Rule Change by the National Securities Clearing Corp.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on January 30, 1989, NSCC filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which items have been prepared by NSCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would permit NSCC to cease providing same day DTC processing at certain branch locations.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC 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. NSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) The purpose of the proposed rule change is to notify the Securities and Exchange Commission that NSCC will no longer provide Members with the ability to make DTC deposits for same day credit at its branches in Minneapolis, Minnesota; Seattle, Washington; Detroit, Michigan and Dallas, Texas. NSCC is terminating this service in these locations because NSCC Members are not utilizing the service and have not used it for the past two years. Members located in Minneapolis have alternate facilities in that city to get same day credit. Members located in the other cities do not have similar capabilities but do not appear to need such, since they have not utilized the service offered by NSCC. NSCC will continue to offer the service at those branch offices where there is a demonstrated need for the service. NSCC will terminate the service at these locations effective thirty days after the affected Members are notified of the termination.

(b) The proposed rule change will not affect Members' abilities to process their transactions and therefore, it is consistent with the requirements of the Securities Exchange Act of 1934, as amended, (the "Act") and the rules and regulations thereunder applicable to NSCC.

B. Self-Regulatory Organization's Statement on Burden on Competition

NSCC does not believe that the proposed rule will have an impact or impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

All Members using those branches (but who do not currently use the service) will be advised of the termination of the depository services in these cities. In addition, NSCC will provide the required thirty days notice to Members who signed separate agreements for the service prior to terminating it. NSCC will notify the Securities and Exchange Commission of any written comments received by NSCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A)(iii) of the Act and subparagraph (e) of Rule 19b-4 thereunder in that it is concerned solely with the administration of the self-regulatory organization.

At any time within 60 days of the filing of a proposed rule change, the Commission may summarily abrogate the rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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 that are filed with Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such 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 SR-NSCC-88-11 and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: February 14, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-4082 Filed 2-21-89; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-26548; File No. SR-MSE-88-8]

Self-Regulatory Organizations; Proposed Rule Change by the Midwest Stock Exchange, Inc. Relating to the Limitation or Elimination of Governor Liability in Certain Instances

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 December 15, 1988, the Midwest Stock Exchange, Inc. ("MSE"

or "Exchange") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NYSE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange pursuant to Rule 19b-4 of the Acty propose the following changes to its Certificate of Incorporation and Constitution:

(Additions italicized.)

(1) Certificate of Incorporation, Article 11:

"* * * best interests of the Corporation and its members."

To the fullest extent that the General Corporation Law of the State of Delaware, as it exists on the date hereof or as it may hereafter be amended, permits the limitation or elimination of the liability of Governors, no Governor of the Exchange shall be liable to the Exchange or its members for monetary damages for breach of fiduciary duty as a Governor. No amendment to or repeal of this Article shall apply to or have any effect on the liability of any Governor of the Exchange for or with respect to any acts or omissions of such Governor occurring prior to such amendment or repeal.

(2) Constitution, Section 1, Article X:

"* * * in connection with such action, suit or proceeding."

To the fullest extent that the General Corporation Law of the State of Delaware, as it exists on the date hereof or as it may hereafter be amended, permits the limitation or elimination of the liability of Governors, no Governor of the Exchange shall be liable to the Exchange or its members for monetary damages for breach of fiduciary duty as a Governor. No amendment to or repeal of this Article shall apply to or have any effect on the liability of any Governor of the Exchange for or with respect to any acts or omissions of such Governor occurring prior to such amendment or repeal.

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. The self-regulatory organization has prepared summaries, set forth in Section (A), (B), and (C), below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The proposed change is based on section 102(b)(7) of the General Corporation Law of the State of Delaware, under which the Exchange is organized, which allows corporations to adopt provisions in their Certificates of Incorporation limiting or eliminating the potential monetary liability of directors.[1]

The amendment does not eliminate a Governor's duty of care, which requires Governors to exercise informed business judgment in discharging their duties. Rather, the personal liability of the Exchange's Governors to the Exchange or its members will be limited should they fail, through negligence or gross negligence to satisfy this duty. Such limitations do not apply in the following circumstances:

(1) Breach of the duty of loyalty to the Exchange or its members; i.e., the responsibility to conduct business in good faith and in the honest belief that the action taken is in the best interest of the Exchange.

(2) Acts or omissions that are not performed in good faith, or which involve intentional misconduct or violation of law.

(3) Unlawful payment of dividends or unlawful purchase or redemption of stock.

(4) Transactions from which the director derived improper personal benefits.

The amendment does not eliminate other equitable legal remedies, such as rescission or injunctive actions and in no way affects a Governor's liability under federal securities laws. In addition, it does not eliminate the liability of officers of the Exchange for actions taken in that capacity, even if that individual is also a Governor. This amendment does not apply to the liability of a Governor for acts or omissions which may have occurred prior to its approval.

The Exchange believes the amendment is a necessary measure in order to help assure its ability to recruit and retain competent Governors. Without the protections offered by the proposed change, the Exchange believes there will be a deterrent effect upon the entrepreneurial decision-making of its Governors. In addition, due to the increased numbers and magnitude of lawsuits against directors, many other Delaware corporations have already adopted similar provisions.[2]

The proposed rule change is consistent with section 6(b)(3) of the Securities Exchange Act of 1934 in that the protections offered by the amendment help to remove impediments to attracting competent Governors and thus will help assure the fair representation of members in the selection of directors and administration of the affairs of the Exchange and will help attract directors which are representatives of issuers and investors.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Midwest Stock Exchange, Incorporated does not believe that any burdens will be placed on competition as a result of the proposed rule change.

(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 Commisson may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will: (A) By order approve 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.

[1] The Pacific Stock Exchange, Inc. ("PSE"), which is also incorporated in Delaware, submitted a similar proposal to amend its certificate of incorporation to exempt members of the PSE's Board of Governors from monetary liability to the PSE or its members for a breach of their fiduciary duty as a governor. *See* File No. SR-PSE-88-1. Notice of the proposed rule change was given in Securities Exchange Act Release No. 25549, April 6, 1988, 53 FR 12468. At the request of the Commission staff the PSE subsequently submitted an amendment to its proposed rule change to exclude from its proposed exemption from liability for members of its Board of Governors circumstances where the liability arose, directly or indirectly, as a result of a violation of the Federal securities laws. See amendment No. 1 to File No. SR-PSE-88-01.

[2] See footnote 1.

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 MSE. All submissions should refer to File No. SR-MSE-88-8 and should be submitted by March 15, 1989.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: February 14, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-4014 Filed 2-21-89; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF STATE

Bureau of Consular Affairs

[Public Notice 1096]

Certain Foreign Passports Validity; Malta

Malta is added to the list of countries which have entered into agreements with the Government of the United States whereby their passports are recognized as valid for the return of the bearer to the country of the foreign issuing authority for a period of at least six months beyond the expiration date specified in the passport.

The country names for Ivory Coast and Saint Christopher and Nevis appearing on the list of countries regarding extended passport validity are hereby amended to read "Cote d'Ivoire" and "St. Kitts and Nevis" respectively.

This notice amends Public Notice 954 of February 26, 1986 (51 FR 6853).

Date: February 10, 1989.

Joan M. Clark,

Assistant Secretary for Consular Affairs.

[FR Doc. 89-4008 Filed 2-21-89; 8:45 am]

BILLING CODE 4710-06-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 89-013]

Lower Mississippi River Waterway Safety Advisory Committee Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act (Pub. L. 92-403; 5 U.S.C. App. I) notice is hereby given of a meeting of the Lower Mississippi River Waterway Safety Advisory Committee. The meeting will be held on Tuesday, April 18, 1989, in the Ambassador Room of the Plimsoll Club of the World Trade Center, 2 Canal Street, New Orleans, LA at 9:00 a.m. The agenda for the meeting consists of the following items:

1. Call to order.
2. Minutes of the 10 January 1989, meeting.
3. Report by the Coast Guard on items discussed from 10 January 1989, meeting.
4. New Business.
5. Adjournment.

The purpose of this Advisory Committee is to provide consultation and advice to the Commander, Eighth Coast Guard District on all areas of maritime safety affecting this waterway.

The meeting is open to the public. Members of the public may present written or oral statements at the meeting.

Additional information may be obtained from Commander G. A. Bird, USCG, Executive Secretary, Lower Mississippi River Waterway Safety Advisory Committee, c/o Commander Eighth Coast Guard District (oan) Room 1141, Hale Boggs Federal Building, 500 Camp Street, New Orleans, LA 70130-3396, telephone number (504) 589-6234.

Dated: January 30, 1989.

W.F. Merlin,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 89-4051 Filed 2-21-89; 8:45 am]

BILLING CODE 4910-14-M

COAST GUARD

[CGD 89-012]

Coast Guard Academy Advisory Committee; Open Meeting

AGENCY: U.S. Coast Guard, DOT.

ACTION: Open meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Coast Guard Academy Advisory Committee to be held in Hamilton Hall at the U.S. Coast Guard Academy, New London, CT, on Monday, Tuesday, and Wednesday April 3-5, 1989. Open Sessions will be held from 10:30-11:45 a.m. and 1:45-3:15 p.m. on Monday, and 9:00-10:30 am and 3:30-4:30 pm on Tuesday. The agenda for this meeting will include discussion of accreditation, curricula, and faculty. The Coast Guard Academy Advisory Committee was established in 1937, by Pub. L. 75-38, to advise on the course of instruction at the Academy and to make recommendations as necessary. Attendance is open to the interested public. With advance notice, members of the public may present oral statements at the meeting. Persons wishing to attend or present oral statements at the meeting should notify the U.S. Coast Guard Academy not later than the day before the meeting. Any member of the public may present a written statement to the Committee at any time.

FURTHER INFORMATION CONTACT: Dr. William A. Sanders, Dean of Academics/Executive Secretary of the Academy Advisory Committee, U.S. Coast Guard Academy, New London, CT 06320, telephone (203) 444-8275.

Issued in Washington, DC, on February 13, 1989.

T.T. Matteson,

Rear Admiral, U.S. Coast Guard, Chief, Office of Personnel and Training.

[FR Doc. 89-4052 Filed 2-21-89; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: February 16, 1989.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 15th and Pennsylvania Avenue NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-0723.

Form Number: None.

Type of Review: Extension.

Title: Manufacturers Excise Taxes on Sporting Goods and Firearms and Other Administrative Provisions of Special Application to Manufacturers and Retailers Excise Taxes.

Description: Chapters 31 and 32 of the Internal Revenue Code impose excise taxes on the sale or use of certain articles. Section 6416 allows a refund or credit of the tax to manufacturers in certain cases. Sections 6420, 6424, and 6427 allow refunds or credits of the tax to certain users of the articles. Section 6412 allows a credit or refund for certain floor stock.

Respondents: Businesses or other for-profit.

Estimated Number of Respondents: 1,967,491.

Estimated Burden Hours Per Response/Recordkeeper: 15 minutes.

Frequency of Response: On occasion.

Estimated Total Recordkeeping/ Reporting Burden: 655,823 hours.

Clearance Officer: Garrick Shear (202) 535-4297, Internal Revenue Service, Room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 89-4060 Filed 2-21-89; 8:45 am]

BILLING CODE 4810-25-M

Office of the Secretary

[Department Circular—Public Debt Series—No. 6-89]

Treasury Notes of February 28, 1991, Series W-1991

February 16, 1989.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $9,250,000,000 of United States securities, designated Treasury Notes of February 28, 1991, Series W-1991 (CUSIP No. 912827 XF 4), hereafter referred to as Notes. The Notes will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the yield of each accepted bid. The interest rate on the Notes and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the Notes may be issued to Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the Notes may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The Notes will be dated February 28, 1989, and will accrue interest from that date, payable on a semiannual basis on August 31, 1989, and each subsequent 6 months on February 28 and August 31 through the date that the principal becomes payable. They will mature February 28, 1991, and will be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next business day.

2.2. The Notes are subject to all taxes imposed under the Internal Revenue Code of 1954. The Notes are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The Notes will be acceptable to secure deposits of Federal public monies. They will not be acceptable in payment of Federal taxes.

2.4. The Notes will be issued only in book-entry form in denominations of $5,000, $10,000, $100,000, and $1,000,000, and in multiples of those amounts. They will not be issued in registered definitive or in bearer form.

2.5. The Department of the Treasury's general regulations governing United States securities, i.e., Department of the Treasury Circular No. 300, current revision (31 CFR Part 306), as to the extent applicable to marketable securities issued in book-entry form, and the regulations governing book-entry Treasury Bonds, Notes, and Bills, as adopted and published as a final rule to govern securities held in the TREASURY DIRECT Book-Entry Securities in 51 FR 18260, *et seq.* (May 16, 1986), apply to the Notes offered in this circular.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, DC 20239-1500, prior to 1 p.m., Eastern Standard Time, Wednesday, February 22, 1989. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, February 21, 1989, and received no later than Tuesday, February 28, 1989.

3.2. The par amount of Notes bid for must be stated on each tender. The minimum bid is $5,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. A single bidder, as defined in Treasury's single bidder guidelines, shall not submit noncompetitive tenders totaling more than $1,000,000. A noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue prior to the deadline for receipt of tenders.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and are on the list of reporting dealers published by the Federal Reserve Bank of New York, may submit tenders for accounts of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.5. Tenders for their own account will be received without deposit from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; and Federal Reserve Banks. Tenders from all others must be accompanied by full payment for the amount of Notes applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.6. Immediately after the deadline for receipt of tenders, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the full amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, at a ⅛ of one percent increment, which results in an

equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.500. That stated rate of interest will be paid on all of the Notes. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance of their bids. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price at the average yield is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of Notes specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for the Notes allotted must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on Notes allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in Section 3.5. must be made or completed on or before Tuesday, February 28, 1989. Payment in full must be accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Friday, February 24, 1989. In addition, Treasury Tax and Loan Note Option Depositaries may make payment for the Notes allotted for their own accounts and for accounts of customers by credit to their Treasury Tax and Loan Note Accounts on or before Tuesday, February 28, 1989. When payment has been submitted with the tender and the purchase price of the Notes allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of the Notes allotted shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Notes allotted and to be held in TREASURY DIRECT are not required to be assigned if the inscription on the registered definitive security is identical to the registration of the note being purchased. In any such case, the tender form used to place the Notes allotted in TREASURY DIRECT must be completed to show all the information required thereon, or the TREASURY DIRECT account number previously obtained.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, and to issue, maintain, service, and make payment on the Notes.

6.2. The Secretary of the Treasury may, at any time, supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Notes. Public announcement of such changes will be promptly provided.

6.3. The Notes issued under this circular shall be obligations of the United States, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Notes.

Gerald Murphy,

Fiscal Assistant Secretary.

[FR Doc. 89-4171 Filed 2-17-89; 3:45 pm]

BILLING CODE 4810-40-M

[Department Circular—Public Debt Series—No. 7-89]

Treasury Notes of May 15, 1994, Series J-1994

February 16, 1989.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $7,750,000,000 of United States securities, designated Treasury Notes of May 15, 1994, Series J-1994 (CUSIP No. 912827 XG 2), hereafter referred to as Notes. The Notes will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the yield of each accepted bid. The interest rate on the Notes and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the Notes may be issued at the average price to Federal Reserve Banks, as agents for foreign international monetary authorities.

2. Description of Securities

2.1. The Notes will be dated March 3, 1989, and will accrue interest from that date, payable on a semiannual basis on November 15, 1989, and each subsequent 6 months on May 15 and November 15 through the date that the principal becomes payable. They will mature May 15, 1994, and will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next business day.

2.2. The Notes are subject to all taxes imposed under the Internal Revenue Code of 1954. The Notes are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The Notes will be acceptable to secure deposits of Federal public monies. They will not be acceptable in payment of Federal taxes.

2.4. The Notes will be issued only in book-entry form in denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000, and in multiples of those amounts. They will not be issued in registered definitive or in bearer form.

2.5. The Department of the Treasury's general regulations governing United States securities, i.e., Department of the Treasury Circular No. 300, current revision (31 CFR Part 306), as to the

extent applicable to marketable securities issued in book-entry form, and the regulations governing book-entry Treasury Bonds, Notes, and Bills, as adopted and published as a final rule to govern securities held in the TREASURY DIRECT Book-Entry Securities System in 51 FR 18260, *et seq.* (May 16, 1986), apply to the Notes offered in this circular.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, DC 20239–1500, prior to 1:00 p.m., Eastern Standard time, Thursday, February 23, 1989. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Wednesday, February 22, 1989, and received no later than Friday, March 3, 1989.

3.2. The par amount of Notes bid for must be stated on each tender. The minimum bid is $1,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. A single bidder, as defined in Treasury's single bidder guidelines, shall not submit noncompetitive tenders totaling more than $1,000,000. A noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue prior to the deadline for receipt of tenders.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and are on the lsit of reporting dealers published by the Federal Reserve Bank of New York, may submit tenders for accounts of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.5. Tenders for their own account will be received without deposit from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; and Federal Reserve Banks. Tenders from all others must be accompanied by full payment for the amount of Notes applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.6. Immediately after the deadline for receipt of tenders, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, at a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 98.750. That stated rate of interest will be paid on all of the Notes. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99–923, and the determinations of the Secretary of the treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance of their bids. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price at the average yield is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of Notes specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for the Notes allotted must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on Notes allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in section 3.5. must be made or completed on or before Friday, March 3, 1989. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Wednesday, March 1, 1989. In addition, Treasury Tax and Loan Note Option Depositaries may make payment for the Notes allotted for their own accounts and for accounts of customers by credit to their Treasury Tax and Loan Note Accounts on or before Friday, March 3, 1989. When payment has been submitted with the tender and the purchase price of the Notes allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Notes allotted shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Notes allotted and to be held in TREASURY DIRECT are not required to be assigned if the inscription on the registered definitive security is identical to the registration of the note being purchased. In any such case, the tender form used to place the Notes allotted in TREASURY DIRECT must be completed to show all the information required thereon, or the TREASURY DIRECT account number previously obtained.

6. General Provisions

6.1. As fiscal agents of the United

States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, and to issue, maintain, service, and make payment on the Notes.

6.2. The Secretary of the Treasury may, at any time, supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Notes. Public announcement of such changes will be promptly provided.

6.3. The Notes issued under this circular shall be obligations of the United States, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Notes.

Gerald Murphy,

Fiscal Assistant Secretary.

[FR Doc. 89-4172 Filed 2-17-89; 3:45 pm]

BILLING CODE 4810-40-M

UNITED STATES INFORMATION AGENCY

United States Advisory Commission on Public Diplomacy

A meeting of the U.S. Advisory Commission on Public Diplomacy will be held February 24, 1989 in Room 600, 301 4th Street SW., Washington, DC from 10:45 to 12 Noon.

From 10:45 a.m.-11:15 a.m., the Commission will meet with Mr. Walt Raymond, Assistant Director, USIA; Mr. Stan Silverman, Director, Office of the Comptroller; and Mr. Jon Beard, Congressional Liaison Officer, to discuss USIA's budget and Congressional hearings. From 11:15 a.m.-12:00 noon the Commission will meet with Mr. Jorge Mas, Chairman, Advisory Board for Radio Broadcasting to Cuba to discuss TV Marti.

Please call Gloria Kalamets, (202) 485-2468, if you are interested in attending the meeting since space is limited and entrance to the building is controlled.

Dated: February 16, 1989.

Ledra L. Dildy,

Staff Assistant Federal Register Liaison.

[FR Doc. 89-4098 Filed 2-21-89; 8:45 am]

BILLING CODE 8230-01-M

Sunshine Act Meetings

Federal Register
Vol. 54, No. 34
Wednesday, February 22, 1989

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL ENERGY REGULATORY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: February 10, 1989, 54 FR 6636.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 2:00 p.m., February 15, 1989.

CHANGE IN THE MEETING: . The following item has been added to the closed meeting agenda for February 15, 1989:

Item No. Docket No., and Company

(5) Process Gas Consumers Group v. FERC, No. 88-1109, and Gas Research Institute, Docket Nos. RP87-71-002 and RP88-182-002.

Lois D. Cashell,
Secretary.

[FR Doc. 89-4104 Filed 2-17-89; 10:29 am]

BILLING CODE 6717-02-M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

February 7, 1989.

TIME AND DATE: 10:00 a.m., Thursday, February 9, 1989.

PLACE: Room 600, 1730 K Street, NW., Washington, DC.

STATUS: Closed [Pursuant to 5 U.S.C. 552b(c)(10)]

MATTERS TO BE CONSIDERED: In addition to the previously announced item, the following item will be heard in closed session:

2. *Paula Price v. Monterey Coal Co.*, Docket No. LAKE 86-45-D (Continuation of Commission's consideration of previously discussed matter.

It was determined by a unanimous vote of Commissioners that this item be included on the agenda and that it be discussed in a closed session.

CONTACT PERSON FOR MORE INFO: Jean Ellen, (202) 653-5629/(202) 566-2673 for TDD Relay.

Jean H. Ellen,
Agenda Clerk.

[FR Doc. 89-4203 Filed 2-17-89; 3:56 pm]

BILLING CODE 6735-01-M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 11:00 a.m., Monday, February 27, 1989.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Review of the Board's compensation project and related personnel matters.
2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
3. 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 17, 1989.

Jennifer J. Johnson,
Associate Secretary of the Board.

[FR Doc. 89-4183 Filed 2-17-89; 3:55 pm]

BILLING CODE 6210-01-M

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of February 20, 27, March 6, and 13, 1989.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of February 20

Tuesday, February 21

2:00 p.m.
Oral Argument on Sanction Issue in Shoreham Proceedings (Public Meeting)

Wednesday, February 22

10:00 a.m.
Briefing on Final Rule on Early Site Permits; Standard Design Certification; and Combined Licenses for Nuclear Power Reactors (Public Meeting)

Thursday, February 23

3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting)
a. Final Rule on Emergency Preparedness for Fuel Cycle and Other Radioactive Material Licensees (Tentative)

Week of February 27—Tentative

Monday, February 27

10:00 a.m.
Preliminary Briefing on the Status of NUREG-1150 (Public Meeting)

2:00 p.m.
Briefing on Final Report on BWR Mark I Containment Issues (Public Meeting)

Wednesday, March 1

9:30 a.m.
Briefing on Status of Performance Indicator Development (Public Meeting)

Thursday, March 2

10:00 a.m.
Briefing on Importing and Exporting of Radioactive Waste (Public Meeting)

11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of March 6—Tentative

Monday, March 6

2:30 p.m.
Briefing on Status of Generic Issues (Public Meeting)

Week of March 13—Tentative

Monday, March 13

2:00 p.m.
Classified Security Briefing (CLOSED—Ex. 1)

Wednesday, March 15

10:00 a.m.
Briefing on Acceptance by DOE of Greater Than Class C Waste (Public Meeting)

2:00 p.m.
Discussion-Possible Vote on Full Power Operating Licensee for South Texas, Unit 2 (Public Meeting)

Thursday, March 16

3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting)

Note.— Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

TO VERIFY THE STATUS OF MEETINGS CALL (RECORDING)—(301) 492-0292.

CONTACT PERSON FOR MORE INFORMATION: William Hill (301) 492-1661.

William M. Hill, Jr.,
Office of the Secretary.

February 16, 1989.

[FR Doc. 89-4170 Filed 2-17-89; 3:54 am]

BILLING CODE 7590-01-M

Corrections

Federal Register
Vol. 54, No. 34
February 22, 1989

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents and volumes of the Code of Federal Regulations. 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 THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 2

Appeals From Administrative Actions

Correction

In rule document 89-3090 beginning on page 6478 in the issue of Friday, February 10, 1989, make the following corrections:

§ 2.2 [Corrected]

1. On page 6480, in the second column, in § 2.2, in the definition for "Statement of reasons", in the third line, "decisions" should read"decision".

§ 2.6 [Corrected]

2. On page 6481, in the first column, in § 2.6(c), in the first line, "this" should read "the".

§ 2.7 [Corrected]

3. On the same page, in the heading of § 2.7, "administrative" was misspelled.

§ 2.8 [Corrected]

4. In the same column, in § 2.8(a), in the third line, after "protect" insert "such".

§ 2.10 [Corrected]

5. In the third column, in § 2.10(c), in the third line, "filed" should read "file".

§ 2.12 [Corrected]

6. On page 6482, in the first column, in § 2.12(b), the last line should be removed.

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 53

[EE-154-78]

Lobbying by Public Charities; Lobbying by Private Foundations

Correction

In the issue of Tuesday, February 7, 1989, on page 6060, in the correction to proposed rule document 88-29304, in the third column, the third item under "§ 53.4945–2 [Corrected]" should be replaced with the following:

3a. On page 51835, in the first column, in § 53.4945-2(d)(1)(vii), in "*Example (11)*", in the last line, after "communications" insert "and are thus taxable expenditures under section 4945."

3b. On the same page, in the same column, in § 53.4945-2(d)(4), in the 12th line, after "lobbying" insert "communications do not include public discussion or".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 88M-0399]

Abbot Laboratories; Premarket Approval of Murine® Sterile Saline Solution

Correction

In notice document 89-3055 beginning on page 6337 in the issue of Thursday, February 9, 1989, make the following correction:

On page 6338, in the first column, under **Opportunity for Administrative Review**, in the first line, "Section 515(d)(3)" should read "Section 515(d)(3)".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 87D-0315]

Oligosaccharide Antibotic Drugs; Neomycin Sulfate for Prescription Compounding; Amendment of Withdrawal of Approval of Abbreviated Antibiotic Drug Applications

Correction

In notice document 89-2929 appearing on page 6175 in the issue of Wednesday, February 8, 1989, make the following correction:

In the second column, under **SUPPLEMENTARY INFORMATION**, in the second line, "published" was misspelled.

BILLING CODE 1505-01-D

federal register

Wednesday
February 22, 1989

Part II

Department of Labor

Wage and Hour Division

29 CFR Part 502

Reporting and Employment Requirements for Employers of Certain Workers Employed in Seasonal Agricultural Services; Final Rule; Extension of Filing Deadline

DEPARTMENT OF LABOR

Wage and Hour Division

29 CFR Part 502

Reporting and Employment Requirements for Employers of Certain Workers Employed in Seasonal Agricultural Services

AGENCY: Wage and Hour Division, Employment Standards Administration, Labor.

ACTION: Final rule; extension of filing deadline for Form ESA-92, "Work-Day Report."

SUMMARY: This rule amends the regulations to extend the filing deadline for the work-day report concerning reportable workers in seasonal agricultural services from January 16 to March 1, 1989. The distribution of the work-day report forms was delayed and, as a result, they were not readily available in time to meet the filing requirement.

EFFECTIVE DATE: February 22, 1989.

FOR FURTHER INFORMATION CONTACT: Paula V. Smith, Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, telephone (202) 523-8305.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of September 9, 1988 (53 FR 35154), the Department of Labor issued final regulations, 29 CFR Part 502, entitled "Reporting and Employment Requirements for Employers of Certain Workers Employed in Seasonal Agricultural Services." These regulations were effective October 1, 1988.

Any person who employed a reportable worker in seasonal agricultural services for one or more work-days during the period of October 1 through December 31, 1988, is required to file a Form ESA-92, "Work-Day Report," with the Federal Government by January 16, 1989. However, the distribution of these forms was delayed and, as a result, they were not readily available in time to meet the initial filing requirement.

This document revises the regulations to extend the filing deadline for the work day report concerning reportable workers in seasonal agricultural services during the period October 1 to December 31, 1988 only, from January 16 to March 1, 1989.

Publication in Final

The Department of Labor has determined, pursuant to 5 U.S.C. 553(b)(B), that good cause exists for waiving public comment on this amendment to the regulation because such comment is unnecessary, and this extension serves the public interest.

Effective Date

The Department has determined that good cause exists for waiving the customary requirement for delay in the effective date of a final rule for 30 days following its publication. The extension of the reporting deadline contained in this rule is helpful to the public. Therefore, this amended rule shall be effective immediately.

Executive Order 11291

The Department has determined that this rule is not classified as a "major rule" under Executive Order 11291 on Federal Regulations, because it is not likely to result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) 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. Accordingly, no regulatory impact analysis is required.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for the rule under 5 U.S.C. 553(b) the requirements of the Regulatory Flexibility Act, Pub. L. 96-354, 94 Stat. 1165, 5 U.S.C. 601 *et seq.* pertaining to regulatory flexibility analysis, do not apply to this rule. See 5 U.S.C. 601(2).

Paperwork Reduction Act

Since the extension of the reporting deadline from January 16 to March 1, 1989, requires the collection of no additional information, approval of the Office of Management and Budget is not required. See 44 U.S.C. 3501 *et seq.*

Accordingly, Part 502 of Chapter V of Title 29 of the Code of Federal Regulations, is amended as set forth below:

PART 502—REPORTING AND EMPLOYMENT REQUIREMENTS FOR EMPLOYERS OF CERTAIN WORKERS EMPLOYED IN SEASONAL AGRICULTURAL SERVICES

1. The authority citation for Part 502 is revised to read as follows:

Authority: 8 U.S.C. 1160, 1161; 1801 *et seq:* Section 502.6 also issued under 29 U.S.C. 49k.

2. In § 502.12, paragraph (e)(1) is revised to read as follows. (The paragraph denoting OMB approval remains unchanged.)

§ 502.12 Reporting to the Federal Government.

* * * * *

(e) * * *

(1) For the period October 1 through December 31, certified report must be submitted by the following January 16;

(i) The certified report for the period October 1 through December 31, 1988, must be submitted no later than March 1, 1989.

* * * * *

Signed at Washington, DC this 14th day of February, 1989.

Elizabeth Dole,

Secretary of Labor.

Alan McMillan,

Acting Assistant Secretary for Employment Standards.

Paula V. Smith,

Administrator, Wage and Hour Division, Employment Standards Administration.

[FR Doc. 89-3916 Filed 2-21-89; 8:45 am]

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Part III

Department of Transportation

Federal Aviation Administration

14 CFR Parts 61 et al.

Special Federal Aviation Regulation No. XX; Advanced Qualification Program; Notice of Proposed Rulemaking

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 61, 63, 65, 121, and 135

[Docket No. 25804, Notice No. 89-4]

RIN 2120 AC 85

Special Federal Aviation Regulation No. XX; Advanced Qualification Program

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed Special Federal Aviation Regulation (SFAR) would establish a voluntary alternative method for meeting the training, evaluation, certification, and qualification requirements for flight crewmembers, flight attendants, aircraft dispatchers, instructors, evaluators and other operations personnel subject to the training requirements of 14 CFR Parts 121 and 135. The FAA has developed this alternative method in response to recommendations made by a task force composed of representatives from the government, airlines, aircrew professional organizations, and airline industry organizations. The proposed SFAR is designed to improve aircrew performance and would allow certificate holders that are subject to the training requirements of Parts 121 and 135 to develop innovative training programs that incorporate the most recent advances in training methods and techniques.

DATE: Comments must be received on or before April 24, 1989.

ADDRESS: Send or deliver comments on this notice in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC-10), Room 915G, Docket No. 25804, 800 Independence Avenue, SW., Washington, DC 20591. Comments must be marked Docket No. 25804. Comments may be examined in the Rules Docket between 8:30 a.m. and 5 p.m. on weekdays, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. David Catey, Air Carrier Branch, Air Transportation Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-8094.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of this proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address above. All communications received on or before the closing date for comments will be considered by the Administrator before taking further rulemaking action. Persons wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit with those comments a pre-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 25804." The postcard will be dated and time stamped and returned to the commenter. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center (APA-230), 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267-3484. Requests must identify the notice number of this NPRM. Persons interested in being placed on the mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedures.

Background

Statement of the Problem

Federal Aviation Regulations that pertain to training programs and the practical test portion of the certification requirements for pilots, flight instructors, check airmen and other evaluators, flight crewmembers other than pilots, aircraft dispatchers, and other operations personnel appear in 14 CFR Parts 61, 63, 65, 121, and 135. The most detailed and rigorous training and qualification requirements are those contained in Subparts N and O of Part 121. While Subparts N and O have been amended a number of times in recent years, most of the amendments concern the use of simulators or other training devices or specific requirements such as the need for training in areas such as security and the transportation of hazardous materials. The last comprehensive changes to Subparts N and O were made in Amendment 121-55 issued on December 22, 1969 (35 FR 84, January 3, 1970).

Some current requirements do not reflect recent advancements in aircraft technology or advancements in training methods and techniques. Certain training, checking, and testing requirements in the regulations are becoming obsolete for airline operations of advanced technology aircraft. The FAA has been accommodating air carrier training needs by issuing exemptions to current training program requirements.

Another area in which current regulations have been an obstacle to developing efficient training programs is in the specific programmed hours required for certain categories of training. In light of new training methods and the advanced capabilities of new aircraft, these specific hours are not always accurate. A portion of the hours now required to be spent on one phase of training could more efficiently be used in advanced training. Also of particular concern is the appropriateness and adequacy of the practical test requirements for airplane and rotocraft airline transport pilot certificates and associated ratings prescribed in the tables and text on maneuvers and procedures in Part 61, Appendices A and B, and the appropriateness and adequacy of the flight training and proficiency check requirements contained in Part 121. Appendices E and F. Some of the requirements are not applicable to certain new aircraft and to new methods of training.

The introduction of advanced computer-based technology (e.g., fly-by-wire, digital vs. analog, flight-management systems, glass cockpits) onto the flight deck of transport aircraft has resulted in a dramatic recent change in the role and expertise expected of flight crewmembers. The procedural and functional differences of aircraft having this new technology and the necessarily difficult demands that are from time to time placed on crewmembers individually and on crewmembers when functioning together as a team need to be reflected in crewmember training. In recent years a consensus has developed within industry and government that training should emphasize crew coordination and the management of crew resources. Traditionally, airline training and checking has been weighted toward the pilot in command (PIC) with less stringent requirements for the other crewmembers. This has led to training and checking of pilots on an individual basis, in an environment which is not crew task oriented. Furthermore flight

crewmember training historically has focused on flying skills and systems knowledge while neglecting factors such as communication skills, coordination and decision making.

Evidence accumulated in the last decade suggests that a high percentage of air carrier incidents and accidents have been caused, at least in part, by a failure of the flightcrew to use readily available resources. National Aeronautics and Space Administration (NASA) studies performed over the last ten years indicate that more than 60% of fatal air carrier accidents were not directly linked to mechanical failure or lack of pilot skills but rather to a breakdown in cockpit communication. These NASA studies emphasize a deficiency in present recurrent training in areas related to human factors.

The name given to this area of skills is Cockpit Resource Management (CRM). CRM is generally understood to be the effective use of all resources available to the crew—hardware, software, and all persons involved in aircraft operation—to achieve safe and efficient flight operations. While some airlines have developed CRM programs, certainly not all who could benefit from such programs are doing so. Many who would like to incorporate such training need guidance in developing CRM programs.

A training technique related to CRM, which is currently reflected in the regulations in § 121.409 and Part 121, Appendix H, is Line Oriented Flight Training (LOFT). LOFT training is required in Advanced Simulation Training Programs to facilitate the transition from the simulator to line flying. LOFT as defined in FAA Advisory Circular 120-35A (Line-Oriented Flight Training Programs) refers to the use of a complete crew (each line qualified) in a realistic, real-time, no jeopardy training environment (a simulation) where the results of crewmember actions are allowed to occur without instructor intervention. LOFT is a well proven method of providing practice and feedback in crew coordination. Well-designed LOFT scenarios require the coordinated efforts of all crewmembers for successful performance. LOFT is particularly effective when coupled with meaningful feedback. A feedback technique some carriers have effectively used is videotape feedback.

History

In 1975, the FAA began to deal with two issues in Part 121 pilot training and checking. These issues were hardware requirements for total simulation and the redesign of training programs to deal with increasingly complex human factors problems and to increase the benefits derived from the simulation. At the urging of the air transportation industry, the FAA addressed the hardware issue first. This effort culminated in 1980 in the development of the Advanced Simulation program, set forth in Part 121, Appendix H.

Since then the FAA has continued to pursue approaches for the redesign of training programs to increase the benefits of Advanced Simulation and to deal with the increasing complexity of cockpit human factors.

In December 1986, in response to a Safety Recommendation from the National Transportation Safety Board (NTSB), the FAA initiated a program in the area of Aviation Behavioral Technology which developed and applied behavioral analysis and technology to improve flight safety. The ongoing program includes projects on increased line-oriented training to enhance cockpit resource management, improve cockpit/cabin communication and coordination, and improve pilot decisionmaking.

On August 27, 1987, FAA's Administrator McArtor addressed the chief pilots and certain executives of many air carriers at a meeting held in Kansas City. One of the issues discussed at the meeting focused on flight crewmember performance issues. This meeting led to the creation of a Joint Government-Industry Task Force on flight crew performance comprised of representatives from major air carriers and air carrier associations, flight crewmember associations, commuter air carriers and regional airline associations, and government organizations. On September 10, 1987, the task force met at the Air Transport Association's headquarters to identify and discuss flight crewmember performance issues. Working groups in three major areas wide formed: (1) Man/machine interface, (2) flight crewmember training, and (3) operating environment. Each working group submitted a report and recommendations to the Joint Task Force. On June 8, 1988, the recommendations of the Joint Task Force were presented to Administrator McArtor. The Task Force recommendations and minutes of Task Force meetings have been placed in the public docket for this rulemaking.

The major substantive recommendations to the Administrator from the flight crewmember training work group were the following: (1) Require Part 135 commuters whose airplane operations require two pilots to comply with Part 121 training checking, qualification and record keeping requirements; (2) provide for a Special Federal Aviation Regulation and Advisory Circular to permit development of innovative training programs; (3) establish a National Air Carrier Training Program Office which provides training program oversight at the national level; (4) require seconds in command to satisfactorily perform their duties under the supervision of check airmen during operating experience; (5) require all training to be accomplished through a certificate holder's training program; (6) provide for approval of training programs based on course content and training aids rather than using specific programmed hours; (7) require Cockpit Resource Management Training and encourage greater use of Line Oriented Flight Training.

Specific recommendations were listed regarding regulatory changes and were separated into those changes which the Task Force thought should be incorporated into a Special Federal Aviation Regulation (SFAR) and in an accompanying Advisory Circular and those which the Task Force thought should be proposed in a subsequent rulemaking action. An SFAR is used by the FAA to issue regulations with short term effect or when the special nature of a regulatory change makes it impractical to amend existing regulations. Since this proposal would establish a voluntary alternative program and since it affects numerous sections in Parts 61, 63, 65, 121 and 135, an SFAR is appropriate.

In June of 1988, the National Transportation Safety Board (NTSB) issued a Safety Recommendation (A-88-71) on the subject of CRM training. The recommendation stemmed from an NTSB accident investigation of a Northwest Airline crash on August 16, 1987, in which 148 passengers, 6 crewmembers, and 2 people on the ground were killed.

The NTSB noted that both pilots had received single-crewmember training during their last simulator training and proficiency checks and that the last CRM training they had received was 3.5 hours of ground school (general) CRM training in 1983. As a result of its investigation, the NTSB recommended that all Part 121 carriers:

> Review initial and recurrent flightcrew training programs to ensure that they include simulator or aircraft training exercises which involve cockpit resource management and active coordination of all crewmember trainees and which will permit evaluation of crew performance and adherence to those crew coordination procedures.

FAA Determination

In response to the recommendations from the Joint Task Force, the FAA is issuing this proposed SFAR which provides a voluntary alternative method for meeting the training, evaluation, certification, and qualification requirements in Parts 61, 63, 65, 121, and 135. It applies to all certificate holders required to have an approved training program under §§ 121.401 or 135.341 and all certificate holder personnel subject to those training program requirements. This proposed voluntary alternative is called an "Advanced Qualification Program." At the same time, the FAA is issuing in draft form for public comment Advisory Circular 120-XX, Advanced Qualification Programs, which will provide a means acceptable to the Administrator for approval of an Advanced Qualification Program (AQP). The FAA will not issue a final rule based on this notice until it has received and considered comments on the draft Advisory Circular (AC). While the applicability of the proposed SFAR would cover all crewmembers, aircraft dispatchers, and other operations personnel, initially, the proposed alternative compliance method in the Advisory Circular would be limited to pilots and flight engineers and to those certificate holders that have available either an advanced flight training device or flight simulator for flight crewmember, flight instructor and flight evaluator training and evaluation. Small operators can take advantage of this alternative by using training centers that qualify under this proposed SFAR.

The FAA plans to develop alternative compliance methods for persons other than pilots and flight engineers. Until these compliance methods are issued, a certificate holder that wants its AQP to cover employees other than pilots and flight engineers can submit for approval its own proposed compliance methods.

Recommendations from the Joint Task Force have been used as a baseline for developing these proposals. Because of the successful task force effort, and because of the ongoing need to review and update training requirements for even more sophisticated aircraft, the FAA is considering establishing a training advisory committee under the Federal Advisory Committee Act.

The proposed SFAR would not be applicable to the training requirements in two specific areas, security training for crewmembers under §§ 121.417(b)(3)(v) and 135.331(b)(3)(v) and hazardous materials training under §§ 121.433a and 135.333, in order to avoid duplication. In the case of security training, the same objectives are being pursued through a separate regulatory vehicle that is unique to security. The specific requirements for security training are not set forth in the Federal Aviation Regulations but, rather in each Air Carrier's Standard Security Program (ACSSP), a document that is not available to the general public. The ACSSP, which is required by FAR Part 108, may be amended by the Administrator in accordance with § 108.25. Efforts are currently underway to amend the ACSSP to provide an alternative method of training, based on course content, similar to that proposed in this SFAR. In the case of hazardous materials training, the current requirements in § 121.433a already reflect the content-based approach proposed in this SFAR for other training.

The FAA specifically requests comments on this exclusion of security and hazardous materials training from AQP curriculums. If the FAA concludes, based on comments received, that including security and hazardous materials training requirements in Advanced Qualification Programs is desirable, these requirements will be included in the final rule for this proposed SFAR.

Subsequent to issuance of this proposed SFAR, the FAA plans to issue additional NPRMs which will propose to implement other task force recommendations, such as, revise and upgrade Parts 121 and 135 training, testing and checking, and qualification requirements, including CRM and LOFT. Eventually the FAA intends to develop advisory circular guidance to include flight attendants, dispatchers, and other operations personnel in the advanced program.

The FAA will continue to conduct research on the issues raised by the Joint Task Force. In the long term, the FAA intends to gather information from AQPs and crewmember performance statistics to evaluate the effects of AQPs on performance. Specific areas for such evaluation would include, but not be limited to, the need for CRM proficiency evaluation in practical tests for airman certification; the need for evaluating proficiency in simulated operations scenarios rather than using these scenarios strictly as training activities; and the optimum length of time for a recurring continuing qualification cycle.

The initial goal of the proposed SFAR is to improve flight crew performance by providing alternative means of complying with certain current provisions in the Federal Aviation Regulations which may inhibit innovative use of some modern technology that could facilitate the training of flight crewmembers. The SFAR would encourage carriers to become innovative in their approach to training.

In response to a Joint Task Force recommendation, the FAA would establish a headquarters Air Carrier Training Branch. The Branch would set overall policy regarding AQPs and assure standard implementation of that policy throughout the FAA.

General Discussion of the SFAR

The proposed SFAR provides an alternative to the training and qualification requirements in Part 121 Subpart N—Training Programs and Subpart O—Crewmember Qualifications and in Part 135 Subpart H—Training and Subpart E—Flight Crewmember Requirements. The proposed SFAR also includes, for airman employees of Part 121 and Part 135 certificate holders, alternatives to the practical test portion of the certification requirements in Parts 61, 63, and 65. Initially these practical test certification options would only be available to pilots who hold a commercial pilot certificate with an instrument rating (discussed more fully in the section by section portion of this preamble). The AQP option would be available to any certificate holder who is required to have an approved training program under §§ 121.401 or 135.341 and who seeks and obtains FAA approval for its AQP.

The proposed SFAR would provide flexibility and allow for innovation in crewmember, aircraft dispatcher, and other operations personnel training programs. In effect it would allow a certificate holder to establish training curriculums which depart from current requirements as long as its AQP meets the SFAR requirements and provides at least an equivalent means of compliance with current regulations in all categories of training and in all subject categories (e.g., windshear and emergency training). The SFAR would allow a certificate holder to tailor training curriculums to permit the maximum use of flight simulators and other flight training devices.

For example, one difference in requirements between the present rules and the proposed SFAR is that in the current regulations, the training and qualification requirements for different types of operations vary with respect to the balance between training and checking. In some areas there is more emphasis on evaluation, to the detriment of training. One goal of the SFAR is to ensure that there is a proper balance between training and evaluation, so that

each flight crewmember receives a proper amount of each.

Another difference is that the proposed SFAR emphasizes the concept of training to proficiency, crewmember performance, and subject content and envisions approval of "planned" hours of training, but does not require a specific number of "programmed" hours as does present Part 121. The tables provided in the Advisory Circular on maneuvers and procedures will be more comprehensive and more relevant to current aircraft technology and operational capability than those that appear in Part 121 Appendices E and F. Some of the maneuvers and procedures required in the current tables cannot be performed in the new generation aircraft. Other maneuvers and procedures need to be added to accommodate these new aircraft. Programmed hours and the current tables of maneuvers and procedures can result in rote fulfillment of the requirements necessary to pass a final test rather than in useful and practical training to a performance standard. Hence, the flexibility permitted under the SFAR would allow a certificate holder to develop curriculums with planned hours and specific activities including maneuvers and procedures, whose subject content will ensure proper training for specific job tasks. Because an approved AQP will build on the present system, it will be as safe or improve the safety level of the current system. Overall the FAA expects that flight crews qualified under an AQP will exhibit superior performance because they have received CRM training and training more specific to the type of aircraft in which they perform their duties.

While the SFAR would provide more flexibility in structuring curriculums, it would also require additional training in CRM and increased training and evaluation for second in command pilots under both Parts 121 and 135. The training and evaluation required by the SFAR would ensure that the person is technically skilled and that the person can demonstrate those technical skills while operating in a typical operational or simulated operational environment. The SFAR would also require continuing qualification curriculums for instructors and evaluators, program validation, and criteria for determining the qualifications of all instructors and evaluators whether or not they are employed by a certificate holder. These additional requirements are discussed fully below.

Section by Section Discussion

The proposed SFAR has several significant features that allow for flexibility in training programs within a standard framework and that recognize recent advances in training methods.

In accordance with proposed Section 1, the SFAR would apply only to those certificate holders who are required to have an approved training program under Parts 121 or 135 and who elect to use the alternative program. The Parts 121 or 135 certificate holder must obtain approval for its AQP. The FAA has determined that at this time a voluntary program is more appropriate than a mandatory program because the FAA and many eligible certificate holders have limited experience with some of the levels of knowledge needed to operate new generation aircraft and with some of the newer methods and techniques in training. In addition, advanced training devices, simulators, and hardware/software may not be immediately available to certificate holders to meet the training and qualification requirements of an AQP. In reviewing such programs, the FAA will ensure that the level of safety provided by each AQP will equal or exceed that provided by the current rules. The FAA will also review these programs to ensure conformity with applicable international standards, such as airman certification requirements, adopted by the International Civil Aviation Organization.

A certificate holder may elect to meet the SFAR requirements for less than its entire aircraft fleet as explained below. Thus, a certificate holder's training program may include curriculums that comply with current Parts 121 or 135 requirements as well as curriculums which comply with the SFAR requirements. Each AQP curriculum must apply to all flight crewmember duty positions for a particular make, model, and series aircraft (or variant) and may include other positions, such as flight attendants and aircraft dispatchers.

The term "group," as used in Part 121, Subparts N and O in reference to aircraft, would not apply to advanced training approved under this SFAR. Designation of the aircraft covered by a curriculum must be by aircraft make (e.g., Boeing, Lockheed, Cessna, etc.), model (e.g., B-747, L-1011, C-500), series (e.g., -100, -200), aircraft (or variant, as described below), and crewmember position only. More than one make, model, and series aircraft could be included in one curriculum only if the certificate holder can show to the satisfaction of the Administrator that the aircraft are operationally compatible (e.g., similar handling, operating characteristics, instrumentation, and flight management). For example, a certificate holder could develop a curriculum that covered both the B-757 and B-767 or two or more series of the same aircraft model. However, a certificate holder could not include the DC-9 and DC-10 in the same curriculum because of the different handling and operating characteristics of the two aircraft models. Also, a certificate holder could be required to establish a separate curriculum for a variant of a make, model, or series aircraft if aircraft within the same make, model, or series have differences that require additional knowledge, skills, and abilities to assure safe operation of the aircraft.

Section 1 states that the SFAR applies to crewmembers, aircraft dispatchers, other operations personnel, instructors, and evaluators for whom training or qualification is required under Parts 121 or 135 under the SFAR. Although the SFAR will apply to all crewmembers, aircraft dispatchers, other operations personnel, instructors and evaluators, at this time approval criteria is not available for AQP curriculums for persons other than flight crewmembers and instructors and evaluators.

Section 1 states that AQP curriculums may include elements of present Parts 121 and 135 training programs. That is, an AQP need not be an entirely new program. It can build on an existing approved program as long as it meets all of the requirements of the SFAR.

Section 2 of the proposed SFAR defines terms that are used throughout the SFAR.

In proposed section 3, the required curriculums that the certificate holder must include in its AQP are similar to those now covered in Part 121, Subparts N and O, and Part 135 Subpart H except that continuing qualification is a new concept, not dealt with separately under the current regulations. In the proposed SFAR, continuing qualification includes activities such as recurrent training, proficiency evaluations, and recency of experience requirements. Continuing qualification would apply to instructors and evaluators as well as to all crewmembers. It combines training and evaluation activities in both ground and flight instruction which would be planned for and conducted on a continuing qualification cycle which would be a recurring cycle. This recurring cycle initially would be for a period not to exceed 26 months (which could be extended in increments of 3 months, to a maximum of 39 months) during which each crewmember (or

other person being trained) must receive a balanced mix of training and evaluation on all activities and subjects necessary to ensure that each person maintains at least the level of knowledge and proficiency required for original qualification. Each continuing qualification cycle will include recurring training sessions at a training facility for each person qualified under an AQP. The frequency of these sessions will be approved by the Administrator and initially the maximum time between sessions will not exceed 13 months. A PIC must complete an online evaluation in an aircraft that must occur within 30 days of either side of the midpoint between recurring training sessions. Once a 13-month calendar is tried and evaluated, extensions, not to exceed three months at any one approval, may be approved if warranted based upon a showing by the certificate holder that such an extension will not generally result in the loss of skills or proficiency of crewmembers. For example, under some of the exemptions the FAA has granted for modified training programs under Part 121, the FAA has determined that PIC proficiency evaluations can be given annually rather than semiannually when the PIC receives additional training during the PIC's annual training session. The SFAR proposes to limit the extensions so that no period between sessions at a training facility could exceed 26 months. The FAA requests comment on whether the rule should contain such a limitation, and, if so, whether 26 months is appropriate. The FAA also requests comment on whether 39 months is appropriate as the maximum allowable period for a continuing qualification cycle.

The qualification requirements for flight crewmembers, flight instructors, and evaluators in section 3 do not include the traditional categories of transition training and upgrade training. These categories would not be considered separate categories of training since they would automatically be included in initial qualification for curriculums specific to aircraft, make, model, and series, or variant, and crewmember position.

Section 3 also sets forth proposed evaluation requirements that are more advanced than current requirements because they include evaluation of the ability of each flight crewmember, aircraft dispatcher, and other operations personnel to operate as part of a team. This type of evaluation is in addition to the traditional evaluation of an individual's skills and knowledge that are required for performance of a particular duty assignment. It will require that the crewmember, aircraft dispatcher, or other operations personnel be evaluated in an operational or operational-like setting where the person being evaluated must deal with typical operational distractions that must be dealt with at the same time that the person is performing both individual and crew tasks. For example, a pilot scenario could involve ATC communication, flight attendant communication, and exchanges between PIC and SIC all during a typical preparation for takeoff situation.

Section 3 also contains a requirement that, at the time a pilot in command is receiving an online evaluation, the second in command and flight engineer on that same flight will also be evaluated. The purpose of evaluating the entire flight crew is to ensure that each flight crewmember performs adequately individually and as part of a crew. This requirement is consistent with the present practice of evaluating the entire flight crew when a pilot in command is receiving an online check under § 121.440. However, no separate requirement is being proposed that seconds in command or flight engineers receive online evaluations, other than when associated with a pilot in command evaluation.

Under section 4 of the SFAR an AQP would be required to include certain advanced methods and techniques available in training. Section 4(a) requires CRM training and Section 4(b) requires training and evaluation to ensure that the person is technically skilled both in his or her functional specialty and in CRM and that the person can demonstrate those technical skills while serving in a typical operational or simulated operational environment. These requirements are advances over the training requirements in Part 121, Subparts N and O, and Part 135, Subpart H. CRM training, as it pertains to flight crewmembers, provides them with instruction and practice and proficiency in cockpit team work. Training and evaluation of individual piloting or other skills in an actual or simulated operational scenario can be performed in training courses as described in § 121.409. Or, under this proposal, this training and evaluation can be conducted using other than line qualified flight crewmembers and can be accomplished in other than the most sophisticated simulators. A certificate holder may use LOFT procedures to train and evaluate flight attendants, flight dispatchers, and other operations personnel.

Section 4(c) requires that each qualification and continuing qualification curriculum include data collection procedures. These procedures must be designed to collect information from the certificate holder's crewmembers, instructors, and evaluators. All information would be anonymous and geared to judging performance trends as a result of training. The kinds of information would include subjective evaluations on CRM and LOFT activities as well as objective data on pass/fail rates for proficiency evaluations and online evaluations.

The information would be used by the certificate holder and the FAA to determine the effectiveness of an AQP curriculum. In some cases, the information may indicate a need to modify a curriculum or curriculum segments to meet fully the objectives of the curriculum. The information would also be used by a certificate holder that requests a modification to its approved AQP. For example, if a certificate holder requests FAA approval for extending intervals between recurrent training or evaluation activities under an AQP continuing qualification curriculum, the certificate holder must support its request with collected data showing that present performance rates warrant the extension.

In addition, the data collected under AQPs would establish for the first time a potential data base of information from which the FAA could establish performance norms and begin to assess systematically the relationship of advanced training methods and techniques with general trends in crewmember performance. This would allow the FAA to identify training methods and techniques that show a high positive correlation with improved performance and to make those methods and techniques available or mandatory, as appropriate, to other certificate holders. In this way the maximum long term benefits of innovative training approaches can be realized.

The FAA estimates that the data collection will result in a slight increase in the paperwork burden for certificate holders. Comments are invited on the subject of data collection which will help the FAA provide guidance to certificate holders on the kinds of data to be collected and the methods for collecting and analyzing data to determine the effectiveness of the AQP.

Proposed section 5 deals with how persons become eligible and become certificated (commercial pilot, air transport pilot, or appropriate ratings) in an AQP. The proposed SFAR is different from the present regulations in that it

would allow an applicant for a certificate or rating to satisfy the appropriate aeronautical experience or skill requirements of Parts 61, 63, or 65 by satisfactorily completing the appropriate training and evaluation activities required under an AQP. For example, a pilot with a commercial certificate who sought to qualify for an airline transport pilot (ATP) certificate would be required to meet all of the applicable requirements of Part 61 except the aeronautical skills requirements of Part 61 except the aeronautical skills requirements in § 61.157. The applicant would have to satisfactorily complete all AQP requirements including the new requirement that the applicant would have to show at the same time both individual technical competency (piloting and other skills) and overall crew-oriented operational competency. Thus, for example, a pilot ATP applicant would not qualify for the ATP if the applicant did not demonstrate adequate CRM skills even if the applicant satisfactorily performed every other evaluation activity in the qualification curriculum.

Initially, certification under an AQP would be limited to pilots who hold a commercial pilot certificate with an instrument rating because the FAA has not yet developed approval criteria to serve as a basis for obtaining a commercial pilot certificate. Until this criteria is developed the FAA will review any certificate holder's request for commercial pilot certification under an AQP on a case by case basis.

Proposed section 6 requires that a flight simulator or flight training device used in an AQP must be evaluated against a set of criteria established by the Administrator for a particular level of simulation. If the flight simulator or flight training device meets the criteria it is approved for that level of simulation. In addition the flight training device or flight simulator must be approved by the Administrator for its intended use in any AQP. Thereafter, a flight simulator or flight training device would be evaluated on a continuing basis. While approval of use of training devices and simulators in a certificate holder's training program is presently required under §§ 121.407 and 135.335, this proposal would for the first time codify the policy that the flight simulator and flight training device qualification level approval must be to criteria established by the Administrator. Similarly, while initial approval and continuing qualification of simulators by the Administrator is present FAA policy, this proposal would codify that policy. The FAA has developed advisory material on the approval and evaluation of flight simulators and flight training devices for use in AQPs. This material will appear either in the AQP advisory circular or in separate advisory circulars being developed by the National Simulator Training Staff.

Proposed section 7 requires that the AQP must provide training and evaluation equivalent to all training curriculum subjects and events that are required under the current rules, plus meet the additional requirements in sections 3 and 4 which provide advanced training and hence a higher training, evaluation, and certification standard than the current rules require.

Proposed paragraph (c) of section 7 requires each applicant that already has an approved training program under Parts 121 or 135 to submit a transition plan (including a schedule of events) that shows how it will change its applicable standard training to advanced qualifications training. In other respects the procedural requirements of §§ 121.405 or 135.325, as applicable, will apply (e.g., initial and final approval, appeals, stays). Paragraph (d) of section 7 addresses the situation where a certificate holder would be required to move from advanced curriculums to standard curriculums under Parts 121 or 135 if the Administrator finds that the certificate holder is not meeting the provisions of its approved AQP. The revisions to an AQP will be made in accordance with the requirements of §§ 121.405 or 135.325, as applicable.

Proposed section 8 contains requirements that would apply when a certificate holder arranges to have training performed by anyone who is not an employee of that certificate holder. This would include training performed by another certificate holder or a separate organization that specializes in air carrier training or U.S. and foreign aircraft manufacturers that provide air carrier training. The proposed AQP includes a definition of "training center", the term the FAA proposes to use to describe these separate training organizations.

A training center would have to obtain provisional FAA approval of each curriculum, curriculum segment, or portion of a curriculum segment to be used in an AQP. The draft advisory circular on AQP will contain acceptable criteria under which a separate training organization can obtain provisional FAA approval of a curriculum, curriculum segment, or portion of a curriculum segment. Proposed section 8 also contains a requirement that, before a training center's provisionally approved curriculum, curriculum segment, or portion of a curriculum segment could be used in an AQP, that use would have to be approved by the Administrator. Thus, while a training center could develop and obtain provisional approval of standard curriculums, curriculum segments, etc., before a training center could be used for AQP training, the certificate holder would have to satisfy the FAA that the training center's provisionally approved curriculum, curriculum segment, etc, fully meets that certificate holder's requirements.

The proposed recordkeeping requirements in section 9 would replace the training and qualification recordkeeping requirements in Part 121, Subpart V and § 135.63. The proposed SFAR requirements provide that the level of detail and the nature of the contents must be sufficient to establish the qualification of each person who is trained and qualified under an AQP. However, the advisory circular discussed below provides specific guidance concerning appropriate recordkeeping.

The Advisory Circular

The FAA is issuing separately for public comment Advisory Circular 120.XXX, titled "Advanced Qualification Program," which will provide guidance on developing an AQP and specify the criteria the FAA will use to evaluate an AQP.

The draft Advisory Circular identifies general indoctrination, qualification, and continuing qualification educational elements, flight training events, and activities that should be included for each. It provides guidance on developing continuing qualification cycles (including training, evaluation, and currency activities) for flight crewmembers, on developing CRM segments, on flight crewmember certification, program validation, and on the approval process.

Since the AQP is a new concept, the AC cannot set forth exact details of an alternate program. In keeping with the purpose of the SFAR to allow flexibility and innovation, the AC establishes a framework for developing an acceptable program and provides examples of what would be considered acceptable practices.

Regulatory Evaluation

This regulatory evaluation examines the costs and benefits of the proposals for regulatory change. A full regulatory evaluation containing additional detail has been placed in the docket.

The proposed SFAR provides an alternative means of training and qualifying flight crewmembers. The alternative, called the Advanced Qualification Program (AQP), would be available to any certificate holder who is required to have an approved training program under Parts 121 or 135 and who obtains FAA approval for its AQP. The AQP is not mandatory; it is left up to the discretion of the individual certificate holder as to whether to adopt the AQP, and the FAA assumes that certificate holders will do so only if it improves their training effectiveness and safety or is otherwise in their economic interest. In fact, the limited available industry data suggests that benefits to the adopter could exceed costs. Therefore, it is assumed that this SFAR will not impose any additional net cost on the industry.

These regulations might make possible some costs savings in the air carriers' crew training program. This may occur because: (1) Training time would be related to individual proficiency instead of set hours of training, and (2) the frequency of recurring training for PIC's could be reduced thereby reducing costs of transportation to training facilities.

Since the AQP will build upon the current system, the FAA expects it to be as safe as the current system, and to improve the level of safety above that currently required. If after evaluation by the FAA's Air Carrier Training Branch, the AQP is determined to provide a higher level of safety than the current system, the FAA may consider making it mandatory for certain classes of operators under a future rulemaking action.

The only FAA costs attributable to the proposed SFAR are the costs of establishing and operating the Air Carrier Training Branch within the FAA's Washington Headquarters. This branch will assume the primary responsibility for the final review and analysis of air carrier training programs submitted to the FAA for approval under the provisions of the SFAR. The staff of this branch will consist of a manager, and a team of 5–7 members. This branch will also have the use of personnel on temporary short term work detail composed of FAA personnel from the field offices as well as headquarters staff, and technical experts from the National Simulator Team, Principal Operations Inspectors (POIs) and Aircraft Evaluation Groups (AEGs). The branch will have secretarial and overhead support. The estimated annual costs of this branch are $662,000.

The primary benefits expected of the proposed SFAR would be a reduction of the number of air carrier accidents in which cockpit coordination problems are the probable cause. A review of NTSB aviation accident data reveals that during the past 20 years, there were 14 such accidents involving Part 121 air carriers and 15 accidents involving Part 135 air carriers. These accidents have resulted in 661 fatalities and 163 serious injuries and the costs of these types of accidents were $779 million or about $39 million dollars per year.

Accidents in which cockpit coordination problems were the probable cause appear to have occurred at a consistent rate during the past 20 years for Part 121 departures; there were 0.83 accidents of this type per 10 million Part 121 IFR departures. For Part 135 operators, these types of accidents declined during the 70's and have been level during the 80's at 4.73 accidents per 10 million Part 135 IFR departures. Applying accident rates to forecasted departures between 1989 and 1999, the projected number of Part 121 and Part 135 accidents of this type for the next 10 years are 11.9 and 21.4 respectively.

The economic losses due to these projected accidents would be substantial: $619.4 million due to Part 121 air carrier accidents and $71.2 million due to Part 135 air carrier accidents. The average annual loss during this period is estimated to be $62.8 million a year. If this SFAR reduces projected annual losses by only two percent, the reduction in losses ($1,256,000) would exceed FAA's annual costs of $662,000. The FAA expects this SFAR to contribute a greater than two percent reduction in accidents in which cockpit coordination problems were the probable cause, but at this time has insufficient data to make a specific estimate. Accident trends will be closely monitored during the 5-year life of the SFAR to determine the impact of the AQP. The FAA specifically invites comments on these assumptions regarding costs and benefits.

These proposed regulations might make possible some cost savings in the large air carriers' training programs. The limited available information suggests that large Part 121 operators might have a crew training cost savings of $27,972,000 and that large Part 135 operators might have a costs savings of $4,684,950. Some training costs, however, would be increased by this proposed SFAR. For the large Part 121 operators, it is estimated that some training costs would be increased by $20,667,800; for the large Part 135 operators, some of their training costs are estimated to be increased by $591,500. Both the large Part 121 and the large Part 135 operators could have a net cost savings as a result of this SFAR—$7,304,000 for large Part 121 operators, and $4,093,450 for large Part 135 operators. These cost savings and cost increases are explained in more detail in the regulatory evaluation included in the docket for this NPRM, and the FAA specifically invites comments on the estimated cost increases and cost savings.

Two benefit-cost comparisons are made in this evaluation in order to take into account the uncertainties regarding the effectiveness of this program at reducing accidents and the amount of participation of Parts 121 and 135 operators in this program. In the first comparison, it is assumed that 100 percent of the large Parts 121 and 135 operators will participate in this program starting in the first year. It is also assumed that this program is only 20 percent effective at reducing aviation accidents caused by cockpit crew coordination problems. This assumption is based on an arbitrary low number chosen to be a conservative estimate of the chief benefits of this program (another benefit of this proposal would be a reduction in cockpit crew training costs for the large operators). However, the FAA expects this proposed program to be more effective than 20 percent. In the second comparison, it is assumed that only 5 percent of the large Parts 121 and 135 operators will participate in the program and that the program will only be one percent effective at reducing the above type of accidents. The second comparison is a worst case scenario.

In both comparisons, the potential benefits of the proposed program exceed the estimated costs of the program. In the first comparison, the present value of the 5-year stream of benefits is $159,979,000 which is almost twice the present value of the 5-year stream of costs which are $82,917,000; the benefit to cost ratio is 1.93 to 1. In the second comparison, the present value of the 5-year stream of benefits is $7,999,000 which also exceeds the present value of the 5-year stream of costs which are $6,530,000; the benefit to cost ratio is 1.22 to 1. Both of these ratios will be higher if the SFAR is more effective than 20 percent at reducing accidents caused by cockpit crew coordination problems. The FAA, therefore, determines that the benefits of the proposed SFAR will exceed the costs that may result from it.

International Trade Impact

The proposal would have little or no impact on trade for both U.S. firms doing business overseas and foreign firms doing business in the United States. The proposals are likely to improve training

efficiency and, therefore, reduce costs for U.S. air carriers.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily and disproportionately burdened by government regulations. The RFA requires agencies to review rules which may have "a significant economic impact on a substantial number of small entities."

The proposals would impact those entities regulated by Parts 121 and 135. The FAA's criteria for a "substantial number" is a number not less than 11 and which is more than one third of the small entities subject to the rule. For air carriers a small entity has been defined as one who owns, but does not necessarily operate, 9 aircraft or less. The FAA's criteria for "a significant impact" is at least $3,700 per year for an unscheduled carrier and $51,800 or $92,700 per year for a scheduled carrier depending on whether or not the fleet operated includes small aircraft (60 or fewer seats).

This SFAR does not impose any costs upon Parts 121 and 135 certificate holders because the provisions in this SFAR are voluntary. It is left to the discretion of the certificate holders as to whether they will adopt the provisions of this SFAR. Those that do, will do so because adopting this SFAR will improve their operations and safety without a net increase in costs or because it is in their economic interest. The FAA believes that the larger air carriers are most likely to adopt the provisions of this SFAR and that smaller air carriers might not. The smaller air carriers might not be able to adopt the provisions in this SFAR because they do not have the necessary facilities and equipment and because of the high turnover rate of their pilots. Flight training centers might alleviate the first problem. As a result of economies of scale, these centers could offer flight crew training programs that make maximum use of flight simulators and flight training devices at affordable rates. However, the high turnover rate of their pilots necessitates that small air carriers concentrate their pilot training on improving and maintaining pilot proficiency and discourages small air carriers from adopting the AQP.

The proposed SFAR imposes no additional cost on any small Part 121 certificate holder nor any additional cost on any small Part 135 certificate holder. Therefore, the proposed amendments to 14 CFR Parts 121 and 135 will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act Approval

The FAA does not have any information on the amount of increased paperwork that this proposed SFAR would impose on those certificate holders, and others, who voluntarily elect to apply for an AQP. Therefore, the FAA invites comment on the issue of whether this proposal would require any potential increase in paperwork. In accordance with the Paperwork Reduction Act (Pub. L. 96-511), the record keeping and reporting provisions contained in this notice will be submitted for approval to the Office of Management and Budget (OMB). Comments on these requirements should be submitted to the Office of Information and Regulatory Affairs (OMB), New Executive Office Building, Room 3001, Washington, DC 20503; Attention: FAA Desk Officer (Telephone 202-395-7340). A copy should be submitted to the FAA Docket.

Federalism Implications

The regulations proposed herein would not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Thus, in accordance with Executive Order 12612, it is determined that such a regulation does not have federalism implications warranting preparation of a Federalism Assessment.

Conclusion

For the reasons stated under the heading "Regulatory Evaluation," the FAA has determined that this document involves a proposed regulation which: (1) Is not a major rule under Executive Order 12291; and (2) is a significant rule under Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Also, for the reasons stated under the heading "Trade Impact Statement and Regulatory Flexibility Determination," I certify that the proposed rule will not have a significant economic impact on a substantial number of small entities. A copy of the full regulatory evaluation may be obtained by contacting the person identified above under the caption "FOR FURTHER INFORMATION CONTACT."

List of Subjects

14 CFR Part 61

Air safety, Air transportation, Aviation safety, Safety.

14 CFR Part 63

Air Safety, Air transportation, Airmen, Aviation safety, Safety, Transportation.

14 CFR Part 65

Airman, Aviation safety, Air transportation, Aircraft.

14 CFR Part 121

Aircraft pilots, Airmen, Aviation safety, Pilots, Safety.

14 CFR Part 135

Air carriers, Air transportation, Airmen, Aviation safety, Safety, Pilots.

Proposed Amendment

Accordingly, the FAA proposes to amend Parts 61, 63, 65, 121, and 135 of the Federal Aviation Regulations (14 CFR Parts 61, 63, 65, 121, and 135) as follows:

PART 61—CERTIFICATION: PILOTS AND FLIGHT INSTRUCTORS

1. The authority citation for Part 61 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1355, 1421, 1422, and 1427; 49 U.S.C. 106(g) [Revised, Pub. L. 97-449, January 12, 1983].

2. In Part 61 the table of contents is amended by adding a note for SFAR No. XX to read as follows:

SPECIAL FEDERAL AVIATION REGULATIONS

SFAR NO. XX [Note]

3. A section for Special Federal Aviation Regulations is added to read as follows:

SPECIAL FEDERAL AVIATION REGULATIONS

SFAR No. XX

Note.— For the text of SFAR No. XX, see Part 121 of this chapter.

PART 63—CERTIFICATION: FLIGHT CREWMEMBERS OTHER THAN PILOTS

4. An authority citation for Part 63 is added to read as follows:

Authority: 49 U.S.C. 1354, 1355, 1421, 1422, and 1427; 49 U.S.C. 106(g) (revised, Pub. L. 97-449, January 12, 1983).

5. In Part 63 the table of contents is amended by adding a note for SFAR No. XX to read as follows:

SPECIAL FEDERAL AVIATION REGULATIONS

SFAR No. XX [Note]

6. A section for Special Federal Aviation Regulations is added to read as follows:

SPECIAL FEDERAL AVIATION REGULATIONS

SFAR No. XX

Note: For the text of SFAR No. XX, see Part 121 of this chapter.

PART 65—CERTIFICATION: AIRMEN OTHER THAN FLIGHT CREWMEMBERS

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

Authority: 49 U.S.C. 1354(a), 1355, 1421, 1422, and 1427; 49 U.S.C. 106(g) (revised, Pub. L. 97–449, January 12, 1983).

8. In Part 65 the table of contents is amended by adding a note for SFAR No. XX to read as follows:

SPECIAL FEDERAL AVIATION REGULATIONS

SFAR No. XX [Note]

9. A section for Special Federal Aviation Regulations is added to read as follows:

SPECIAL FEDERAL AVIATION REGULATIONS

SFAR No. XX

Note: For the text of SFAR No. XX, see Part 121 of this chapter.

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

10. The authority citation for Part 121 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1355, 1356, 1357, 1401, 1421–1430, 1472, 1485, and 1502; 49 U.S.C. 106(g) [Revised Pub. L. 97–449, January 12, 1983].

11. In Part 121 the table of contents of Special Federal Aviation Regulations is amended by adding a reference to SFAR No. XX to read as follows:

SPECIAL FEDERAL AVIATION REGULATIONS

* * * * *

SFAR No. XX

12. In Part 121 the section of Special Federal Aviation Regulations is amended, by adding SFAR No. XX to read as follows:

SPECIAL FEDERAL AVIATION REGULATIONS

* * * * *

Special Federal Aviation Regulation No. XX—

Advanced Qualification Program

Sec.

1. Purpose and eligibility.
2. Definitions.
3. Required Curriculums.
4. Other Requirements.
5. Certification.
6. Flight training devices and flight simulators.
7. Approval of Advanced Qualification Program.
8. Approval of Training, Qualification, or Evaluation by a Training Center.
9. Recordkeeping requirements.
10. Expiration.

Contrary provisions of Parts 61, 63, 65, 121, and 135 of the Federal Aviation Regulations nowwithstanding—

1. Purpose and Eligibility

(a) This Special Federal Aviation Regulation provides for approval of an alternate method (known as "Advanced Qualification Program" or "AQP") for qualifying, training, certifying, and otherwise ensuring competency of crewmembers, aircraft dispatchers, other operations personnel, instructors, and evaluators who are required to be trained or qualified under Parts 121 and 135 of the FAR or under this SFAR.

(b) A certificate holder is eligible under this Special Federal Aviation Regulation if the certificate holder is required to have an approved training program under §§ 121.401 or 135.341.

(c) A certificate holder obtains approval of each proposed curriculum under this AQP as specified in section 8 of this SFAR.

(d) A curriculum approved under the AQP may include elements of present Parts 121 and Part 135 training programs. Each curriculum must specify the make, model, and series aircraft (or variant) and each crewmember position or other positions to be covered by that curriculum. Positions to be covered by the AQP must include all flight crewmember positions, instructors, and evaluators and may include other positions, such as flight attendants, aircraft dispatchers, and other operations personnel.

(e) Each certificate holder that obtains approval of an AQP under this SFAR shall comply with all of the requirements of that program.

2. Definitions

As used in this SFAR:

"Curriculum" means a portioin of an AQP that covers one of three program areas, general indoctrination training, qualification training, and continuing qualification training. A qualification or continuing qualification curriculum addresses the required training and qualification for a specific make, model, and series aircraft (or variant) and for a specific duty position.

"Evaluator" means a person who meets and maintains all of the qualifications under the AQP for an instructor who has been designated by the certificate holder and approved by the Administrator to evaluate the performance of crewmembers, instructors, other evaluators, aircraft dispatchers, and other operations personnel.

"Facility" means all of the classrooms, equipment, and materials that are needed for training.

"Training center" means an independent organization that provides training under contract or other arrangement to certificate holders. A training center may be a certificate holder that provides training to another certificate holder, an aircraft manufacturer that provides training to certificate holders, or any non-certificate holder that provides training to a certificate holder.

"Variant" means that there are differences between aircraft within the same make, model, or series which are determined by the FAA to be of such an extent to require that a flight crewmember obtain additional knowledge, skills, and abilities to ensure safe operation of the aircraft.

3. Required Curriculums

Each AQP must have separate curriculums for the following:

(a) *General Indoctrination Curriculums.* General indoctrination curriculums must include:

(1) For newly hired persons being trained under an AQP: Company policies and practices and general operational knowledge.

(2) For newly hired flight crewmembers and aircraft dispatchers: General aeronautical knowledge.

(3) For instructors: Methods and theories of instruction; and the knowledge necessary to use aircraft, flight training devices, and flight simulators in advanced qualification curriculums.

(4) For evaluators: Evaluation requirements specified in each approved curriculum; methods of evaluating crewmembers and dispatchers; and policies and practices used to conduct ground and flight evaluations particular to an advanced qualification curriculum.

(b) *Qualification curriculums.* Qualification curriculums must include the following:

(1) The certificate holder's planned hours of ground instruction, flight instruction (flight simulator or flight training device instruction, or inflight instruction), and evaluation.

(2) A list of and text describing the training, qualification, and certification activities, as applicable for specific positions subject to the AQP, as follows:

(i) *Crewmembers and dispatchers.* Appropriate training, evaluation, and certification activities which are aircraft- and equipment-specific to qualify a person for a particular duty position on, or duties related to the operation of a specific make, model, and series aircraft (or variant); a list of and text describing the knowledge requirements, subject materials, job skills, and each maneuver and procedure to be trained and evaluated; the practical test requirements in addition to or in place of the requirements of Parts 61, 63, and 65; and a list of and text describing supervised operating experience.

(ii) *Instructors.* Appropriate training and evaluation to qualify a pilot or flight engineer to instruct on a particular make, model, and series aircraft (or variant).

(iii) *Evaluators.* Appropriate training and evaluation to qualify an instructor pilot or flight engineer instructor to evaluate on a particular make, model, and series aircraft (or variant).

(c) *Continuing qualification curriculums.* Continuing qualification curriculums must include the following:

(1) A recurring cycle not exceeding 26 months that ensures that during each cycle each person qualified under an AQP will receive a balanced mix of training and evaluation on all events and subjects necessary to ensure that each person maintains at least the level of knowledge and proficiency required for original qualification. The Administrator may approve extensions of the continuing qualification cycle, in increments not exceeding 3 months, up to a maximum of 39 months upon demonstration by a certificate holder that an extension is warranted. The continuing qualification cycle must include recurring training sessions at a training facility for each person qualified under an AQP. The frequency of these sessions must be approved by the Administrator. Initially, the frequency of these recurring sessions may not exceed 13 months. Thereafter, upon demonstration by a certificate holder that an extension is warranted, the Administrator may approve an extension of the period between sessions in increments not exceeding 3 months up to a maximum of 26 months. A recurring training session that occurs any time during the two months before the last date for a required training session can be considered by the certificate holder to be completed in the last month.

(2) Each continuing qualification curriculum must include a curriculum segment that covers the requirements for requalifying a crewmember, aircraft dispatcher, or other operations personnel who has not maintained continuing qualification.

(3) Continuing qualification must include recurring instruction in all events and major subjects required for original qualification, and recency of experience activities, as follows:

(i) For pilots in command, seconds in command, flight engineers, and instructors and evaluators: Ground instruction including a general review of knowledge and skills covered in qualification training, updated information on newly developed procedures, and safety information.

(ii) For pilots in command, seconds in command, flight engineers, instructors, and evaluators who conduct their duties in flight: Appropriate proficiency instruction in an aircraft, flight training device, or flight simulator on normal, abnormal, and emergency flight procedures and maneuvers.

(iii) For instructors and evaluators who are limited to conducting their duties in flight simulators and flight training devices: Appropriate proficiency instruction in a flight training device or flight simulator on normal, abnormal, and emergency flight procedures and maneuvers.

(iv) For pilots in command and seconds in command, recency of experience requirements in accordance with § 121.439.

(4) Continuing qualification must also include evaluation in all events and major subjects required for original qualification, as follows:

(i) For pilots in command, seconds in command, and flight engineers: A proficiency evaluation, appropriate portions of which may be conducted in an aircraft, flight simulator, or flight training device as approved in the certificate holder's curriculum which must be completed during each recurring training session.

(ii) For pilots in command: An online evaluation conducted in an aircraft during the actual flight operations under Parts 121 or 135 or during operationally (line) oriented flights, such as ferry flights or proving flights. An online evaluation in an aircraft must be completed within 30 days of either side of the midpoint between recurring training sessions.

(iii) During the online evaluations required under paragraph (ii) above, each person performing duties as a pilot in command, second in command, or flight engineer for that flight, must be individually evaluated to determine whether he or she: (1) Remains adequately trained and currently proficient with respect to the particular aircraft, crew position, and type of operation in which he or she serves; and (2) has the skills and ability to operate effectively as part of a crew.

(iv) For any other persons covered by an AQP a means to evaluate performance of their duties in their assigned tasks in an operational setting.

4. Other Requirements.

In addition to the requirements of section 3, each AQP qualification and continuing qualification curriculum must meet the following requirements:

(a) Each curriculum must include Cockpit Resource Management (CRM) Training appropriate to each position for which training is provided under an AQP. Acceptable criteria for CRM training are set forth in AC 120.XXX, "Cockpit Resource Management Training."

(b) Each curriculum must include training and evaluation that is designed to instruct and evaluate the skills and proficiency of each person being trained under an AQP to use their cockpit resource management skills and their technical (piloting or other) skills in an actual or simulated operations scenario. For flight crewmembers this training and evaluation must be conducted in an approved flight training device or flight simulator. Acceptable criteria for this training are set forth in AC 120–XXX, "Line Oriented Flight Training."

(c) Each qualification and continuing qualification curriculum must include data collection procedures that will ensure that the certificate holder collects information from its crewmembers, instructors, and evaluators that will enable the FAA to determine whether the training and evaluations are working to accomplish the overall objectives of the curriculum. Acceptable criteria for data collection are set forth in AC 120.XXX, "Advanced Qualification Programs."

5. Certification

A person enrolled in an AQP is eligible to receive a commercial or airline transport pilot, flight engineer, or aircraft dispatcher certificate or appropriate rating based on the successful completion of training and

evaluation events accomplished under that program if the following requirements are met:

(a) Training and evaluation of required maneuvers and procedures under the AQP must meet minimum certification and rating criteria established by the Administrator to be accepted as a substitute for the practical test requirements of Part 61, 63, or 65, as applicable. Acceptable criteria, including acceptable maneuvers and procedures, for meeting this requirement are set forth in AC 120.XXX, "Advanced Qualification Programs."

(b) The applicant must satisfactorily complete the appropriate qualification curriculum.

(c) The applicant must show competence in required technical skills (e.g. piloting) and cockpit resource management skills in scenarios that test both types of knowledge and skills together.

(d) The person is otherwise eligible under the applicable requirements of Part 61, 63, or 65.

6. Flight Training Devices and Flight Simulators

(a) *Eligibility to use flight training devices and flight simulators.* Each person who wishes to use a flight training device or flight simulator in an AQP must request the Administrator to conduct an evaluation of the flight training device or flight simulator for assignment of a qualification level for the device to be used in crewmember training, evaluation, or certification. To be eligible for this approval, the applicant must—

(1) Hold an operating certificate; or

(2) Be a training center authorized by the Administrator to conduct flight crewmember training or qualification under an AQP.

(b) *Initial qualification.* Each flight training device or flight simulator to be used by a certificate holder or a training center in advanced qualification training must—

(1) Be, or have been, evaluated against a set of criteria established by the Administrator for a particular qualification level of simulation, and if it meets the criteria, be approved for that qualification level of simulation; and

(2) Be approved for its intended use in a specified AQP.

(c) *Continuing qualification.* Each flight training device or flight simulator to be used in an AQP must be part of a flight simulator or flight training device continuing qualification program approved by the Administrator.

7. Approval of Advanced Qualification Program

(a) *Approval process.* Each applicant for approval of an AQP curriculum under this SFAR shall apply for approval of that curriculum. Application for approval is made to the Certificate Holder's FAA Flight Standards District Office.

(b) *Approval criteria.* An application for approval of an AQP curriculum will be approved if the program meets the following requirements:

(1) It must be submitted in a form and manner acceptable to the Administrator.

(2) It must meet all of the requirements of this SFAR.

(3) It must indicate specifically the requirements of Part 61, 63, 65, 121 or 135, as applicable, that would be replaced by an AQP curriculum. Each applicable requirement of Part 61, 63, 65, 121 or 135 that is not specifically addressed in an AQP curriculum continues to apply to the certificate holder.

(c) *Application and transition.* Each certificate holder that applies for one or more advanced qualification curriculums or for a revision to a previously approved curriculum must comply with §§ 121.405 or 135.325, as applicable, and must include as part of its application a proposed transition plan (containing a calendar of events) for moving from its present approved training to the advanced qualification training.

(d) *Advanced qualification program revisions or rescissions of approval.* If after a certificate holder begins operations under an AQP, the Administrator finds that the certificate holder is not meeting the provisions of its approved AQP, the Administrator may require the certificate holder to make revisions in accordance with §§ 121.405 or 135.325, as applicable, or to submit a plan (containing a schedule of events) under which it would transition to an approved Parts 121 or 135 training program, as appropriate.

8. Approval of Training, Qualification, or Evaluation by a Training Center

(a) A certificate holder under Parts 121 or 135 may arrange to have AQP required training, qualification, or evaluation functions performed by another person (a "training center") if the following requirements are met:

(1) The training center's training and qualification curriculums, curriculum segments, or portions of curriculum segments must be provisionally approved by the Administrator. Application for approval must be made to the FAA's Flight Standards District Office that has responsibility for the training center.

(2) The specific use of provisionally approved curriculums, curriculum segments, or portions of curriculum segments in a certificate holder's AQP must be approved by the Administrator as set forth in section 7(a) of this SFAR.

(b) An applicant for provisional approval of a curriculum, curriculum segment, or portion of a curriculum segment under this paragraph must show that the following requirements are met:

(1) The applicant must have an approved curriculum for the qualification and continuing qualification of each instructor or evaluator employed by the applicant.

(2) The applicant's facilities must be found by the Administrator to be adequate for any planned training, qualification, or evaluation for a Parts 121 or 135 certificate holder.

(3) The curriculum, curriculum segment, or portion of a curriculum segment must (unless it is general indoctrination) identify the specific make, model, and series aircraft (or variant) and crewmember position for which it is designed.

(c) A certificate holder who wants approval to use a training center's provisionally approved curriculum, curriculum segment, or portion of a curriculum segment in its AQP, must show that the following requirements are met:

(1) Each instructor or evaluator used by the training center must meet all of the qualification and continuing qualification requirements that apply to employees of the certificate holder that has arranged for the training, including knowledge of the certificate holder's operations.

(2) Each provisionally approved curriculum, curriculum segment, or portion of a curriculum segment must be approved by the Administrator for use in the certificate holder's AQP. The Administrator will either provide approval or require modifications to ensure that each curriculum, curriculum segment, or portion of a curriculum segment is applicable to the certificate holder's AQP.

9. Recordkeeping Requirements

Each certificate holder shall show that it will establish and maintain records in sufficient detail to establish the training, qualification, and certification of each person qualified under an AQP in accordance with the training, qualification, and certification requirements of this SFAR.

10. Expiration

This Special Federal Aviation Regulation terminates on (date 5 years after effective date) unless sooner terminated.

PART 135—AIR TAXI OPERATORS AND COMMERCIAL OPERATORS

13. The authority citation for Part 135 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1355(a), 1421 through 1431, and 1502; 49 U.S.C. 106(g) [Revised Pub. L. 97-449, January 12, 1983].

14. In Part 135 the table of contents of Special Federal Aviation Regulations is amended by adding a reference to SFAR No. XX to read as follows:

SPECIAL FEDERAL AVIATION REGULATIONS

* * * * *

SFAR No. XX [Note]

15. The section of Special Federal Aviation Regulations is amended, by adding SFAR No. XX [Note] to read as follows:

SPECIAL FEDERAL AVIATION REGULATIONS

* * * * *

SFAR No. XX

Note: For the text of SFAR No. XX, see Part 121 of this chapter.

Issued in Washington, DC, on February 15, 1989.

Daniel C. Beaudette,

Acting Director, Flight Standards Service.

Appendix—Advanced Qualification Program Advisory Circular Draft

Note: This Appendix will not appear in the Code of Federal Regulations.
[A/C XX-XXX]

Table of Contents

Chapter 1. Introduction and Definitions: Advanced Qualification Program (AQP)

Section 1. Introduction
1. Purpose
2. Background
3. Acceptable Method of Compliance
4. Applicability
5. Hazardous Materials and Security
6.-9. Reserved

Section 2. Definitions
10. Definitions

Section 3. Training Facilities and Equipment
11. General
12. FAA Approval of Equipment
13. FAA Approval of Flight Training Equipment
14.-19. Reserved

Chapter 2. Overview: Components of an AQP

Section 1. Required Curriculums
20. General
21. Types of Curriculums
22. General Indoctrination
23. Qualification
24. Continued Qualification

Section 2. Structure of an AQP
25. Curriculums
26. Curriculum Segments
27. Training, Testing, and Currency Modules
28. Developing Modules
29. Special Curriculum Segments
30. Temporary Special Curriculum Segment
31. Illustration of AQP Structure
32.-39. Reserved

Section 3. Additional Components of an AQP
40. Cockpit Resource Management (CRM) and Line Oriented Flight Training (LOFT)
41. Facilities
42. Training Equipment
43. Identification of Flight Training Equipment
44. Courseware
45. Experience Level of Instructors and Evaluators
46. Aircraft Fleet and Fleet Mix
47. Operating Environment
48. Certificate Holder's History
49. Proposed Continued Qualification Schedule
50. Certificate Holder's Program Evaluation Plan
51. Data Collection
52. International Civil Aviation Organization (ICAO) Standards
53.-59. Reserved

Chapter 3. General Indoctrination Curriculum
60. Purpose
61. General
62. Certificate Holder Specific Indoctrination
63. Duty Position-Specific Indoctrination
64.-69. Reserved

Chapter 4. Qualification Curriculums

Section 1. Introduction
70. Purpose
71. Planned Hours
72. Differences Training
73. Sample Qualification Curriculum

Section 2. Pilot and Flight Engineers Ground Qualification Activities
74. General
75. General Operational Subjects
76. Aircraft Systems
77. Aircraft System Integration
78. Emergency Drill Training

Section 3. Pilot and Flight Engineers Flight Qualification Activities
79. General Guidelines
80. Approved Use of Flight Training Equipment
81. Level 4—Flight Training Device
82. Level 5—Flight Training Device
83. Level 6—Flight Training Device
84. Level 7—Flight Training Device
85. Level A Flight Simulator
86. Level B Flight Simulator
87. Level C Flight Simulator
88. Level D Flight Simulator
89. Tables of Instruction/Evaluation Events which Apply to Pilots of Land and Sea Airplanes

Chapter 5. Continued Qualification Curriculums

Section 1. General
90. Purpose
91. Application

Section 2. Continued Qualification Activities
92. Types of Activities
93. Recurrent Ground Instruction
94. Recurrent Flight Proficiency Instruction
95. Line Oriented Flight Training
96. Flight Crewmember Currency Activities
97. Flight Proficiency Evaluations
98. Online Evaluations

Section 3. Continued Qualification Cycles
99. Level of Detail
100. Establishing Periodic Limits
101. Schedule Divisions

Section 4. Scheduling and Requalification
102. Extended Scheduling Time
103. Flight Crewmember Requalification
104.-112. Reserved

Chapter 6. Recordkeeping and Data Collection
113. General

Section 1. Records on Qualified Individuals
114. Recordkeeping Requirements
115. Basic Record Contents
116. Training and Qualification Records
117. Retention of Records
118. Guidelines for Computerized Recordkeeping
119.-123. Reserved

Section 2. Data Collection for Evaluation
124. Evaluation Plan
125. Data Collection
126. Kinds of Data to be Collected
127.-130. Reserved

Chapter 7. Airman Certification
131. General
132. Practical Test Criteria
133. Completion of Qualification Curriculum
134. Demonstration of Individual Skills
135. Authorized Evaluation Personnel
136. Disposition of Airman Certification Documents
137.-140. Reserved

Chapter 8. Training and Evaluation of Instructors and Evaluators
141. General
142. Training and Evaluation
143. Instructor Courses
144. Evaluator Training and Evaluation
145. CRM Training and Evaluation
146.-150. Reserved

Chapter 9. Training Centers
151. Purpose
152. General Guidelines
153. Application for Provisional Approval of Training Center Curriculum Material
154. Approval for Use in an AQP
155.-160. Reserved

Chapter 10. Computer Based Instructional/Evaluation Equipment
161. Purpose
162. General
163. Approval
164.-170. Reserved

Chapter 11. Qualification of Flight Simulators and Flight Training Devices for Use in an AQP

Section 1. Approval of Training Devices and Simulators
171. General

172. Criteria for Flight Simulator and Flight Training Device Initial Qualification Approval
173. Initial Approval of Flight Simulators and Flight Training Devices for Use in an AQP
174. Currently Qualified Devices
175. Other Devices, Not Currently Qualified
Section 2. Continuing Qualification
176. Maintaining Qualification of Simulators and Training Devices
177. Failure to Maintain Initial Qualification Level
178. Component Inoperative Guide
179. Responsibility of Sponsor
180. Scheduled Recurrent Evaluations
181. Time Periods for Scheduled Recurrent Evaluations
182. No-Notice Evaluations
183. Change of Qualification Status
184. Discrepancies
185.–195. Reserved
Chapter 12. Role of the Air Carrier Training Branch
196. Purpose and Responsibilities of the Air Carrier Training Branch
197. Technical Assistance to the Staff
198. Application for Approval
199.–205. Reserved
Chapter 13. Approval Process for an AQP
Section 1. General
206. The Approval Process
207. Initiating the Process
208.–210. Reserved
Section 2. Developing an AQP and Initial Approval
211. FAA Guidance
212. Submission of an AQP Curriculum
213. General Format
214. Supporting Information
215. Review of Documents
216. Delays
217. New Air Operators
218. Method of Granting Initial or Provisional Approval
219. Method of Denying Initial or Provisional Approval
220. Expiration Dates for Initial or Provisional Approval
221. Withdrawal of Initial Approval
222.–230. Reserved
Section 3. Final Approval Process
231. Evaluating Initially Approved Curriculums
232. Final Approval
233.–240. Reserved
Section 4. Continuing Evaluation
241. Continuing Evaluation Plan
242. Revisions to an AQP
243. Withdrawal of Approval
244. Appeal of a Withdrawal
245. Expiration
246.–255. Reserved

List of Tables and Illustrations

Figure 2–1 Structural Units of an AQP
Figure 3–1 Sample of a General Indoctrination Curriculum
Figure 4–1 Sample of a Qualification Curriculum
Tables Flight Instruction/Evaluation Land Airplanes
Special Purpose Additional Events
Water Operations/Events
Flight Instruction/Evaluation Flight Engineers
Figure 5–1 Sample of a Continued Qualification Curriculum
Figure 5–2 Continuing Qualification Schedule

Chapter 1. Introduction And Definitions: Advanced Qualification Program (AQP)

Section 1. Introduction

1. Purpose

This advisory circular provides Federal Aviation Administration (FAA) guidance for approval of an Advanced Qualification Program (AQP) under Special Federal Aviation Regulation XX. An AQP is an alternate means of qualifying, training, certifying, and otherwise ensuring the competency of pilots, crewmembers, aircraft dispatchers, instructors, evaluators, and other operations personnel subject to the training and evaluation requirements of FAR Parts 121 and 135. The goal of any AQP is to encourage innovation in instructional methodology and technology and to encourage efficient management of training systems in order to achieve the highest possible standards of individual and crew performance without unduly increasing the cost of maintaining training resources. An objective of all AQPs is to provide more effective training and the means to enhance professional qualifications to a level above that presently provided for by the minimum standards specified in Parts 121 and 135.

2. Background

The training program and crewmember qualification requirements of Subparts N and O of FAR Part 121 have not changed significantly since 1970. However, the capabilities and use of simulators and other computer based training devices in training and qualification activities have changed dramatically in the intervening years. SFAR XX and this Advisory Circular allow certificate holders subject to the training and evaluation requirements of Parts 121 and 135 to develop innovative training and qualification programs that incorporate the most recent advances in training methods and techniques.

3. Acceptable method of compliance

The methods and procedures in this Advisory Circular describe one acceptable means of compliance with SFAR XX. Alternate means proposed by an applicant will be given due consideration.

4. Aplicability

Any certificate holder required to have an approved training program under §§ 121.401(a)(1) or 135.341 is eligible to conduct some or all of its training (except hazardous materials and security training) under an approved AQP. Each approved AQP curriculum covers a certificate holder's training, qualification, and evaluation activities for all flight crewmember duty positions, as well as instructors and evaluators, for a particular make, model, and series (and variants within series) aircraft. An AQP curriculum may be approved for flight attendants, aircraft dispatchers, and other operations personnel. A certificate holder's AQP may include curriculums that comply with current Parts 121 or 135 requirements as well as SFAR requirements. To receive approval for an AQP a certificate holder must have the facilities and equipment necessary to support the training, evaluation, certification, and other competency activities which are provided for in the AQP. Certificate holders may use third party training organizations (described as training centers in this A/C) to provide portions of the training, qualification, and evaluation activities which are part of an approved AQP. A certificate holder who chooses to use an AQP must conduct under the AQP all its training, qualification, and evaluation activities (except hazardous materials and security training) for all flight crewmember duty positions for particular make, model, and series aircraft (or variant).

5. Hazardous materials and security training

An AQP is not applicable to security training for crewmembers under FAR §§ 121.417(b)(3)(v) and 135.331(b)(3)(v) or to hazardous materials training under §§ 121.443a and 135.333. Hazardous materials training requirements in § 121.443a already reflect the content approach of the SFAR. Specific requirements for security training are specified in each Air Carrier's Standard Security Program (ACSSP). An ACSSP is required by FAR Part 108 and may be amended by the Administrator in accordance with § 108.25. Approval for training in hazardous materials must be coordinated with the Office of Hazardous Materials of the Research and Special Programs Administration (RSPA) (DOT). Approval for training in security must be coordinated with the Office of Civil Aviation Security (FAA).

6.–9. Reserved

Section 2. Definitions

10. Definitions

The following terms are used throughout this AC and are defined as follows:

AQP. Advanced Qualification Program, a program for qualifying air operator personnel which includes curriculums, facilities, instructors, evaluators, courseware, instructional delivery methods, and testing and evaluating procedures.

Courseware. Instructional material developed for each curriculum. This is the information in lesson plans, flight event descriptions, computer software programs, audiovisual programs, workbooks, and handouts.

Curriculum. A portion of an AQP that covers one of three program areas: (1) General indoctrination, (2) qualification, and (3) continued qualification. A qualification or continued qualification curriculum addresses the required training and qualification activities for a specific make, model, and series aircraft (or variant) and for a specific duty position.

Curriculum segment. An integral part of a curriculum which can be separately evaluated and individually approved but by itself does not qualify a person for a duty position.

Duty Position. The functional or operating position of a crewmember, aircraft dispatcher or other person. For Parts 121 and 135 operations, duty positions include Pilot-in-Command (PIC), Second-in-Command (SIC), Flight Engineer (FE), Flight Attendant (FA), Flight Navigator (NAV), Aircraft Dispatcher (AD), Instructor (IN), and Evaluator (EV).

Element. An integral part of a training or evaluation module that is not task-oriented but subject-oriented. For example, elements of an aircraft ground training module titled "Electrical Power" may be: DC Power system, AC Power system, circuit protection, etc.

Evaluation. The method by which individuals demonstrate the required level of knowledge in a subject and whether they can apply knowledge and skills learned in instructional situations to practical situations.

Evaluator. A person who meets and maintains all of the qualifications under the AQP for an instructor who has been designated by the certificate holder and approved by the Administrator to evaluate the performance of crewmembers, instructors, other evaluators, aircraft dispatchers, and other operations personnel.

Event. An integral part of a training or evaluation module which is task-oriented and requires the use of a specific procedure.

Facility. All of the classrooms, equipment, and materials that are needed for qualification.

Instructional delivery methods. Methodology for conveying information to a student; for example, lectures, demonstrations, audiovisual presentations, home study assignments, workshops, and drills. Training devices, simulators, aircraft, and computer work stations are also instructional delivery methods.

Line Oriented Flight Training (Loft). LOFT is training conducted using operational oriented flight scenarios that accurately replicate interaction within a flight crew and between flight crew members and dispatch facilities, other crewmembers, ATC, and ground operations. These simulations are conducted for training and evaluation purposes and include random, abnormal and emergency occurrences.

Training center. An independent organization that provides training under contract or other arrangement to certificate holders. A training center may be a certificate holder that provides training to another certificate holder, an aircraft manufacturer that provides training to certificate holders, or any non-certificate holder that provides training to a certificate holder.

Training hours. The total amount of time (in hours, as specified in a curriculum segment outline) that it takes to complete the training required by a curriculum segment including instruction, demonstration, practice, and evaluation as appropriate.

Training or evaluation module. An integral part of a curriculum segment which contains descriptive information, elements, or events which relate to a specific subject. For example, a B-727 ground training curriculum segment would have a training module for aircraft systems which would be composed of elements (hydraulics, pneumatics, electronics, etc.). As another example, the curriculum segment on flight training would have training a module for procedures composed of events (normal, abnormal, emergency, etc.).

Variant. Differences between aircraft within the same make, model, or series which are determined by the FAA to be of such an extent to require that a flight crewmember obtain additional knowledge, skills, and abilities to ensure safe operation of the aircraft.

Section 3. Training Facilities and Equipment

11. General

Each organization authorized to participate in an AQP will have the facilities, equipment, and courseware necessary to support the kinds of training, evaluation, and currency activities which are provided for in the AQP. Examples of facilities include classrooms, self-paced learning stations, breakrooms, recordkeeping facilities, etc. Examples of equipment include computer basic instructional equipment and home study equipment. Examples of courseware include lesson plans, flight maneuver packages, audiovisual programs, workbooks, CBI computer courseware, etc.

12. FAA Approval of Equipment

With the exception of flight simulators, flight training devices, and computer based instructional equipment and materials, formal FAA approval is neither required nor granted for each facility or piece of equipment used in AQPs. However, procedures for use of computer based learning stations, home study equipment, and all other facilities and equipment should be established in writing by the organization responsible for security, maintenance, and employment of the particular item. (For detailed guidance on computer-based instructional/evaluation equipment, see Chapter 10.)

13. FAA approval of flight training equipment

Flight training equipment includes aircraft, flight training devices, flight simulators, and any devices used to enable flight simulation. For example, inflight simulation equipment includes devices which provide for simulated instrument readings while in flight and electronic vision restricting equipment. The FAA must approve simulation equipment which is interactive with any aircraft system before that equipment is used in flight. Flight training devices, flight simulators, and inflight simulation equipment must be evaluated and found satisfactory by the National Simulator Program Manager. Inflight equipment may require approval by the appropriate FAA Aircraft Certification Office (AC) staff. After the National Simulator Program Manager determines that the equipment is satisfactory, the FAA may approve its use within an AQP. (For further information on approval and maintenance of flight simulators and flight training devices see Chapter 11.)

14.–19. Reserved

Chapter 2. Overview: Components of an AQP

20. General

Submissions of an AQP for FAA approval should include several components. Some of these components are specifically required by SFAR XX and some are recommended here as an acceptable method of complying with the intent of SFAR XX. These

components are summarized in Sections 1–3 of this chapter. Some are discussed in greater detail in referenced chapters. Hazardous materials training and security training are not at this time covered under an AQP. These two types of training will continue to be covered under the applicable provisions of Parts 108, 121, and 135.

Section 1. Required Curriculum

21. Types of Curriculums

AQPs usually have at least the following curriculums: General Indoctrination, Qualification, and Continued Qualification. Each AQP qualification and continued qualification curriculum is comprised of training activities, evaluation activities, and currency activities (such as takeoffs and landings, instrument approach procedures, and other flight operations) that are necessary to establish and maintain acceptable levels of competency for operational personnel.

22. General indoctrination

General indoctrination occurs for all newly hired persons who require training under an AQP and covers company policies and practices as well as general operational knowledge. For newly hired flight crewmembers and aircraft dispatchers general indoctrination also covers general aeronautical knowledge and requires development of a general indoctrination curriculum for each duty position (i.e. Pilot in Command, Second in Command, and Aircraft Dispatcher). Instructor indoctrination focuses on methods and theories of instruction and the knowledge necessary to use aircraft, flight training devices, and flight simulators and other training facilities and equipment as learning media in AQPs. Evaluator indoctrination focuses on the evaluation requirements specified in each approved curriculum, methods of evaluating crewmembers, dispatchers, instructors and other evaluators, and policies and practices used to conduct ground and flight evaluations particular to an AQP.

23. Qualification

Qualification prepares crewmembers, dispatchers, instructors, and evaluators to competently perform the tasks assigned by the certificate holder to each duty position. A qualification curriculum is aircraft and duty position specific. It is comprised of ground training, flight simulator training, flight training device training, inflight training, and any required supervised operating experience. It also includes written, oral, and practical evaluations. A qualification curriculum must include the certificate holder's planned hours of ground instruction and flight instruction (flight simulation or flight training device instruction, or inflight instruction) and evaluation. After successfully completing general indoctrination and a qualification curriculum, a person is considered fully qualified to perform assigned duties.

a. *Crewmember qualification* fully prepares a person for a particular crewmember position on a specific make, model, and series aircraft (or variant). Initial supervised operating experience and, if appropriate, the practical evaluation associated with airmen certification are also parts of a qualification curriculum.

b. *Instructor qualification* includes the training and the written oral, and practical evaluation necessary to qualify a pilot or flight engineer to conduct flight instruction on a particular make, model, and series aircraft (or variant). Instructor qualification also prepares persons for instructor duties other than flight instructor duties. After successfully completing instructor indoctrination and qualification, a person is qualified for and may be assigned instructor duties in an AQP.

c. *Evaluator qualification* includes the training and the written, oral, and practical evaluation necessary to qualify an instructor to evaluate on a particular make, model, and series aircraft (or variant). After successfully completing evaluator indoctrination and qualification, a person is qualified for and may be assigned as an evaluator in an AQP.

24. Continued qualification

Continued qualification curriculums include recurrent ground and flight training, recurrent proficiency evaluations, online evaluations, and recency of experience activities. Continued qualification curriculums are developed for all instructors, evaluators, crewmembers and dispatchers. Continued qualification is planned for and conducted in a recurring manner that ensures each major subject and event required for original qualification is reviewed on a cycle that initially may not exceed 26 months. Critical elements and events should be revisited several times during a cycle. Fully qualified persons are automatically placed on a continued qualification cycle specifically designed for their duty position and aircraft assignment. A person who is qualified in more than one aircraft or in more than one duty position must participate in separate continuing qualification activities for each assigned aircraft and/or duty position. Persons will not normally be authorized to maintain qualification as either instructors or evaluators in more than two aircraft or duty positions.

Section 2. Structure of an AQP

25. Curriculums

The basic unit of an AQP is the curriculum. An AQP consists of at least a general indoctrination curriculum, qualification curriculums, and continued qualification curriculums. A qualification or continued qualification curriculum specifies the training and qualification requirements for a specific duty position (e.g., PIC, SIC) and make (e.g., Boeing, Lockheed, Cessna), model (e.g., B–747, L–1011, C–500), and series (e.g., –100, –200) of aircraft. More than one make, model, and series of aircraft (or variant) can be included in one qualification or continued qualification curriculum only if the FAA determines that the aircraft are compatible for this purpose. In some instances a qualification or continued qualification curriculum will have to be specific to a variation of a make, model, series aircraft. This would be required when aircraft in the same series have variations that require different knowledge, skills, and abilities to assure safe operation of the aircraft. For example, if within the same series, one aircraft has a traditional analog instrument display while another has an electronic digital display (glass cockpit), the qualification curriculum would have to be tailored to each variation of that series of aircraft. For general indoctrination the curriculum does not have to be aircraft specific. The term "group," as used in Part 121, Subparts N and O in reference to aircraft, does not apply to activities approved under SFAR XX.

26. Curriculum Segments

Each curriculum consists of specific curriculum segments. A curriculum segment is a group of broadly related training subjects and activities. Curriculum segments may be titled as follows:

- General operational ground training.
- Aircraft specific ground training.
- Flight training.
- Differences training.
- Special curriculum segment.
- Evaluations.
- Airman certification practical evaluation.
- Supervised operating experience.

27. Training, evaluation and currency modules

Each curriculum segment consists of modules. A module is an outline of closely related elements (ground activities) or events (flight activities) on which the operator must provide instruction or evaluation or provide opportunity to practice or perform currency activities.

28. Developing modules

The following paragraphs provide examples and guidelines for developing modules. The examples are not intended to imply the only acceptable method, sequence of instructional delivery, subject titles, or amount of detail.

a. *Example of related elements in an aircraft ground training module:*

Electrical system	Title of module
● Systems overview	Elements Within a Module.
● AC Power ● Standby Power ● APU Generator ● External Power ● Power Distribution ● Circuit Protection ● Controls and Indicators ● Limitations ● Normal Procedures ● Abnormal and Emergency Procedures	

b. *Example of related training events in a flight training module:*

First simulator period	Title of module
● Use of checklist	Events Within a Module.
● Engine starts and powerplant check ● Taxi ● Normal takeoffs ● Area departure ● Holding patterns ● Descent and area arrivals ● ILS approaches (all engines and an engine out) ● Normal landings	

c. *Each module should contain sufficient detail* to ensure that the main features of the principal subject will be addressed. The scope and content of the modules, when incorporated into a curriculum segment, should ensure that a person satisfactorily completing the curriculum can satisfactorily perform in an assigned duty position.

d. *Modules may be developed in a manner which considers previous experience and training.* Previous experience considerations include a person's past experience in Part 121 or 135 operations, previously held duty positions, previous experience with a specific aircraft, and past experience with the operator's systems, methods and procedures.

e. *Modules should highlight certain topics which need emphasis.* For example, modules developed for PICs previously qualified as SICs in the same aircraft should emphasize duty position responsibilities. SIC qualification of flight engineers previously qualified on the same aircraft, however, should emphasize piloting skills as well as the requirements of the new duty position. Modules that qualify a person in the same duty position on another aircraft should emphasize aircraft systems as well as the procedures and crewmember skills needed to operate the different aircraft.

f. *Modules may be developed so that they can be used in several curriculums.* For example, the module outlining elements of training to be given on a particular powerplant may be used in curriculums for several different aircraft which use the same powerplant. The same module on review of emergency evacuation procedures could be used in both qualification and continued qualification curriculums.

29. Special Curriculum Segments

Certificate holders may have a need for special skills which require specific qualification and specific continued qualification activities and which do not apply to an entire group of personnel. For example, an operator that uses Boeing 757/767 aircraft in both domestic and intercontinental operations may qualify a small number of its crews for long range, over water operations. In this situation, the operator may develop special curriculum segments to meet the requirements for instruction, evaluation and currency which apply to this small group.

30. Temporary special curriculum segment

In those cases where a certificate holder has special, temporary qualification requirements, a temporary special curriculum segment may be developed. For example, if a certificate holder equips its entire fleet with LORAN C navigation equipment, it would amend its existing qualification and continued qualification curriculum and might add a temporary special curriculum segment to initially qualify all its presently qualified flight crewmembers in the use of this equipment. After all presently qualified crewmembers were qualified in LORAN C operations, the certificate holder would notify the FAA that the special curriculum segment was no longer needed, and the FAA would withdraw approval for it.

31. Illustration of AQP Structure

Figure 2-1 illustrates the structural units involved in AQPs. The illustration consists of five parts.

32.–39. Reserved

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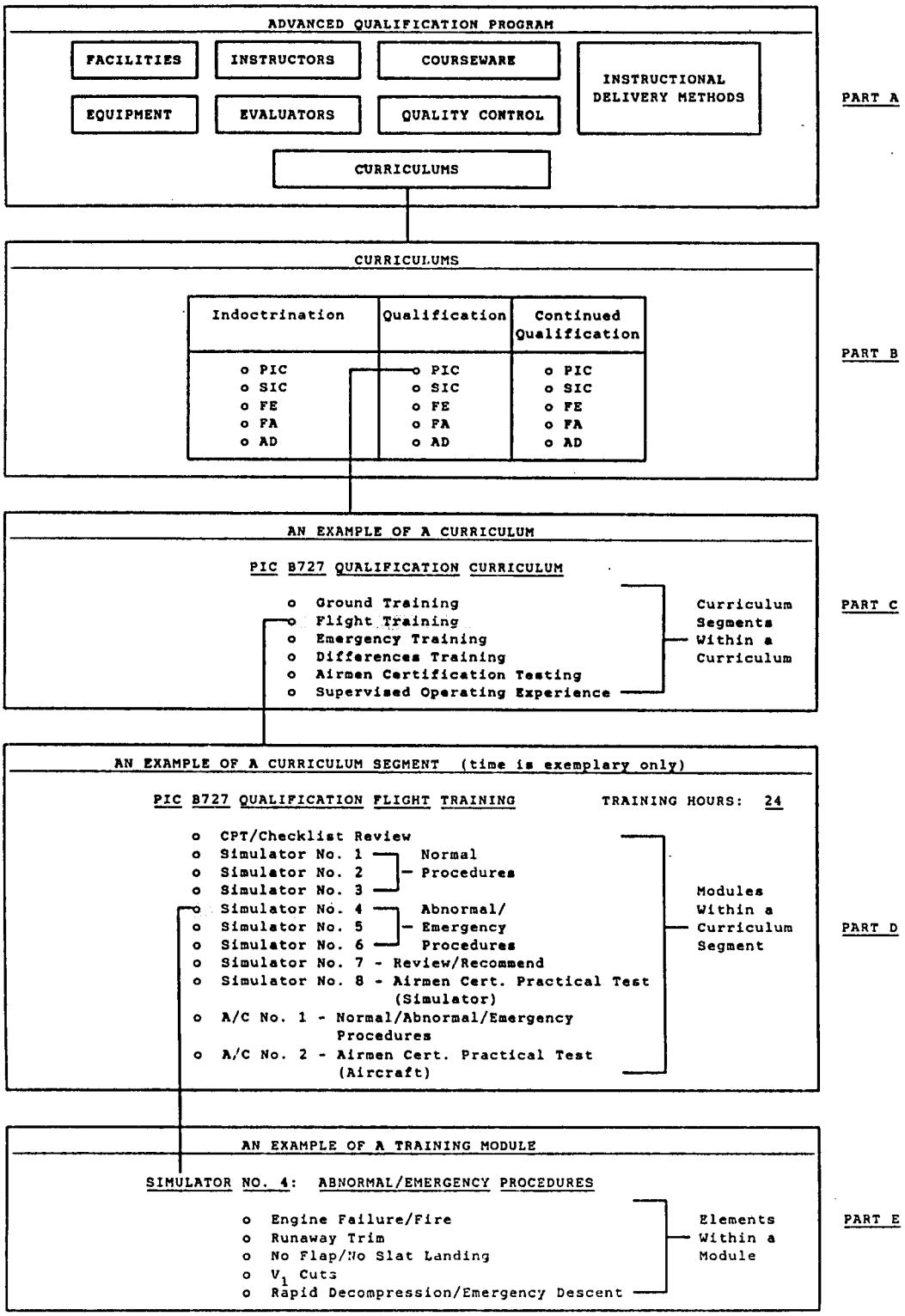
FIGURE 2-1
STRUCTURAL UNITS OF AN ADVANCED QUALIFICATION PROGRAM



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Section 3. Additional Components of an AQP

40. Cockpit Resource Management (CRM) and Line Oriented Flight Training (LOFT)

SFAR XX requires that each AQP qualification and continued qualification curriculum include CRM training and evaluation appropriate to each duty position and be conducted in simulated operational scenarios. (For guidelines see A/C 120.XXX, "Effective Cockpit Resource Management Training," and A/C 120-35A, "Line Oriented Flight Training.")

41. Facilities

Each AQP submission should contain a description of the facilities that the certificate holder intends to use. These facilities may belong to the certificate holder or may be operated by training centers. In either case, the submission should include a description of the facilities including the classrooms, types of training aids available, training materials to be used, and other features of the facility that will make it conducive to a positive learning environment.

42. Training Equipment

The submission should contain a list and description of the training equipment to be used, the procedures for its use, and the organization responsible for its security and maintenance.

43. Identification of Flight Training Equipment

A flight simulator or flight training device to be used in an AQP curriculum should be identified by make, model, serial number, and manufacturer; or by the FAA identification number assigned by the Manager of the National Simulator Program Team. If equipment is to be updated or replaced to accommodate the needs of the proposed AQP, this information should be included, and the new or updated equipment identified as specified above. Identification is particularly important whenever a certificate holder intends to contract for use of a flight simulator or flight training device which does not exactly replicate the certificate holder's aircraft configurations. The description should provide sufficiently detailed information to enable the FAA to determine what training and evaluation can be conducted in each proposed device configuration. (For more information on flight simulator and flight training devices, see Chapter 11 of this A/C.)

44. Courseware

The certificate holder should describe the kinds of courseware to be used in an AQP. Examples of courseware include: lesson plans, event description packages, audiovisual programs, and workbooks.

45. Experience level of instructions and evaluators

A list of qualifications for ground and flight instructors and evaluators should be included with submission for approval of an AQP. Normally, each instructor and evaluator should have previous experience working for the certificate holder or the training center the certificate holder intends to hire. Each person assigned as an instructor or evaluator must be fully qualified. (For more information on training and testing of instructors and evaluators, see Chapter 8.)

46. Aircraft fleet and fleet mix

The certificate holder should provide a description of its aircraft fleet, including the quantity of each make, model, and series of aircraft (or variant). This information is important in assessing what common training must occur throughout the fleet and determining whether that training is addressed in the proposed AQP.

47. Operating environment

The certificate holder should include a description of its operating environment, including what types of operations it conducts, for example long range, regional, over water, etc. The AQP should provide qualification standards consistent with the type of operation the certificate holder conducts.

48. Certificate holder's history

a. *Previous training experience.* The certificate holder should describe its previous training experience.

b. *Incidents and pilot deviations.* Each certificate holder should include an account of its recent history of incidents and pilot deviations and describe the way the AQP will provide means to correct any patterns of deficiencies which are determined to be a component of the incident or deviation history.

c. *Compliance history.* The certificate holder should include an account of its compliance history with Parts 121 or 135 training rules. Of particular interest are those areas where the certificate holder has held exemptions from the Parts 121 or 135 requirements. The certificate holder should identify those qualification issues it believes need particular focus in training. The FAA will review the certificate holder's demonstrated ability to meet training commitments.

d. *Characteristics of the work force subject to the AQP.* Characteristics of the work force such as anticipated degree of growth, rate of turnover, acquisition of other companies, rapid expansion, mergers, and number of promotions should be assessed and described. These factors may affect the validity of the proposed continued qualification schedules.

49. Proposed Continued Qualification Schedule.

Each certificate holder must provide proposed calendar schedules for continued qualification activities. (Guidelines for developing such a schedule appear in Chapter 5 of this A/C.)

50. Certificate Holder's Program Evaluation Plan.

Each certificate holder should describe how it intends to monitor the performance of its AQP. This description should include methods for observing training and evaluation, for evaluating instructors and evaluators, and for analyzing training and evaluation results to determine if AQP objectives are being met. (See Chapter 6, section 2, for further information on program evaluation.)

51. Data Collection.

The certificate holder should also include with each qualification and continued qualification curriculum data collection procedures. These procedures should include a description of quantitative data to be collected, analyzed, and provided to the FAA, showing trends in crewmember and/or dispatcher performance.

Note: Summaries of collected data are required to be submitted to the FAA so that qualitative analyses and comparisons of different AQPs may be made. The certificate holder, however, may also use this data for its self-evaluation purposes. See Chapter 6, section 2, for guidelines on data collection.

52. International Civil Aviation Organization (ICAO) Standards

The FAA will review each AQP to ensure that any standards for airman certification which are provided in any AQP conform with applicable ICAO standards.

53.–59. Reserved

Chapter 3. General Indoctrination Curriculum

60. Purpose

This chapter provides guidance in developing curriculum segments and modules that constitute a general indoctrination curriculum.

61. General.

General indoctrination is required for all newly hired crewmembers, dispatchers and instructors. It is normally the first curriculum conducted. The objective of general indoctrination is to introduce the employee to the certificate holder's manner of conducting operations. Two distinct training areas of indoctrination are certificate holder-specific training and duty position-specific training. These two areas serve to acquaint students with the certificate holder's means of regulatory compliance and to ensure crewmember and dispatcher students acquire acceptable levels of basic aeronautical knowledge before beginning aircraft specific training. Emergency situation training, which is part of general indoctrination, has some segments that are certificate holder-specific and some that are duty position-specific. For an example of a general indoctrination curriculum, see Figure 3–1.

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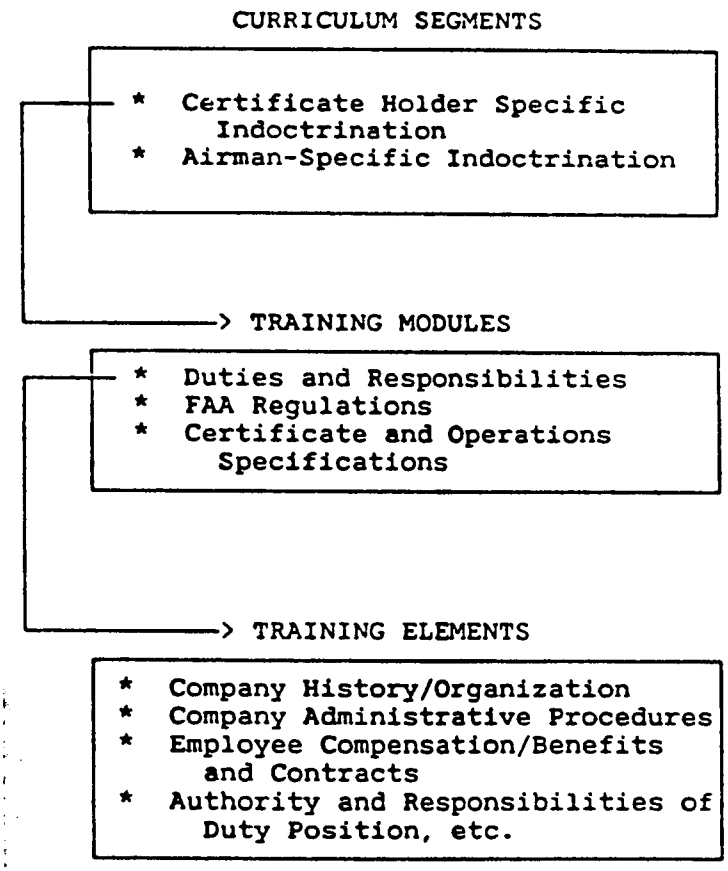
FIGURE 3-1
SAMPLE OF A GENERAL INDOCTRINATION CURRICULUM



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62. Certificate Holder Specific Indoctrination

The subject area of an indoctrination curriculum referred to as "certificate holder-specific" includes elements that pertain to the certificate holder's methods of compliance with regulations and safe operating practices. The following are examples of recommended elements of certificate holder-specific subject areas for flight crewmembers:

(1) Duties and responsibilities:

• Company history, organization, and management structure.

• Operational concepts, policies, and kinds of operation.

• Company forms, records, and administrative procedures.

• Employee standards and rules of conduct.

• Employee compensation, benefits and contracts

• Authority and responsibilities of duty position

• Personal equipment

• Company manual organization, revisions, and employee responsibilities concerning manuals.

(2) Appropriate provisions of the Federal Aviation Regulations and other applicable regulations:

• Flight crewmember certification, training, and qualification requirements

• Medical certificates, physical examinations, and fitness for duty requirements.

• Flight control requirements (dispatch, flight release or flight locating).

• Flight time, duty and rest requirements.

• Recordkeeping requirements.

• Company manuals.

• Flightcrew emergency authority, what to do in the event of interference with crewmembers, how to report these occurrences.

(3) Content of Operating Certificate and Operations Specifications:

• Regulatory basis in Parts 121 or 135 (as applicable) and the FA Act of 1958 (as amended).

• Definitions, description, and organization of operations specifications.

• Limitations and authorizations of operations specifications.

• Description of certificate.

• Description of FAA certificate holding district office and responsibilities of FAA principal inspectors.

(4) Emergency situations:

(a) Flight crewmember duties and responsibilities:

• Emergency assignments.

• Pilot in Command's emergency authority.

• Reporting incidents and accidents.

(b) Crew coordination and company communication:

• Cabin crew notification procedures.

• Ground agencies (FAA, Airport Authority) notification procedures.

• Company communication procedures.

(c) Ground Evacuation:

• Aircraft configuration.

• Directing passenger flow.

• Blocked or jammed exit procedures.

• Fuel spills and other ground hazards.

• Handicapped persons.

(d) Ditching:

• Cockpit and cabin preparation.

• Passenger briefing.

• Crew coordination.

• Primary swells, secondary swells, and sea conditions.

• Ditching heading considering wind and water conditions.

• Ditching at night.

(e) Previous aircraft accidents/incidents:

• NTSB accident report reviews.

• Human factors/considerations.

• NASA reporting system.

63. Duty Position-Specific Indoctrination.

The duty position-specific modules of an indoctrination curriculum segment provide a basis for students to enter subsequent qualification curriculums. These modules address appropriate portions of a certificate holder's manual and the standard practices of airmanship and flight procedures referenced in other documents such as the Airman's Information Manual. Emphasis in duty position-specific training is not *aircraft* specific. Instead, it should relate to the kinds of operation and general characteristics of the certificate holder's fleet of aircraft. The objective of duty position-specific training is to ensure each student has acquired the basic knowledge and abilities necessary for Parts 121 and/or 135 operations. The scope of duty position-specific training varies according to the anticipated duty position evaluators (EV), instructors (IN), pilots-in-command (PIC), seconds-in-command (SIC), flight engineers (FE), aircraft dispatchers (AD), and flight attendants (FA). The following are examples of recommended elements for the "duty position-specific" subject areas for flight crewmembers:

(1) Company Flight Control:

• Dispatch, flight release, or flight locating systems and procedures (as applicable).

• Organization, duties, and responsibilities.

• Weather and Notice to Airman information.

• Company communications.

(2) Principles of Weight and Balance:

• Definitions (such as zero fuel weight, moment, etc.).

• General loading procedures and center of gravity computations.

• Effects of fuel burn and load shifts in flight.

• Weight and balance forms, load manifests, fuel slips and other applicable documents.

(3) Principles of Aircraft Performance and Airport Analysis:

• Definitions (such as balanced field, VMC, obstruction planes, maximum endurance, etc.).

• Effects of temperature and pressure altitude.

• TERPS criteria (obstacle clearance standards).

• Airport analysis system (as appropriate to the kinds of operation and aircraft used).

• Effects of contaminated runways.

(4) Principles of Meteorology:

• Basic weather definitions (such as forecasts, reports, and symbols).

• Temperature, pressure, and winds.

• Atmosphere moisture and clouds.

• Air masses and fronts.

• Thunderstorms, icing and windshear.

(5) Principles of Navigation:

• Definitions (such as class I, class II navigation).

• Basic navigational instruments and equipment.

• Concepts and procedures pertaining to dead reckoning and pilotage.

• Navigational aids.

• VHF, VLF, LORAN and self contained systems (as applicable).

(6) Airspace and ATC Procedures:

• Definitions (such as precision approaches, airways, and ATIS).

• Description of airspace.

• Navigation performance and separation standards.

• Controller and pilot responsibilities.

• ATC communications.

• Air traffic flow control.

(7) Enroute and Terminal Area Charting and Flight Planning:

• Terminology of charting services such as Jeppesen or NOAA.

• Takeoff minimums, landing minimums, and alternate requirements.

• Company flight planning procedures.

• Flight service and international procedures (as applicable).

• Airport diagrams.

(8) Concepts of Instrument Procedures:

• Definitions (such as MDA, HAA, HAT, DH, CAT II, ILS, and NOPT).

• Non-precision approaches.
• Circling, visual, and contact approaches (as applicable).
(9) Emergency Situations:
(a) Aircraft Fires.
• Principles of combustion and classes of fire.
• Toxic fumes and chemical irritants.
• Use of appropriate hand held extinguisher.
• Lavatory fires.
• Smoke masks and goggles.
(b) First Aid Equipment:
• Contents of first aid kit.
• Kit integrity requirements.
• Use of individual items.
(c) Illness, injury, and basic first aid:
• Principles of CPR.
• Ear and sinus blocks.
• Seeking medical assistance.
• Treatment of shock.
• Heart attack.
• Emergencies during pregnancy.
(d) Rapid Decompression:
• Respiration.
• Hypoxia, hypothermia, hyperventilation.
• Time of useful consciousness.
• Gas expansion/bubble formation.
• Physical phenomena and actual incidents.
(e) Crewmember incapacitation:
• Company procedures.
• Reporting requirements (NTSB).
• Interference with crewmembers resulting in incapacitation.
(f) Uninhabited Environment Situations:
• Basic Survival.
• Decision to remain within aircraft.
• Position reporting and communications.
• Emergency ground to air signals.
• Shelter, food, and water.

64.–69. Reserved

Chapter 4. Qualification Curriculums

Section 1. Introduction

70. Purpose

This chapter provides guidance in developing curriculum segments and modules that constitute qualification curriculums, and it is divided between ground activities and flight activities. The guidance is based on requirements specified in Parts 121 and 135. A certificate holder may choose to follow the standard requirements expressed in those regulations or may add to or revise those requirements in its AQP curriculums. Differences between standard requirements and those specified in a certificate holder's AQP curriculum should be identified. The revisions proposed by the certificate holders should be shown to provide more effective and appropriate means of training and evaluation.

71. Planned Hours

Qualification curriculums must include planned hours for ground instruction, flight instruction, evaluation, and supervised operating experience. Planned hours are intended to provide more flexibility than did the programmed hours which were required for standard training programs. For example, if an individual appears ready for proficiency evaluation in less than the planned hours, he may be evaluated. If he passes, he may move on to the next step. If he does not pass, he must complete the planned hours and be evaluated again.

72. Differences Training

A certificate holder must specify whether differences training is included in ground and flight curriculum segments for each make, model, and series aircraft (or variant) or is established in a separate curriculum segment.

73. Sample Qualification Curriculum

Figure 4–1 provides an example of a qualification curriculum.

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FIGURE 4-1
SAMPLE OF A QUALIFICATION CURRICULUM
(FOR PIC B727)

CURRICULUM SEGMENTS

* Ground Training
* Flight Training

> TRAINING MODULES

* Preparation
* Surface Operations
* Takeoff
* Inflight Operations
* IFR Approaches
* Visual Segment and Landing, etc.

> TRAINING ELEMENTS

Normal/Alternate Procedures

* Climb
* En route Navigation
* High Speed Handling Characteristics
* High Altitude Handling Characteristics
* Descent, etc.

Section 2. Pilot and Flight Engineers Ground Qualification Activities

74. General

To be qualified for a particular duty position in a specific make, model, and series aircraft (or variant), a person will receive aircraft specific ground training. This training includes general operational subjects, aircraft systems, aircraft system integration, and emergency drill training.

75. General Operational Subjects

The subject area of qualification referred to as "general operational subjects" includes instruction on certain operational requirements that are specific to the aircraft in which the qualification is being conducted. The general operational subject area of a curriculum should include at least the following:

(1) Dispatch, flight release, or flight locating procedures.

(2) Weight and balance procedures to include computation of company weight and balance forms.

(3) Adverse weather practices including procedures which must be followed when operating in the following conditions:

- Icing.
- Turbulence.
- Heavy precipitation.
- Thunderstorms with associated windshear and microburst phenomena:
- Low visibility.
- Contaminated runways.

(4) Procedures for operating communications and navigation equipment in accordance with the following:

- Specific company communications requirements.
- ATC clearance requirements.
- Area departure and arrival requirements.
- Enroute requirements.
- Approach and landing requirements.

(5) Specific performance characteristics of the aircraft during all flight regimes including:

- The use of charts, tables, tabulated data and other related manual information.
- Normal, abnormal and emergency performance problems.
- Meteorological and weight limited performance factors (temperature, pressure, contaminated runways, precipitation, climb/runway limits).
- Inoperative equipment performance limiting factors (for example, inoperative anti-skid, if allowed by MEL).
- Special operational conditions such as unpaved runways, high altitude airports and drift down requirements.

76. Aircraft Systems

The second subject area of an aircraft qualification curriculum is the "aircraft systems" area. This area may be particularly adaptive to the use of modules due to the modular nature of each system and its related components. Instruction and evaluation on each aircraft system must be in sufficient detail to ensure the student clearly understands system components, limitations, relevant controls, actuators, annunciators and procedures for the various system configurations he will use. It is not possible to list every conceivable aircraft system that should be included in an aircraft ground curriculum segment; however, the following illustrates the depth and scope that should be provided:

(1) Aircraft general. Typical elements include an overview of the basic aircraft such as dimensions, turning radius, panel layouts, cockpit and cabin configurations, and other major systems and components or appliances.

(2) Powerplants. Typical elements include a basic description of the engine, its thrust rating, engine components such as accessory drives, ignition, oil, fuel control, hydraulic, and bleed air features.

(3) Electrical. Typical elements should include the sources of aircraft power including engine driven generators, APU generator, and external power. Other elements include electrical buses and related components such as circuit breakers, fuses, aircraft batteries and other, applicable standby power systems.

(4) Hydraulic. Typical elements are hydraulic reservoirs, pumps, accumulators; the means of routing hydraulic fluid through filters, check valves, and interconnects to associated actuators and other hydraulically operated components.

(5) Fuel. Elements include the fuel tank system (location and quantities), engine driven pumps, boost pumps, systems valves, crossfeeds, quantity indicators and provisions (if applicable) for fuel jettisoning.

(6) Pneumatic. Typical elements include bleed air sources such as engine, APU, or external ground air; the means of routing, venting and controlling bleed air via associated valves, ducts, chambers; and the purpose and operation of temperature and pressure limiting devices.

(7) Air conditioning and pressurization. Typical elements include heaters, air conditioning packs, fans, and other environmental control devices. Pressurization system components include elements such as outflow and relief valves with associated automatic, standby, and manual pressurization controls and annunciators.

(8) Flight controls. Elements include primary controls (yaw, pitch, and roll devices) and secondary controls (leading/trailing edge devices, flaps, trim, and damping mechanisms). Automatic stability and control systems should be included. Redundant systems capabilities should also be included.

(9) Landing gear. Typical elements are the landing gear extension and retraction mechanism (including the operating sequence of struts, doors, and locking devices), brake and, if applicable, antiskid systems. Other typical elements include steering (nose or body steering gear), bogie arrangements, air/ground sensor relays, and visual downlock indicators.

(10) Ice and rain protection. Typical elements include each anti-icing and deicing system which prevents or removes airfoil, flight control, engine, pilot-static probe, fluid outlet, cockpit window, and aircraft structure ice. Other typical elements include system components such as pneumatic/electrical valves, sensors, ducts, electrical elements, pneumatic devices, and pumps.

(11) Equipment and furnishings. Typical elements are aircraft exists, galleys, water and waste systems, lavatories, cargo areas, crewmember and passenger seats, bulkheads, seating or cargo configuration, and non-emergency equipment and furnishings.

(12) Navigation equipment. Typical elements are flight navigation system components including flight directors, horizontal situation indicators, radio magnetic indicators, navigation receivers (ADF, VOR, OMEGA, LORAN-C, RNAV, Marker Beacon, DME, etc.). Other typical elements include inertial system (INS, IRS) functional displays, fault indicators, comparator systems, transponders, radio altimeters, weather radars, and cathode ray tube (or other computer generated) displays of aircraft position and navigation information.

(13) Auto flight system. Typical elements include such items of equipment as autopilots, autothrottles and their interface with aircraft flight director and navigation systems including automatic approach tracking,

autoload, and automatic fuel or performance management systems.

(14) Flight instruments. Typical elements should include an overview of the panel arrangement and the electrical, pneumatic, and primary and alternate pitot-static sources for flight instruments. Other elements include attitude, heading (directional gyro and magnetic), airspeed and vertical speed indicators, altimeters, standby flight instruments, and other relevant instruments.

(15) Communication equipment. Typical elements include VHF/HF radios, audio panels, service and inflight interphone system, passenger address systems, voice recorders, and air/ground data communciations systems (ACARS).

(16) Warning systems. Typical elements are aircraft aural, visual, and tactile warning systems including recognition of the character and degree of urgency related to each signal. Other typical elements include warning and caution annunciator systems including ground proximity and takeoff warning systems.

(17) Fire protection. Typical elements include fire and overheat sensors, loops, modules, or other means of providing visual and/or aural indications of fire or overheat detection. Other typical elements include procedures for use of fire wall shutoff controls, manual and automatic extinguishing systems, and power sources necessary to provide protection for fire and overheat conditions in engines, APUs, cargo bays, wheel wells, the cockpit, the cabin, and in lavatories.

(18) Oxygen. Typical elements are the aircraft oxygen system including the fixed passenger, crew systems, and installed portable systems. Other typical elements include sources of oxygen (gaseous or solid), flow and distribution networks, automatic deployment systems, regulators, pressure levels, gauges, and servicing requirements.

(19) Lighting. Typical elements are the cockpit, cabin, and external lighting systems including power sources, switch positions, and spare lightbulb locations.

(20) Emergency equipment. Typical elements describe the type, location, use, and purpose of each installed item of emergency equipment such as fire and oxygen bottles, first aid kits, life rafts, life preservers, crash axes, emergency exits and lights. Other typical elements include each item of egress equipment such as slides, slide rafts, escape straps or handles, hatches, ropes, ladders or moveable stairs.

(21) Auxiliary Power Unit (APU). Typical elements include the installation of the APU, its capacity and operation, including its electrical and bleed air capabilities, and how it interfaces with other aircraft systems. These elements include APU components such as inlet doors, exhaust ducts, and fuel supply.

77. Aircraft System Integration

The third subject area of a qualification curriculum is referred to as "System Integration." This area provides students with instruction and evaluation on how aircraft systems interrelate with respect to normal, abnormal, and emergency procedures. This training ranges from procedures as basic as how to apply power to the aircraft electrical and pneumatic systems with the APU to complex tasks such as how to program computerized navigation and autoflight systems. System integration should include developing flightcrew interaction in the use of checklists and other operational procedures. It is normally conducted by using training devices which portray a specific cockpit layout including switch and indicator logic. The flight training devices and flight simulators described in Advisory Circular 120–45 and Advisory Circular 120–48A as amended may be used for system integration. Additionally, computer based instruction or other interactive media may be used. Aircraft system integration may be conducted in concert with aircraft systems training or as an independently conducted part of a qualification curriculum. Effective systems integration serves as a logical connection between ground instructional delivery methods and flight training. It allows students to become familiar with a particular cockpit layout, checklist, operator procedures, and other areas which are best learned before conducting actual flight events. The following are examples of typical aircraft system integration elements:

(1) Use of checklist. Typical elements include safety checks, cockpit preparation (switch position and checklist flows), checklist callouts and responses, and checklist sequence.

(2) Flight planning. Elements typically include performance limitations (meteorological, weight, and MEL/CDL items), required fuel loads, weather planning (lower than standard takeoff minimums or alternate airport requirements).

(3) Display systems. Typical elements include use of weather radar and other CRT displays (checklist, vertical navigation or positional navigation displays).

(4) Navigation systems. Elements typically include preflight and inflight operation of receivers, on-board navigation systems, and flight plan information input and retrieval.

(5) Autoflight. Typical elements include autopilots, autothrust, and flight director systems including appropriate procedures, normal and abnormal indications, and annunciators.

(6) Cockpit familiarization. Typical elements involve activation of aircraft system controls and switches to include normal, abnormal, and emergency switch and control positions and relevant annunciators, lights and/or other caution and warning systems.

Aircraft system integration may be as simplistic as a student learning checklist procedures in a single engine aircraft or as complex as programming aircraft computer systems for an international flight. System integration is particularly effective where aircraft are equipped with relatively sophisticated computerized navigation, flight director, performance, and/or autoflight systems. The key to effectiveness in this area is to use training devices which provide accurate, real time, and interactive media for student practice. The functional requirements of these training devices do not necessarily include motion, visual systems or aircraft specific flight handling characteristics. However, each training device should accurately portray relevant keyboards, switches, other controls, CRT's, and other displays and will always include air/ground and flight path logic.

78. Emergency Drill Training

The fourth subject area of a qualification curriculum is Emergency Drill Training. This training should include at least the following events:

(1) Operation of each type of emergency exit in the normal and emergency modes.

(2) Operation of each type of hand held fire extinguisher.

(3) Operation of each type of emergency oxygen system.

(4) Donning, use, and inflation of life preservers and the use of other flotation devices (if applicable).

(5) Ditching procedures (if applicable) including cockpit preparation, crew coordination, passenger briefing and cabin preparation, the use of lifelines, and boarding of passengers and crew into a life-raft or slide raft.

(6) Donning and use of protective breathing equipment.

Section 3. Pilot and Flight Engineers Flight Qualification Activities

79. General Guidelines

Each AQP must include curriculum segments for flight training, flight

evaluation and supervised operating experience for appropriate personnel. Each AQP must also include a curriculum segment or evaluation modules which describe in detail the practical tests for airman certification which will be used for persons who will acquire airman certificates, or additional category, class, instrument or type ratings through an AQP. The following guidelines are provided to assist operators in development of curriculum segments for flight training, flight evaluation, and airman certification, and supervised operating experience.

a. *Flight instruction/evaluation tables.* The applicant should use the flight instruction/evaluation tables in this Advisory Circular to begin development of a list of applicable events for each training, evaluation, and certification curriculum segment or module.

b. *Other guidelines.* The applicant should continue development of the lists for each curriculum segment by using the Aircraft Flight Manual, the Aircraft Operating Manual, and Flight Standardization Board reports for the particular aircraft. The applicant may propose additional or modified events based on unique requirements, operational experiences, advanced technology or other factors. If modifications are proposed, the applicant should show how the proposed events will provide at least an equivalent level of qualification.

c. *Methods and standards.* The applicant should identify the methods and standards for proper execution of each event.

d. *LOFT.* The applicant should develop LOFT scenarios for each applicable curriculum segment using the appropriate guidelines for LOFT in Advisory Circular 120.35A, as amended.

e. *CRM.* The applicant should integrate throughout each curriculum segment the principals of cockpit resource management (CRM) described in Advisory Circular XXXX, as amended.

f. *Airman certification.* In curriculum segments which include evaluation modules developed to provide alternative practical tests for airman certification, the applicant must show to the satisfaction of the FAA that the test proposed by the applicant will ensure a level of individual airman competency that exceeds the minimum standards prescribed by Parts 61, 63, and 65 and ensures that each person certificated by means of an AQP has demonstrated satisfactory interactive CRM skills.

g. *Supervised operating experience.* Supervised operating experience curriculum segments are integral to any qualification curriculum. An applicant may develop supervised operating experience curriculum segments which include a required participation level expressed in either flight hours or specified number of iterations (or combination thereof) of the events and activities specified in the curriculum segment. Supervised operating experience will be supervised by an appropriately and currently qualified evaluator. The person gaining the experience will perform the duties of his newly assigned position at the appropriate pilot, engineer, instructor, or evaluator control station. For pilots and flight engineers, supervised operating experience may only be obtained during actual flight operations in proving tests or during actual flight operation in air transportation or air commerce. Supervised operating experience is an alternate means of compliance with the provisions for Initial Operating Experience requirements of Parts 121 and 135.

80. Approved Use of Flight Training Equipment

Flight training equipment consists of seven levels of flight training devices, four levels of flight simulators, and aircraft. The approved use of each item of flight training equipment is listed in the maneuvers and procedures tables. These devices and simulators are the only types of flight training equipment (other than aircraft) which may be approved for use in an FAA-approved flight training program. Before any flight training device or flight simulator can be used it must be evaluated and qualified by the National Simulator Program Manager (NSPM) and approved by the FAA for use in the operator's AQP. The following paragraphs describe the flight training devices and flight simulators applicable to Parts 121 and 135 flight training. Advisory circulars 120-40 and 120-45 as amended provide the qualification policy, criteria, and more detailed technical descriptions of flight simulators and flight training devices. The functional descriptions in the following paragraphs provide only a brief overview. Therefore, the appropriate advisory circulars are the only authorized source documents and must be used for evaluation and approval of flight training devices and flight simulators.

[Note.—FYI: The Functional and Technical Descriptions for the First Three Levels of Flight Training Devices Are Under Development and at This Time Have no Applicability to Part 121 or 135 Flight Training.]

81. Level 4—Flight Training Device

A. *Purpose.* To permit learning, development, and practice of skills and cockpit procedures necessary to understand and operate the integrated systems of a specified aircraft.

B. *Functional description.* A level 4 training device has the following characteristics and components:

- A replica of the flight deck panels, switches, controls, and instruments in proper relationship to represent the aircraft for which training is to be accomplished.
- Systems indications which respond appropriately to switches and controls which are required to be installed for the training or checking to be accomplished.
- Air/ground logic but simulated aerodynamic capabilities are not required.

82. Level 5—Flight Training Device

A. *Purpose.* To permit learning, development, and practice of skills, cockpit procedures, and instrument flight procedures necessary to understand and operate the integrated systems of a specific aircraft in typical flight operations in real time.

B. *Functional description.* A level 5 training device has the following characteristics and components:

- A replica of the flight deck panels, switches, controls, and instruments in proper relationship to represent the aircraft for which training is to be accomplished.
- Systems indications which respond appropriately to switches and controls which are required to be installed for the training or checking to be accomplished.
- Simulated aerodynamic capabilities representative of the make, model, and series of the aircraft (or variant).
- Functional flight and navigational controls, displays, and instrumentation.
- Control forces and control travel of sufficient precision to manually fly an instrument approach.

83. Level 6—Flight Training Device

A. *Purpose.* (1) To permit learning, development, and practice of skills in cockpit procedures, instrument flight procedures, certain symmetrical maneuvers and flight characteristics necessary to operate the integrated systems of a specific aircraft in typical flight operations.

(2) To permit the use of previously approved nonvisual simulators and the continued use of advanced training devices (ATD) for those Part 135 operators approved to use them.

B. *Functional description.* A level 6 training device has the following characteristics and components:

• Systems indications which respond appropriately to switches and controls which are required to be installed.

• Replication of the cockpit of the aircraft for which training is to be accomplished.

• Simulated aerodynamic capabilities which closely represent the specific aircraft in ground and flight operations.

• Functional flight and navigational controls, displays, and instrumentation.

• Control forces and control travel which correspond to the aircraft.

• Instructor controls.

[Note.—FYI: Nonvisual Simulators Are Categorized With Level 6 Training Devices.]

84. Level 7—Flight Training Device

A. *Purpose.* To permit learning, development, and practice of skills in cockpit procedures, instrument flight procedures and maneuvers, and flight characteristics necessary to operate the integrated systems of a specific aircraft in typical flight operations.

B. *Functional description.* A level 7 training device has the following characteristics and components:

• Systems representations, switches, and controls which are required by the type design of the aircraft and by the approved training program.

• Systems which respond appropriately and accurately to the switches and controls of the aircraft being simulated.

• Full-scale replication of the cockpit of the aircraft being simulated.

• Correct simulation of the aerodynamic and ground dynamic characteristics of the aircraft being simulated.

• Correct simulation of the effects of selected environmental conditions which the simulated aircraft might encounter.

• Control forces, dynamics, and travel which correspond to the aircraft.

• Instructor controls and seat.

85. Level A Flight Simulator

A. *Purpose.* To permit development and practice of the necessary skills for accomplishment of flight operational tasks to a prescribed standard of airman competency in a specific aircraft and duty position. Level A flight simulators may be used for specified pilot recency of experience requirements and specified flight operational task training requirements.

[Note.—FYI: Level A Flight Simulators Comply With the Technical Standards Specified for Basic (Visual) Simulators in AC 120-40, as Amended.]

B. *Functional description.* Level A flight simulators have the following characteristics and components:

• Systems representations, switches, and controls which are required by the type design of the aircraft and by the user's approved training program.

• Systems which respond appropriately and accurately to the switches and controls of the aircraft being simulated.

• Full-scale replication of the cockpit of the aircraft being simulated.

• Correct simulation of the aerodynamic characteristics of the aircraft being simulated.

• Correct simulation of the effects of selected environmental conditions which the simulated aircraft might encounter.

• Control forces and travel which correspond to the aircraft.

• Instructor controls and seat.

• At least a night visual system with at least a 45° horizontal by 30° vertical field of view for each pilot station.

• A motion system with at least 3 degrees of freedom.

86. Level B Flight Simulator

A. *Purpose.* To permit development and practice of the necessary skills for accomplishment of flight operational tasks to a prescribed standard of airman competency in a specific aircraft and duty position. Level B flight simulators may be used for pilot recency of experience requirements and specified flight operational task training requirements.

[Note.—FYI: Level B Flight Simulators Comply With the Technical Standards Specified for Phase I Simulators in Part 121, Appendix H and AC 120-40, as Amended.]

B. *Functional requirements.* Level B flight simulators have the following characteristics and components:

• Systems representations, switches, and controls which are required by the type design of the aircraft and by the users approved training program.

• Systems which respond appropriately and accurately to the switches and controls of the aircraft being simulated.

• Full-scale replication of the cockpit of the aircraft being simulated.

• Correct simulation of the aerodynamic characteristics including ground effect, and ground dynamic characteristics of the aircraft being simulated.

• Correct simulation of the effects of selected environmental conditions which the simulated aircraft might encounter.

• Control forces and travel which correspond to the aircraft.

• Instructor controls and seat.

• At least a night visual system with at least a 45° horizontal by 30° vertical field of view for each pilot station.

• A motion system with at least 3 degrees of freedom.

87. Level C Flight Simulator

A. *Purpose.* To permit development and practice of the necessary skills for accomplishment of flight operational tasks to a prescribed standard of airman competency in a specific aircraft and duty position. Level C flight simulators may be used for pilot recency of experience requirements and specified flight operational task training.

[Note.—FYI: Level C Flight Simulators Comply With the Technical Standards Specified for "Phase II Simulators" in Part 121, Appendix H and AC 120-40 (as Amended).]

B. *Functional description.* Level C flight simulators have at least the following characteristics and components:

• Systems representations, switches, and controls which are required by the type design of the aircraft and by the users approved training program.

• Systems which respond appropriately and accurately to the switches and controls of the aircraft being simulated.

• Full-scale replication of the cockpit of the aircraft being simulated.

• Correct simulation of the aerodynamic characteristics including ground effect, and ground dynamic characteristics of the aircraft being simulated.

• Correct simulation of the effects of selected environmental conditions which the simulated aircraft might encounter.

• Control forces, dynamics, and travel which correspond to the aircraft.

• Instructor controls and seat.

• At least a night and dusk visual system with at least a 75° horizontal by 30° vertical field of view for each pilot station.

• A motion system with at least 6 degrees of freedom.

88. Level D Flight Simulator.

A. *Purpose.* To permit development and practice of the necessary skills for the accomplishment of flight operational tasks to a prescribed standard of airman competency in a specific aircraft and duty position. Level D flight simulators may be used for flight operational task training except for static aircraft training.

[Note.—FYI: Level D Flight Simulators Comply With the Technical Standards Specified for "Phase III Simulators" in Part

121, Appendix H and AC 120-40 (as Amended).]

B. *Functional description.* Level D flight simulators have the following characteristics and components:

- Systems representations, switches, and controls which are required by the type design of the aircraft and by the users approved training program.
- Systems which respond appropriately and accurately to the switches and controls of the aircraft being simulated.
- Full-scale replication of the cockpit of the aircraft being simulated.
- Correct simulation of the aerodynamic characteristics including ground effect, and ground dynamic characteristics of the aircraft being simulated.
- Correct simulation of selected environmentally affected aerodynamic and ground dynamic characteristics of the aircraft being simulated considering the full range of its flight envelope in all approved configurations.
- Correct and realistic simulation of the effects of environmental conditions which the aircraft might encounter.
- Control forces, dynamics, and travel which correspond to the aircraft.
- Instructor controls and seat.
- A daylight, dusk, and night visual system with at least a 75° horizontal by 30° vertical field of view for each pilot station.
- A motion system with at least 6 degrees of freedom.

89. Tables of Instruction/Evaluation Events Which Apply to Pilots of Land and Sea Airplanes and Flight Engineers

The following tables provide a list of events for developing approved flight training and evaluation curriculum segments for airplane operations.

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Symbols used in the tables are as follows:

"S"	The certificate holder or training center should specify in its curriculums if the event requires seat specific training and/or evaluation.
"Q"	Whenever a pilot first undergoes qualification (with the particular Part 121 or Part 135 certificate holder) to operate a specific category and class of aircraft with a specific kind of powerplant, the training and evaluation for certain events must be accomplished in at least the media indicated by the letter "Q". For example: A Convair 580 PIC who was never qualified in a turbojet with the same airline would be required to use at least a Phase II simulator for training and evaluation of DC-9 aircraft.
"[ ]"	Indicates an event which must be listed in a curriculum if the certificate holder's operations specifications authorize the specific kind of operation.
"X"	Indicates the lowest range of media authorized for use in training, evaluation, and certification.
">"	Indicates the highest range of media authorized for use in training, evaluation, and certification.
"P"	This symbol indicates that partial task credit is awarded using the indicated media. Full credit may be taken on the media between the lowest "X" and highest ">".
"M"	Indicates motion is required to perform the event in the specified level of training device.
"V"	Indicates specified events that may be performed in the designated level of simulator if the National Simulator Program manager determines the simulator's visual system is adequate for the event.
"ME"	Indicates an event applicable only to multi-engine aircraft.
"ATD"	Advanced Training Device - A training device that meets at least the criteria specified in A/C 120-45.

"Performance Turn" A turn using the minimum turn radius as limited by available thrust and by compliance with the certificate limits established for the aircraft. Performance turns are intended to demonstrate handling and performance qualities in accelerated flight and to demonstrate the characteristics and features of automatic flight control systems in turning, banking, and accelerated flight.

FLIGHT INSTRUCTION/EVALUATION
PILOTS
LAND AIRPLANES

		TRAINING DEVICE LEVEL				SIMULATOR LEVEL				ACFT
FLIGHT PHASE	EVENT	4	5	6	7	A	B	C	D	
PREPARATION	Visual Inspection									X
	Pre Taxi Procedures	X								→
	Flight Planning * Weather * MEL/CDL * Performance Limitations * Weight & Balance			X						→
	Open									
SURFACE OPERATIONS	Normal/Alternate									
	Starting	X								→
	Pushback S					X				→
	[ ] Powerback S						X			→
	Taxi S							X		→
	[ ] CAT III Taxi S							X	→	
	Pre Takeoff Checks	X								→
	Post Landing Checks	X								→
	Parking S							X		→
	Shutdown	X								→
	Open									

FLIGHT INSTRUCTION/EVALUATION
PILOTS
LAND AIRPLANES

		TRAINING DEVICE LEVEL				SIMULATOR LEVEL				ACFT
FLIGHT PHASE	EVENT	4	5	6	7	A	B	C	D	
SURFACE OPERATIONS	Abnormal/Emergency									
	Starting	X								→
	Emergency Evacuation			X						→
	Shutdown	X								→
	Open									
TAKEOFF	Normal/Alternate									
	Normal					X		O		→
	Crosswind					X		O		→
	Special Performance					X		O		→
	[ ] Low Visibility					X		O		→
	Open									
	Abnormal/Emergency									
	Crosswind (Normal in an aircraft when no crosswind situation exists) w/simulated failure of the most critical powerplant at the most critical point along the takeoff path which requires a decision to discontinue the takeoff.					X		O		→
	Open									

FLIGHT INSTRUCTION/EVALUATION
PILOTS
LAND AIRPLANES

		TRAINING DEVICE LEVEL				SIMULATOR LEVEL				ACFT
FLIGHT PHASE	EVENT	4	5	6	7	A	B	C	D	
TAKEOFF	Abnormal/Emergency									
	Crosswind ME (Normal in aircraft if no crosswind situation exists) with a simulated failure of the most critical powerplant at the most critical point along the takeoff path which requires a decision to continue the takeoff.					X—	—	—O	—>	
	Rejected Special Performance with maximum braking			P	P	X—	—	—	—>	P
	[ ] Rejected Low Visibility					X—	—	—	—>	
	Open									

FLIGHT INSTRUCTION/EVALUATION
PILOTS
LAND AIRPLANES

		TRAINING DEVICE LEVEL				SIMULATOR LEVEL				ACFT
FLIGHT PHASE	EVENT	4	5	6	7	A	B	C	D	
INFLIGHT OPERATION	Normal/Alternate									
	Climb			X—	—	—	—	—	—	—>
	Enroute Navigation		X—	—	—	—	—	—	—	—>
	High Speed Handling Characteristics					X—	—	—	—Q—	—>
	High Altitude Handling Characteristics					X—	—	—	—Q—	—>
	Descent			X—	—	—	—	—	—	—>
	Open									
	Abnormal/Emergency									
	Climb with failure of critical powerplant ME					X—	—	—	—	—>
	Enroute Navigation		X—	—	—	—	—	—	—	—>
	Maximum Rate Descent					X—	—	—	—	—>
	Open									
INFLIGHT MANUEVER	High Angle of Attack Manuevers					X—	—	—	—Q—	—>
	Performance Turns					X—	—	—	—	—>
	Open									

FLIGHT INSTRUCTION/EVALUATION
PILOTS
LAND AIRPLANES

		TRAINING DEVICE LEVEL				SIMULATOR LEVEL				ACFT
FLIGHT PHASE	EVENT	4	5	6	7	A	B	C	D	
VFR ENROUTE TERMINAL OPERATIONS (REQUIRED IF CERTIFICATE HOLDER IS AUTHORIZED TO CONDUCT VFR ENROUTE OPERATIONS)	Normal/Alternate									
	Traffic Patterns							V	V	X
	Open									
	Abnormal/Emergency									
	Traffic Patterns -any emergency/ abnormal airplane configurations							V	V	X
	Open									
NONPRECISION IFR APPROACHES	Normal/Alternate									
	[ ] Nonprecision Skill Group 1 (includes ASR)		X→							→
	[ ] Nonprecision Skill Group 2 (includes NDB)			X→						→
	[ ] Nonprecision Skill Group 3 (includes LOC B/C)			X→						→
	[ ] Nonprecision Skill Group 4 (includes VOR, RNAV, TACAN)		X→							→
	[ ] Nonprecision Skill Group 5 (includes AZI, LDA, LOC, SDF)		X→							→

FLIGHT INSTRUCTION/EVALUATION
PILOTS
LAND AIRPLANES

		TRAINING DEVICE LEVEL				SIMULATOR LEVEL				ACPT
FLIGHT PHASE	EVENT	4	5	6	7	A	B	C	D	
NONPRECISION IFR APPROACHES	[ ] Nonprecision Skill Group 6 (DME ARC)		X							→
	Open									
	Abnormal/Emergency [ ] Nonprecision Skill(Any Group) including missed approach with failure of the most critical powerplant during approach procedure				X					→
	Open									

FLIGHT INSTRUCTION/EVALUATION
PILOTS
LAND AIRPLANES

		TRAINING DEVICE LEVEL				SIMULATOR LEVEL				ACFT
FLIGHT PHASE	EVENT	4	5	6	7	A	B	C	D	
PRECISION IFR APPROACH	Normal/Alternate									
	[] Precision Skill Group 1 (includes PAR)			X—	——	——	——	——	——	—>
	[] Precision Skill Group 2 (includes ILS/MLS & CAT I ILS/MLS)			X—	——	——	——	——	——	—>
	[] Precision Skill Group 3 (CAT II ILS/MLS)			X—	——	——	——	——	——	—>
	[] Precision Skill Group 4 (CAT III ILS/MLS)			X—	——	——	——	——	——	—>
	[] Precision Skill Group 5 (Steep ILS/MLS)			X—	——	——	——	——	——	—>
	Open									
	Abnormal/Emergency									
	[] Precision Skill (Any Group) including missed approach with failure of most critical power-plant during the approach				X—	——	——	——	——	—>
	Open									

FLIGHT INSTRUCTION/EVALUATION
PILOTS
LAND AIRPLANES

		TRAINING DEVICE LEVEL				SIMULATOR LEVEL				ACFT
FLIGHT PHASE	EVENT	4	5	6	7	A	B	C	D	
VISUAL SEGMENT AND LANDING	Normal/Alternate									
	[] From VFR Traffic Pattern (Required only if VFR Enroute is authorized)							V	V	X
	From a Non-Precision Instrument Approach (including final approach segment)							X—Q—> X—Q—>		
	[] From a Circling Approach (including final approach segment)							V	V	X
	From a Precision Approach (including final approach segment)							X—Q—>		
	[] From a CAT II Approach							X—>		
	[] From a CAT III Approach							X—>		
	[] Special Performance							X—Q—>		
	Crosswind							X—Q—>		
	Currency Landings						X—>			
	Open									

FLIGHT INSTRUCTION/EVALUATION
PILOTS
LAND AIRPLANES

		TRAINING DEVICE LEVEL				SIMULATOR LEVEL				ACFT
FLIGHT PHASE	EVENT	4	5	6	7	A	B	C	D	
	Abnormal/Emergency									
	[ ] From a VFR Pattern (Required only if VFR Enroute is authorized)								V	X
	From a Precision or Non-Precision App. (including the final approach segment) Of the following:							X——	——	—>
	1. Rejected Landing							X——	——	—>
	2. Landing with Trim Malfunction							X——	——	—>
	3. Landing with 50% available powerplants with the loss of power on one side of the airplane (Center engine and 1 outboard engine failed on 3 engine airplanes) ME	For 2-Engine Airplanes						X——	——	—>
		For Airplanes With 3 or More Engines				X——	——	——	—>	
	4. Landing with 1 powerplant inop for aircraft with 3 or more engines ME							X——	——	—>
	5. With Flap/Slat Malfunction							X——	——	—>
	6. With loss of Flight Control Power (if applicable)							X——	——	—>
	Open									

FLIGHT INSTRUCTION/EVALUATION
PILOTS
LAND AIRPLANES

		TRAINING DEVICE LEVEL				SIMULATOR LEVEL				ACFT
FLIGHT PHASE	EVENT	4	5	6	7	A	B	C	D	
DURING ANY PHASE	Normal/Alternate									
	Airframe and Powerplant Systems Operations									
	Airconditioning	FYI: When these systems are operated in conjunction with a particular event, the level of required training device or simulator is as required for that particular event. When an isolated system is operated for training, it may be done using a Level 4 training device.								
	Antiicing/Deicing									
	Auxiliary Powerplant									
	Communications									
	Electrical									
	Flaps									
	Flight Controls									
	Fuel and Oil									
	Hydraulic									
	Landing Gear									
	Pneumatic									
	Powerplant									
	Pressurization									
	Open									

FLIGHT INSTRUCTION/EVALUATION
PILOTS
LAND AIRPLANES

		TRAINING DEVICE LEVEL				SIMULATOR LEVEL				ACFT
FLIGHT PHASE	EVENT	4	5	6	7	A	B	C	D	
DURING ANY PHASE	Normal/Alternate									
	Flight Management & Guidance Systems									
	Airborne Radar									
	Auto. Landing Aids									
	Autopilot									
	Collision Avoidance System									
	Flight Data Displays									
	Flight Management Computers									
	Navigation Systems									
	Stall Warning/ Avoidance									
	Stability & Control Augmentation									
	Windshear Avoidance Equipment									
	Open									
	Airborne Procedures									
	Holding		X							→
	Open									

FYI: When these systems are operated in conjunction with a particular event, the level of required training device or simulator is as required for that particular event. When an isolated system is operated for training, it may be done using a Level 5 training device.

FLIGHT INSTRUCTION/EVALUATION
PILOTS
LAND AIRPLANES

		TRAINING DEVICE LEVEL				SIMULATOR LEVEL				ACFT
FLIGHT PHASE	EVENT	4	5	6	7	A	B	C	D	
DURING ANY PHASE	Abnormal/Emergency									
	Airframe and Powerplant Systems Operations									
	Airconditioning									
	Antiicing/Deicing									
	Auxiliary Powerplant									
	Communications									
	Electrical									
	Fire in any System or Location									
	Flaps									
	Flight Controls									
	Fuel and Oil									
	Hydraulic									
	Landing Gear									
	Pneumatic									
	Powerplant									
	Pressurization									
	Open									

FYI: When these systems are operated in conjunction with a particular event the level of required training device or simulator is as required for that particular event. When an isolated system is operated for training, it may be done using a Level 4 training device.

FLIGHT INSTRUCTION/EVALUATION
PILOTS
LAND AIRPLANES

		TRAINING DEVICE LEVEL				SIMULATOR LEVEL				ACFT
FLIGHT PHASE	EVENT	4	5	6	7	A	B	C	D	
DURING ANY PHASE	Abnormal/Emergency									
	Flight Management & Guidance Systems									
	Airborne Radar									
	Auto. Landing Aids									
	Autopilot									
	Collision Avoidance System									
	Flight Data Displays									
	Flight Management Computers									
	Navigation Systems									
	Stall Warning/ Avoidance									
	Stability & Control Augmentation									
	Windshear Avoidance Equipment									
	Open									
	Airborne Procedures									
	Air Hazard Avoidance						X	———	——>	
	Windshear/Microburst			X*	X*	X	———	———	——>	
	Open									

FYI: When these systems are operated in conjunction with a particular event, the level of required training device or simulator is as required for that particular event. When an isolated system is operated for training, it may be done using a Level 5 training device.

X* Note: For those operators required to comply with Part 121, windshear/microburst training must be accomplished in a Flight Simulator.

SPECIAL PURPOSE
ADDITIONAL EVENTS
FLIGHT INSTRUCTION/EVALUATION
PILOTS
LAND AIRPLANES

		TRAINING DEVICE LEVEL				SIMULATOR LEVEL				ACFT
FLIGHT PHASE	EVENT	4	5	6	7	A	B	C	D	
TAKEOFF	(Normal/Alternate) Short Field							X—Q—		—>
	Soft Field								X—	—>
	Obstacle Clearance							X—Q—		—>
	Open									
	(Abnormal/Emergency) Rejected Short Field (Max Breaking)					X—	—	—	—	—>
	Open									

SPECIAL PURPOSE
ADDITIONAL EVENTS
FLIGHT INSTRUCTION/EVALUATION
PILOTS
LAND AIRPLANES

		TRAINING DEVICE LEVEL				SIMULATOR LEVEL				ACFT
FLIGHT PHASE	EVENT	4	5	6	7	A	B	C	D	
VISUAL SEGMENT AND LANDING	(Normal/Alternate) Short Field								X—	—>
	Soft Field								X—	—>
	Obstacle Clearance							X—	——	—>
	Open									
	(Abnormal/Emergency) Rejected Obstacle Clearance					X—	——	——	——	—>
	Open									

WATER OPERATIONS/EVENTS
FLIGHT INSTRUCTION/EVALUATION
PILOTS
AMPHIBIOUS AND SEAPLANES

		TRAINING DEVICE LEVEL				SIMULATOR LEVEL				ACFT
FLIGHT PHASE	EVENT	4	5	6	7	A	B	C	D	
SURFACE OPERATION	(Normal/Alternate) Taxiing								X—	—>
	Step Taxiing								X—	—>
	Sailing								X—	—>
	Docking/Mooring								X—	—>
	Ramp Operations								X—	—>
	Open									
	(Abnormal/Emergency) Rough Water Taxi								X—	—>
	Taxiing with one Power Plant Inoperative ME								X—	—>
	Emergency Evacuation				X—	—	—	—	—	—>
	Open									

WATER OPERATIONS/EVENTS
FLIGHT INSTRUCTION/EVALUATION
PILOTS
AMPHIBIOUS AND SEAPLANES

		TRAINING DEVICE LEVEL				SIMULATOR LEVEL				ACFT
FLIGHT PHASE	EVENT	4	5	6	7	A	B	C	D	
TAKEOFF	(Normal/Alternate)									
	Normal								X—	—>
	Crosswind								X—	—>
	Obstacle Clearance								X—	—>
	Rough Water								X—	—>
	Glassy Water								X—	—>
	Open									
	(Abnormal/Emergency)									
	Crosswind (normal in an aircraft if no crosswind exists) with failure of the most critical powerplant at the most critical point along the takeoff path which requires a decision to discontinue the takeoff. ME								X—	—>
	Rejected Obstacle Clearance							X—	——	>
	Open									

WATER OPERATIONS/EVENTS
FLIGHT INSTRUCTION/EVALUATION
PILOTS
AMPHIBIOUS AND SEAPLANES

		TRAINING DEVICE LEVEL				SIMULATOR LEVEL				ACFT
FLIGHT PHASE	EVENT	4	5	6	7	A	B	C	D	
VISUAL SEGMENT AND LANDING	(Normal/Alternate) Crosswind								X-	—>
	Obstacle Clearance								X-	—>
	Glassy Water								X-	—>
	Rough Water								X-	—>
	Open									
	Crosswind (normal in an aircraft if no crosswind exists) with most critical powerplant inoperative. ME								X-	—>
	Rejected Obstacle Clearance								X-	—>
	Open									

FLIGHT INSTRUCTION/EVALUATION
FLIGHT ENGINEERS
TRANSPORT CATEGORY AIRPLANES

		TRAINING DEVICE LEVEL				SIMULATOR LEVEL				ACFT
FLIGHT PHASE	EVENT	4	5	6	7	A	B	C	D	
PREPARATION	Airplane Preflight * Logbook * Safety Checks * Cabin/Interior * Exterior Walkaround * Deicing * Servicing	Exterior walkaround can be done using approved pictorial displays								
GROUND OPERATION	Performance Data * TOLD * Airport Analysis * Weight & Balance	X								
	Use of Checklist * Panel Setup			X						
	Starting * Normal * Abnormal - External Pwr - External Air - Battery Only	X								
	Communications * Station Procedures * ACARS		X							
	Taxi		X							
TAKEOFF	Normal			M	M	X				
	Rejected * Brake Energy			M	M	X				
	Engine Failure/Fire		X							
	Fuel Jettison			X						
	Emergency Return			X						

FLIGHT INSTRUCTION/EVALUATION
FLIGHT ENGINEERS
TRANSPORT CATEGORY AIRPLANES

		TRAINING DEVICE LEVEL				SIMULATOR LEVEL				ACFT
FLIGHT PHASE	EVENT	4	5	6	7	A	B	C	D	
CLIMB	Normal * Power		X							->
	One Engine Inop.		X							->
	Fuel Management	X								->
	Pressurization * Manual * Automatic	X								->
EN ROUTE	Cruise Power		X							->
	Step Climb		X							->
	Fuel Management		X							->
	High Altitude Performance		X							->
	Powerplant Shutdown and Restart		X							->
DESCENT	Normal		X							->
	Maximum Rate			M	M	X				->
APPROACH	Landing Data	X								->
	Landing Gear Malfunctions			M	M	X				->
	Flap/Spoiler Malfunctions			M	M	X				->
	Approach Monitoring		X							->
LANDING	Normal			M	M	X				->
	With Landing Gear Malfunction			M	M	X				->
	Emergency Evacuation			X						->

FLIGHT INSTRUCTION/EVALUATION
FLIGHT ENGINEERS
TRANSPORT CATEGORY AIRPLANES

		TRAINING DEVICE LEVEL				SIMULATOR LEVEL				ACFT
FLIGHT PHASE	EVENT	4	5	6	7	A	B	C	D	
DURING ANY PHASE Normal, Abnormal, Alternate, and Emergency Procedures	Fires			X—	——	——	——	——	——	—>
	Smoke Control			X—	——	——	——	——	——	—>
	Powerplant Failure			X—	——	——	——	——	——	—>
	Pressurization		X—	——	——	——	——	——	——	—>
	Pneumatic	X—	——	——	——	——	——	——	——	—>
	Air Conditioning	X—	——	——	——	——	——	——	——	—>
	Fuel and Oil	X—	——	——	——	——	——	——	——	—>
	Electrical		X—	——	——	——	——	——	——	—>
	Hydraulic		X—	——	——	——	——	——	——	—>
	Flight Control			X—	——	——	——	——	——	—>
	Anti Icing & Deicing		X—	——	——	——	——	——	——	—>
	Cabin Equipment									X

BILLING CODE 4910-13-C

Chapter 5. Continued Qualification Curriculums

Section 1. General

90. Purpose

AQPs must include continued qualification curriculums which are based on continuing qualification cycles. The certificate holder may design continuing qualification cycles to efficiently utilize available training resources and to accommodate combinations of environmental and/or operational situations that are unique to the certificate holder. This chapter describes the activities that constitute continued qualification and the requirements for developing a continuing qualification cycle.

91. Application

Continued qualification applies to all persons subject to an AQP, including instructors and evaluators. Fully qualified persons are automatically scheduled for continued qualification activities specifically designed for their duty position and aircraft assignment. A person who is qualified on more than one make, model, and series of aircraft (or variant) or in more than one duty position should be simultaneously enrolled in a separate continued qualification curriculum for each assigned aircraft and duty position. However, a person who is simultaneously assigned as a flight crewmember, instructor, and evaluator on the same aircraft may be enrolled in a continued qualification curriculum which combines the activities necessary to maintain skill and proficiency in all three duty positions.

Section 2. Continued Qualification Activities

92. Types of Activities

Continued qualification curriculums should outline a uniform timetable for the following: (i) Recurrent ground instruction; (ii) recurrent flight proficiency instruction; (iii) line oriented flight training; (iv) currency activities; (v) flight proficiency evaluations; and (vi) online evaluations. Continued qualification should have a proper balance between training, evaluation, and currency. Generally, continued qualification curriculum segments contain the same elements and events as qualification curriculum segments; however, continued qualification segments are usually not as detailed about each element or event and require fewer planned hours. Continued qualification curriculum segments exclude certification and supervised operating experience modules. For an example of a continued qualification curriculum see Figure 5–1.

BILLING CODE 4910–13–M

FIGURE 5-1
SAMPLE OF A CONTINUED QUALIFICATION CURRICULUM
(FOR PIC B727)

CURRICULUM SEGMENTS

* Recurrent Ground Training
* Recurrent Flight Proficiency Training and Checking
* Line-Oriented Flight Training
* Currency Activities

→ TRAINING MODULES*

* General Operational Subjects
* Aircraft Systems
* Aircraft System Integration
* Emergency Drill Training

→ TRAINING ELEMENTS*

* Powerplants
* Electrical
* Hydraulic
* Flight Controls
* Landing Gear
* Navigation Equipment, etc.

* Continued Qualification Curriculums contain similar, but fewer and less detailed modules as compared to Qualification Curriculums.

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93. Recurrent Ground Intruction

Continued qualification must include recurring ground instruction and evaluation for pilots in command, seconds in command, flight engineers, and instructors and evaluators that includes a general review of knowledge and skills covered in qualification training and updated information. Recurrent ground instruction reviews basic airmanship, including operational techniques, emergency situation training, the knowledge and skills required to operate a specific aircraft, and information concerning newly developed procedures. It includes newly developed safety information and newly modified airmanship techniques.

94. Recurrent Flight Proficiency Instruction

Pilots in command, seconds in command, flight engineers, and those instructors and evaluators who conduct flight training or flight evaluations in actual or simulated flight or in a flight training device must complete proficiency training designed for their respective duty position in an aircraft, flight training device, or flight simulator on normal, alternate, abnormal and emergency flight events. Recurrent flight proficiency training permits pilots and engineers to experience and practice the procedures and maneuvers (events) which are not normally encountered in day-to-day flight operations. For instructors and evaluators who are limited to conducting their duties in flight simulators and flight training devices, recurrent proficiency flight training may be conducted only in flight simulators and flight training devices.

95. Line Oriented Flight Training

In an AQP, LOFT is combined training and evaluation during operational flight simulations designed to upgrade the skills and proficiency of flight crewmembers both as individuals and as team members. These activities require team action in tactical decisionmaking while simultaneously requiring high quality demonstrations of individual abilities. Cockpit resource management skills must be seriously tested and challenged by the scenarios designed for LOFT. Acceptable criteria for this training are set forth in A/C 120-35A, "Line Oriented Flight Training".

95. Flight Crewmember Currency Activities

The certificate holder's AQP should show that currency activities in FAR Part 121.439 are complied with. The currency activities schedule, if not met during line operations, may be satisifed through a flight currency reestablishment activity specified in the continued qualification curriculum. Currency activities for instructors and evaluators who are not "line crewmembers" will be specified in each AQP.

97. Flight Proficiency Evaluations

Flight proficiency evaluations may be conducted in a flight training device, aircraft, or flight simulator. Their purpose is to permit evaluation of pilots, flight engineers, instructors, and evaluators as the perform the procedures and maneuvers (events) specified for recurrent evaluations in the continued qualification curriculums.

98. Online Evaluations

Online evaluations are evaluations of an entire flight crew which are conducted by an evaluator during actual flight operations under Parts 121 or 135 or during operationally (line) oriented flights such as ferry flights or proving flights. These evaluations are required activities which must be included in the continued qualification curriculums only for pilots in command. However, during online evaluations each person performing duties for that flight as a pilot in command, second in command, or flight engineer must be individually evaluated as to: (1) Proficiency in the particular aircraft, crew position, and type of operation and (2) skills and ability to operate effectively as part of a crew.

Section 3. Continuing Qualification Cycles

99. Level of Detail

The continuing qualification curriculum should provide sufficient detail to show compliance with the SFAR. Elements of ground training activities, flight training activities, proficiency and online evaluations and currency activities should be specifically identified. The curriculum should specify the period between each type of activity and the order in which they will be performed. Developing a continuing qualification activity schedule involves selecting, revising, and ordering appropriate modules from indoctrination and qualification curriculums which should be regularly revisited to maintain both individual and crew proficiency. Each continuing qualification curriculum will identify the frequency of recurring training sessions at a training facility for each person qualified under an AQP.

100. Establishing Periodic Limits

Each certificate holder must obtain approval of its continuing qualification cycle and of a schedule of recurring training sessions that would occur within that cycle.

a. *Continuing qualification cycle.* The first time a continuing qualification cycle is approved the period of time for that cycle cannot exceed 26 months. Once a continuing qualification cycle has been in use and data shows that a period of more than 26 months is warranted, the certificate holder may request an extended period. Under SFAR XX, the Administrator may approve extensions in increments not exceeding 3 months up to a maximum cycle of 39 months.

b. *Recurring training sessions.* Within the continuing qualification cycle a certificate holder is required to establish a schedule of recurring training sessions at a training facility for each person qualified under an AQP. Initially the period between recurring training sessions may not exceed 13 months. As with the continuing qualification cycle, the time between recurring training sessions may, if warranted, be extended by the Administrator in increments not exceeding 3 months, but the maximum time between sessions may not exceed 26 months.

c. *Justification for extensions.* For an extension of a cycle or of the time between sessions to be warranted the certificate holder must be able to show that individuals subject to the AQP are able to maintain their knowledge of skills under the already approved schedules and that there is a solid and rational basis indicating that there will be no loss of knowledge, skill, or abilities if a cycle or period between sessions is extended. Extensions will be allowed to continue, and additional extensions granted, only if a certificate holder's record and independent FAA evaluation shows that the extension is appropriate as a means to maintain or increase the level of crewmember or dispatcher competency in air transportation operations. The FAA has no intention of approving increased periods which approach the maximum allowed by SFAR XXX without substantial evidence that the increase is in the public interest and is a means of increasing safety and efficiency in air transportation.

d. *New hires and new aircraft.* When a certificate holder hires and individual subject to training under an AQP, or when an individual under an AQP qualifies on an aircraft on which he has no previous experience in his assigned duty position, the initial continuing qualification cycle time and the period of time between recurring training sessions will be the minimum time

periods stated in SFAR XX. Extended time periods that may have been granted to the certificate holder for more experienced personnel will not immediately apply to newly qualified individuals. Newly qualified personnel may be transitioned to the extended cycles and training sessions according to the means approved for this purpose in the certificate holder's AQP.

101. Schedule Divisions

Continued qualification cycles should be subdivided and controlled by calendars expressed in months. The initial continued qualification cycle for a newly enrolled flight crewmember can not exceed 26 calendar months and the initial recurring training sessions at a training facility cannot be more than 13 months apart. For an illustration of the interrelationship between recurring training sessions, evaluation, and currency activities within a continuing qualification cycle, see Figure 5–2.

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FIGURE 5-2
CONTINUED QUALIFICATION CYCLE
EXAMPLE

SKYWAY'S AVIATION PILOT-IN-COMMAND
LEAR 23/24 AIRCRAFT

CONTINUED QUALIFICATION CYCLE

< > = Currency - Repetitive Happenings to Maintain/Establish Currency
{ } = Training - Ground, Flight, Simulator
[ ] = Evaluation - Proficiency Check

Activity	Month 1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26
Currency Activities < >			< >			< >			< >			< >			< >			< >			< >			< >		
Training { }							{ }[1]						{ }													{ }
Evaluation [ ]	[Q][2]						[O][3]						[R][4]							[O][3]						[R][4]

[1] { } = First Training Activity for Newly Qualified PIC's Only
[2] [Q] = Evaluation for Initial Qualification
[3] [O] = Online Check (PIC)
[4] [R] = Recurring Training Session and Proficiency Check (PIC/SIC/FE)
Note: The specific details of each activity are explained in SKYWAY's Continued Qualification Curriculums.

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a. *Recurring training sessions.* Initially, and for newly qualified personnel, recurring training sessions should occur at equally spaced scheduled intervals of not more than 13 calendar months. Sessions which occur during the 2 months preceding the anniversary month of the last training session are considered to occur on schedule.

b. *Proficiency or online evaluations.* For pilots, flight engineers, instructors, and evaluators, a proficiency evaluation in an aircraft, flight training device, and/or flight simulator must be completed during each training session. For pilots-in-command, an online evaluation in an aircraft must be completed within 30 days of which the midpoint date occurs between the completion of the last preceding proficiency evaluation and the next scheduled proficiency evaluation. The online evaluation should be conducted within the scheduled midpoint month or one month before or after the midpoint month.

Section 4. Scheduling and Requalification

102. Extended Scheduling Time

Both the period of continued qualification cycles and the period between training sessions will be based on the continued demonstration of overall effectiveness of a certificate holder's training programs and on the data submitted by the certificate holder to support its requests for extended times. To ensure adequate qualification, a certificate holder must show that its AQP has the capability to monitor each individual's demonstrated proficiency. This may mean that in certain cases individuals will require more frequent evaluation and/or training sessions.

103. Flight Crewmember Requalification

If a person fails to comply with the requirements of an approved continued qualification curriculum, that person becomes unqualified for the duty position for which the curriculum is applicable and must be requalified in order to resume serving that duty position. An AQP should provide means for requalifying individuals who become unqualified. An AQP should also establish time limits beyond which an individual would be required to repeat the entire qualification process to requalify.

104.–112. Reserved

Chapter 6. Recordkeeping and Data Collection

113. General

This chapter outlines the kinds of records and data that a certificate holder or training center should maintain. Section 1 describes records to be maintained on each person qualified under an AQP. Section 2 describes data that must be collected to evaluate the effectiveness of an AQP.

Section 1. Records on Qualified Individuals

114. Recordkeeping Requirements

A certificate holder or training center will establish and maintain appropriate records on each person qualified under an AQP. This section provides guidance in establishing and maintaining records. This section also presents guidelines for computerized recordkeeping systems on individuals.

115. Basic Record Contents

The record for each individual who is being qualified or has qualified under an AQP should contain the following:

(1) Full name (First, Middle Initial, Last) of the individual.

(2) Current duty assignment (i.e. PIC, 737).

(3) Previous qualifications (i.e., qualified PIC, DC-4, 16 January 1958).

(4) Airman certificate, grade, number and ratings (if applicable).

(5) Date, class, and, if applicable, limitations of the person's most recent medical certificate.

(6) Instructor/Evaluator qualifications and authorizations, if applicable.

(7) Flight-time records—to include currency records for currently assigned aircraft which show compliance with all applicable flight time, duty, and rest requirements.

(8) Any action taken concerning an individual's release from employment for physical or professional disqualifications.

(9) Each individual's basic aeronautical experience in sufficient detail to determine that individual's qualification to perform in operations under Parts 135 and/or 121.

116. Training and Qualification Records

A certificate holder or training center should maintain records of training and qualification for each individual qualified under an AQP. These records should include the following:

(1) Records of indoctrination, qualification, continued qualification, and individual one-time accomplishments required by regulation or by the operator's approved training program and/or AQP for the person's *current assignment(s).* These records must initially be maintained in sufficient detail to show the full scope of each curriculum and how the individual satisfied the requirements of that curriculum. A line item entry that a curriculum was completed as of a particular date is not adequate for establishing qualification for a current assignment.

(2) Records which show the result and completion date of other training and qualification that permitted an individual to advance to his current assignment.

117. Retention of Records

Records for individuals who qualify through an AQP should be retained in accordance with the following guidelines.

a. *Minimum retention.* The minimum retention period should ensure that a person's pertinent training and qualification status can be determined. Detailed records, as described in paragraph 116 above, must be kept, showing each person's participation in the AQP during the preceding 36 calendar months. Actions more than 36 months in the past may be documented by a dated line item record. However, if actions more than 36 months old are to be used as the basis for later qualifications (e.g., changing to another certificate holder), detailed records must be available. In the absence of detailed records, the individual will be required to fully complete all appropriate curriculum requirements. Certificate holders, individuals, and training centers, therefore, should understand the risks associated with discarding detailed records.

b. *Computer records.* Use of computer record systems may be approved.

c. *Retention after release.* All records should be kept for a period of at least 6 months after a person's release from a duty assignment.

118. Guidelines for Computerized Recordkeeping

The following guidelines are provided for computerized recordkeeping systems.

a. *Guidelines.* When designing a computerized recordkeeping system, use the following considerations:

(1) Records should contain all of the required information which manual systems must have.

(2) Each record should be certified by an instructor, supervisor, or evaluator.

(3) The certificate holder or training center should designate a representative

to be responsible for checking and validating the accuracy and completeness of the record.

b. *Approval.* The following outlines the approval procedure for a computerized recordkeeping system.

(1) *Interim approval.* Interim approval may be granted for a computerized recordkeeping system. A request for interim approval should identify:

(a) The type and location of computer equipment.

(b) Methods for providing duplicate backup records to be used during the period of interim approval.

(c) Methods and schedules for updating records.

(d) The means used for identifying individuals.

(e) The type and amount of training provided to qualify personnel who operate and maintain the computer system.

(f) The means used to identify the instructors, supervisors or evaluators who certify that the results of accomplished training, evaluation, and/or qualification.

(g) The validation checks proposed to be used to verify the accuracy of information before it is entered into the computerized system.

(h) The identity of the individual(s) responsible for conducting these validation checks.

(i) A procedure which ensures that persons responsible for making data entries are clearly identified and that entries are made under the direct control of that person.

(2) *Final approval.* Final approval is appropriate only after an operational demonstration shows that the computerized recordkeeping system is adequate, accurate, and secure.

119.–123. Reserved

Section 2. Data Collection for Program Evaluation

124. Evaluation Plan

Any certificate holder or training center should develop and submit with an AQP curriculum a plan for systematically evaluating its AQP.

a. *Purpose of the evaluation plan.* The purpose of the evaluation plan is for the certificate holder to establish a means for monitoring the effectiveness of an AQP curriculum in terms of how well it is meeting the objectives.

b. *Duration of plan.* The evaluation plan should remain in effect for the life of an AQP. The plan should not be changed without notifying the FAA at least 30 days before the change would take effect. The FAA may prohibit the proposed changes by identifying its reasons for doing so in a written explanation.

c. *Contents of the plan.* The following elements should be included in the evaluation plan:

(1) A statement of the objectives of the AQP curriculum and the criteria for determining if the objectives are being achieved.

(2) Methods for examining courseware (lesson plans, work books, flight instructor guides) to determine that they are consistent with the curriculum, organized for effective execution, and easy to revise.

(3) Methods for observing instruction and training including lectures, computer-based instruction, presentations, and in-flight instruction. Factors to evaluate are (i) if the instructor is organized and prepared; (ii) if the courseware is effectively used; (iii) if training aids function properly; and (iv) if the environment is conducive to learning.

(4) Methods and materials for conducting evaluations to determine if learning has occurred, including oral and written tests or flight tests.

125. Data Collection

Each qualification and continued qualification curriculum must include data collection procedures. These procedures must be designed to collect information concerning the performance of the certificate holder's crewmembers, instructors, and evaluators. All data should be anonymous and geared to judging performance trends as a result of training.

(a) *Purpose of data collection.* (1) The data will be used by the certificate holder as part of its self-evaluation of the effectiveness of an AQP in meeting the certificate holder's stated objectives.

(2) The data will also be used by the FAA to determine that the certificate holder is meeting the objectives of its approved AQP. The data may indicate to the certificate holder and the FAA that a curriculum needs to be modified to meet the objectives of the curriculum. The information may also be used to support a certificate holder's request for modifications of an approved AQP. For example, if a certificate holder requests FAA approval for extending intervals between recurrent training or evaluation activities under an AQP continuing qualification curriculum, the certificate holder must support its request with collected data showing that present crewmember performance in evaluations warrants the extension.

(3) The FAA will use data collected by certificate holders to establish crewmember performance norms, and to judge the effectiveness of AQPs according to how well they meet or exceed these norms. The FAA may also use this data to compare with accident/incident statistics to determine the effect of AQP training programs on crewmember accident/incident rates.

126. Kinds of Data To be Collected

The kinds of data to be collected are described below. These are preliminary guidelines which will be further developed as more information is acquired.

a. *Data from proficiency training and evaluation activities.* Data should be gathered and analyzed from proficiency training and evaluation activities. The data should include, but not be limited to, the following:

- The individual events accomplished.
- The number of times each event was accomplished.
- The individual events which required reaccomplishment.
- The reasons an individual event required reaccomplishment.
- The identification of and number of times that an activity was classified as "incomplete", "not satisfactorily completed", or "unsatisfactory".

b. *Data from Line Oriented Flight Training (LOFT) and Cockpit Resource Management (CRM) activities.* Data should be gathered and analyzed from LOFT and CRM activities. The data should include, but not be limited to, the following:

- The identification of and number of times LOFT or CRM activities were "incomplete" or "not satisfactorily completed."
- The reasons that the LOFT or CRM activities were classified as "incomplete" or "not satisfactorily" completed.

c. *Data from on line evaluations.* Data should be gathered and analyzed from on line evaluations. The data should include, but not be limited to, the following:

- The events observed.
- The number of times each event was observed.
- The events or elements which were classified as "unsatisfactory", "unacceptable", or "potentially unacceptable" and the reasons for that classification.

127.–130. Reserved

Chapter 7. Airman Certification

131. General

SFAR XX provides an alternative practical testing means to certificate pilots, flight engineers, and dispatchers in AQPs. At this time, the process for

certification of dispatchers through AQPs has not been formulated but will be addressed in a future version of this advisory circular. Also at this time the process of certification of pilots thrugh AQPs is limited to pilots who hold at least a Commercial Pilot certificate with an Instrument rating before enrolling in an AQP. In the future the FAA may establish criteria for other types of pilots. Until these criteria are developed the FAA will review any certificate holder's request for other types of pilot certification under an AQP on a case by case basis.

132. Practical Test Criteria

An applicant for certification must be eligible under the applicable requirements of Part 61, 63, or 65, except that a certificate holder may develop practical tests for airman certification which, when specifically approved by the Manager, Air Carrier Training Branch, may be used in palce of the practical tests prescribed in Part 61, 63, or 65 of the FAR. Development of practical tests to be used in place of the practical tests prescribed in Part 61, 63, or 65 should be based on the tables in Chapter 4 of this A/C and other relevant information such as aircraft flight manuals and Flight Standardization Board reports.

133. Completion of Qualification Curriculum

An applicant for airman certification must successfully complete the appropriate qualification curriculum.

134. Demonstration of Individual Skills

Certification applicants must show competence in required technical skills and CRM skills in actual or simulated operational scenarios that test both types of skills together.

135. Authorized Evaluation Personnel

Certification tests must be conducted by a person designated in writing by the Manager of the Air Carrier Training Branch as qualified to conduct the particular evaluation. Only the following personnel may be designated by the Manager of the Air Carrier Training Branch to conduct airman certification evaluations in an AQP.

a. *FAA operations inspectors* who are currently qualified on the make, model, and series of aircraft (or variant) and who are thoroughly familiar with the specific alternative evaluation process.

b. *Aircrfew program designees* (APDs) currently qualified on the make, model, and series of aircraft (or variant), who have completed evaluator qualification and maintain continued qualification as evaluator under the AQP.

c. *Designated air carrier examiners* currently qualified on the make, model, and series of aircraft (or variant), who have completed evaluator qualfication and maintain continued evaluator qualification under the AQP.

136. Disposition of Airman Certification Documents

Persons authorized to conduct airman certification evaluations under an AQP will issue either a temporary airman certificate or notice of disapproval for each certification evaluation conducted and will write "SFAR XX" in the top margin of the application form. The completed file will be mailed to the FAA flight standards district office identified in the individual AQP for further disposition in accordance with FAA internal directives.

137.140. Reserved

Chapter 8. Training And Evaluation of Instructors and Evaluators

141. General

Each AQP should provide for instructor and evaluator indoctrination, qualification, and continued qualification.

142. Training and Evaluation

Each instructor and evaluator should receive training in and be evaluated on the methods of qualification and the use of flight simulators, flight training devices, aircraft, and other media used in the AQP. A means of maintaining currency in the use of these methods and media should be included each instructor and evaluator continued qualification curriculum.

143. Instructor Courses

a. *Instructor indoctrination.* Indoctrination for instructors should include the following elements:

- The learning process.
- Elements of effective teaching.
- Student evaluation, quizzing, and testing.
- Course development.
- Lesson planning.
- Classroom instructing techniques.
- Techniques for instructing in the cockpit environment.

b. *Instructor qualification.* Instructor qualification should include development of knowledge and skills in the following:

- Effective use of specific training devices and simulators used in the AQP.
- Limitations on use of training devices and simulators used in the AQP.
- How to conduct training modules for students with varying backgrounds and levels of experience and ability.
- Evaluation of flight performance against objective standards.
- Effective preflight and postflight instruction.
- Instructor responsibilities.
- Effective analysis and correction of common flight errors.
- Teaching CRM skills.
- Performance and analysis of standard flight events and procedures.
- Qualification at the instructor duty position in the simulator/training device/aircraft.
- Safety consideration in the training environment.

144. Evaluator Training and Evaluation

Persons selected to be evaluators should have experience as instructors and have shown their ability to observe and judge the effectiveness of individual training courses and of individual instructors, as well as the overall effectiveness of an AQP. All evaluators must complete a curriculum which consists of evaluator indoctrination and evaluator qualification. After qualifying, evaluators must maintain their qualification through participation in a continued qualification curriculum segment specifically designed to enhance evaluator skills, knowledge, and abilities. Whenever a person is maintaining qualification as both an instructor and an evaluator, a single continued qualification curriculum segment may be developed to maintain both skills. Evaluator indoctrination curriculum segments include the following elements:

- Evaluation policies and techniques.
- The role of the evaluator.
- Administrative procedures.
- General safety considerations.
- Evaluating CRM skills.

Evaluator qualification curriculum segments should include the following elements and events:

- For each crewmember position requiring a particular evaluation the methods of conducting:

(1) Online evaluations.

(2) In flight proficiency evaluations.

(3) Simulator/training device evaluations.

(4) Special evaluations (i.e. long range navigation).

(5) The standards for the evaluations in (1)–(4).

(6) When applicable, the methods and standards associated with airmen certification evaluations.

- If applicable, how to conduct evaluations while simultaneously serving as PIC, SIC, or safety pilot.
- Safety considerations for the various types of evaluations.

• Safety considerations particular to the make, model, and series of aircraft (or variant).
• How to evaluate instructors.
• How to evaluate other evaluators.
• Company policies with regard to the conduct of evaluations.
• FAA policies with regard to the conduct of evaluations.
• Administrative requirements particular to evaluations conducted in a specific make, model, and series of aircraft (or variant).
• Evaluating CRM skills.

Each evaluator continued qualification curriculum segment should include a schedule for recency of evaluator experience, recurrent ground and flight training to enhance, upgrade, and maintain each evaluator's knowledge, skills, and abilities. Each evaluator's continued qualification curriculum should contain a schedule of evaluations during which a critical examination of each evaluator's standardization and abilities is conducted.

145. CRM Training and Evaluation

In addition to the above, all instructors and evaluators should receive instruction and be evaluated in CRM objectives and training methods. For additional information on CRM training see Advisory Circular 121.xxx.

146.–150. Reserved

Chapter 9. Training Centers

151. Purpose

This chapter provides guidance to (1) any training center that intends to provide training or evaluation for a certificate holder's AQP, and (2) any certificate holder that intends to arrange for a training center to accomplish any of the certificate holder's training or evaluation under an AQP.

152. General Guidelines

a. *Approval: When required.* A certificate holder that provides training under an AQP to its own employees does not need to be approved as a training center. A certificate holder that provides training for other certificate holders or any other organization that provides training for certificate holders is considered a training center and must obtain provisional approval of each curriculum segment or portion of a curriculum segment that as a training center it proposes to offer for use by other certificate holders.

b. *Generic training.* A training center may apply for provisional approval to provide instruction and evaluation of generic aircraft and duty position-specific curriculum segments or portions of curriculum segments. A training center would not have to have a contract or other arrangement with a particular certificate holder to obtain provisional approval. However, provisional approval does not convey automatic approval for use of the curriculum segment as part of a certificate holder's AQP. Permission to use a training center's provisionally approved curriculum segment as part of a particular certificate holder's AQP depends on the FAA's assessment of the appropriateness of the training center's generic curriculum material to the certificate holder's specific needs. Modification of the training center's generic curriculum material will usually be required to ensure the material is made to conform with the certificate holder's training and qualification needs. Instructors and evaluators employed by training centers must demonstrate competency to teach and evaluate in conformity with the certificate holder's approved training and qualification standards, as well as its operational methods, techniques, and procedures.

c. *Certificate holder operations-specific training.* Generally, operations-specific (i.e., specific to a certificate holder) training will be provided directly by a certificate holder rather than by a training center. A certificate holder that wishes to contract with or otherwise arrange for conduct of operations-specific curriculum segments by a training center must show that the training center and its instructors and evaluators are fully qualified and competent to accomplish operations-specific curriculum segments.

153. Applications For Provisional Approval of Training Center Curriculum Material

a. *Application for provisional approval.* Application for approval is made to the Air Carrier Training Branch through the training center's local Flight Standards District Office.

b. Each application should specify the training or evaluation to be approved.

c. Application should be in letter form and accompanied by the proposed curriculum materials, descriptions of training facilities and equipment, personnel qualifications, and proposed evaluation plans.

d. Application should describe the extent of training/evaluation approval sought (e.g. Pilot-in-Command, indoctrination and qualification, training and evaluations, B-727, Generic elements and events).

e. The application should contain curriculums, procedures, and supporting documentation which address the following issues:

(1) Instructor training and evaluation: The applicant must have an approved curriculum for the qualification and continued qualification of each instructor or evaluator employed by the applicant.

(2) Facilities: The applicant's facilities must be adequate for any planned training or evaluation for a Part 121 or Part 135 certificate holder.

(3) Simulators/flight training devices: The applicant should describe and identify flight simulators and flight training devices to be used. (See Chapter 11)

(4) Training aids/computer based instructional equipment: The applicant should describe and identify training aids and computer based instructional equipment to be used. (See Chapter 10)

(5) Recordkeeping systems: The applicant should describe recordkeeping systems that identify and validate the training and evaluation of instructors and evaluators. (See Chapter 6)

(6) A curriculum, curriculum segment, or portion of a curriculum segment must identify the specific make, model, and series of aircraft (or variant) and crewmember or other positions for which it is designed. A general indoctrination curriculum does not have to meet this requirement.

f. Applications to revise existing programs need only address applicable items.

154. Approval For Use In An AQP

Approval for use of provisionally approved training center's curriculum segments in a certificate holder's AQP will be given only at the time the certificate holder applies for approval of its AQP and only if the FAA determines that the curriculum segments are appropriate for the certificate holder's required training.

155.–160. Reserved

Chapter 10. Computer Based Instructional/Evaluation Systems

161. Purpose

This chapter provides guidance under which computer based instructional systems may be approved for use in an AQP.

162. General

Computer based systems may be approved for use in an AQP for instruction and/or evaluation.

163. Approval

The following paragraphs outline approval procedures for computer based instructional/evaluation systems.

a. *Initial approval.* Initial approval may be given for computer based instructional/evaluation systems as an interim approval for testing. The proposal should include:

1. Type and location of computer equipment.
2. Methods for providing duplicate backup records.
3. Methods for updating programs.
4. The type and amount of training to qualify personnel to operate and maintain the computer system.
5. A procedure to ensure program security.
6. A procedure that ensures that the persons authorized and responsible for monitoring evaluations are clearly identified and that evaluations are monitored only by authorized persons.
7. Instructional/evaluational objectives for each program.
8. Program structure and sequence.
9. Performance monitoring program (validation).

164.–170. Reserved

Chapter 11. Qualification of Flight Simulators and Flight Training Devices for Use in an AQP

Section 1. Approval of Training Devices And Simulators

171. General

SFAR XX requires that a flight simulator or flight training device used in an AQP be evaluated against a set of criteria established by the Administrator for a particular level of simulation (a qualification level). Once a flight simulator or flight training device is approved for a level of simulation, it must be specifically approved by the Administrator for its intended use in an AQP. Approval for qualification level and approval for use in a specific AQP constitutes initial qualification. Once a flight simulator or flight training device is approved for its intended use in an AQP, it must be part of a flight simulator or flight training device continuing qualification program. This chapter outlines acceptable procedures for the qualification and continuing qualification of flight simulators and flight training devices for use in an AQP.

172. Criteria For Flight Simulator And Flight Training Device Initial Qualification Approval

The Administrator shall approve the qualification level of a simulator or training device in accordance with the following criteria:

a. The criteria for airplane simulators is in Advisory Circular 120–40, as amended, "Airplane Simulator Qualification."

b. The criteria for flight training devices is in Advisory Circular 120–45, as amended, "Airplane Flight Training Devices Qualification."

c. Criteria for helicopter simulators and training devices qualification are being developed and will be released at a later date in an advisory circular.

173. Initial Approval of Flight Simulators And Flight Training Devices For Use In An AQP

As part of the approval of an AQP, the FAA will approve use of a flight simulator or flight training device for use in the AQP. Chapter 4 of this Advisory Circular presents tables that specify the use of simulators and training devices in flight instruction and evaluation. Each AQP curriculum segment which includes use of a flight simulator or flight training device should specify the make, model, serial number and manufacturer of the flight simulator or flight training device or the FAA identification number of the flight simulator or flight training device assigned by the National Simulator Program Manager.

174. Currently Qualified Devices

Training devices and simulators currently qualified by the Administrator may be used in approved AQP training programs for training, evaluation, and qualification of airmen at the current qualification level without completing an additional evaluation.

175. Other Devices, Not Currently Qualified

Training devices or simulators not currently qualified by the Administrator may be used in an approved AQP for training, evaluation, and qualification of airmen once they have been evaluated for the appropriate aircraft and type of device and have received FAA qualification and approval for use in AQP.

Section 2. Continuing Qualification

176. Maintaining Qualification Of Simulators And Training Devices

Each flight simulator and flight training device used in an AQP should:

a. *Maintain the performance,* functions, and other characteristics that are required for that qualification level as demonstrated during the initial or upgrade evaluation;

b. *Be modified to conform with any modification* to the aircraft being replicated or any modification or change to the mathematical model used that results in a change in the performance, functions, or other characteristics that may affect the operation of the device at that qualification level;

c. *Be given a daily functional preflight check* before use;

d. *Have a discrepancy log* that the instructor or evaluator enters each discrepancy into at the end of each training or evaluation session; and

e. *Have a documented software configuration control system* which contains a record of all software changes or modifications and which assures that systems software changes which might offset flight performance in handling qualities, ground handling, or systems functions approved by the Administrator be implemented only after notification to and concurrence by the Administrator.

177. Failure To Maintain Initial Qualification Level

Except as noted in the paragraph below, aircraft training devices or aircraft simulators failing to maintain the performance, functions, and other characteristics that are required for initial qualification may not be used in training, evaluation, or certification of airmen.

178. Component Inoperative Guide

If the Administrator has authorized the use of a Component Inoperative Guide (CIG) for the aircraft training device or aircraft simulator, and any performance, functions, or other characteristic does not meet the criteria for initial qualification because of an inoperative component listed in the CIG, the FAA will limit but not prohibit the use of the device in the AQP.

179. Responsibility of Sponsor

As used in this Advisory Circular with respect to training devices or simulators, "sponsor" is a person who requests that the Administrator conduct an evaluation of a training device or simulator (for assignment of a qualification level for airmen training, evaluation, or certification); and agrees to accept the responsibilities outlined in paragraphs a., b., and c. below.

a. *Maintaining performance level.* Each sponsor of an aircraft training device or aircraft simulator used in a training program approved under this SFAR shall be responsible for ensuring that the device maintains the performance, functions, and other characteristics required for the qualification level assigned as a result of the initial or upgrade evaluation.

b. *Maintenance.* The sponsor may arrange with another person for the maintenance, preventive maintenance,

or required testing of the device; however, this does not relieve the sponsor of the responsibility in paragraph a. above.

c. *Component Inoperative Guide (CIG).* The sponsor shall remove the training device or simulator from use, or limit its use according to the CIG, when the sponsor is first made aware that any problems exists with the device that affects its performance, functions, or other characteristics. In such situations, as soon as possible, the sponsor must inform any person using, or scheduled to use, the device that its use has been suspended or limited, and, if limited, how it has been limited.

d. *Withdrawing sponsorship.* At least 30 days before withdrawing as a sponsor, the sponsor should notify the Administrator and any person using, or scheduled to use, the device that he is withdrawing as sponsor of the training device or simulator.

180. Scheduled Recurrent Evaluations

Training devices and simulators not previously qualified by the Administrator or those being upgraded for use in an AQP shall be included in a continuing qualification program and evaluation schedule. Training devices and simulators previously qualified by the Administrator and used in an AQP will follow the previously arranged and approved schedule for recurrent evaluation and the currently approved Approval Test Guide (ATG). However, the evaluation will be conducted as outlined in this Advisory Circular and recorded as a scheduled recurrent evaluation. Subsequent scheduled recurrent evaluation will follow an established due date.

181. Time Periods for Scheduled Recurrent Evaluations

The scheduled recurrent evaluations shall be accomplished according to the following schedule:

a. *The first scheduled recurrent evaluation* will be conducted not later than the sixth (6) month after the initial or upgrade evaluation. At this first recurrent evaluation a due month will be scheduled for subsequent recurrent evaluations.

b. *Subsequent scheduled recurrent evaluations* should be conducted at twelve (12) months intervals except as noted below. Failure to accomplish an evaluation in accordance with the evaluation schedule will result in loss of qualification status for the device.

c. *Flexibility.* Scheduled recurrent evaluations conducted in the month before or the month after the due month will be considered to have been accomplished during the due month. Scheduled recurrent evaluations may also be conducted more than one month before the due month if properly coordinated. However, this would establish a new due month for subsequent scheduled recurrent evaluations.

d. *Time required for a recurrent evaluation.* Scheduled recurrent evaluations will normally be scheduled for 8 hours and will consist of functional tests and approximately 50 percent of the tests in the ATG. Additionally, in accordance with a schedule approved by the Administrator and at 2 equally spaced intervals between the scheduled recurrent evaluations, the sponsor will conduct 50 percent of the balance of the validation tests (25 percent of the ATG tests), certify that the test results are within prescribed tolerances, and maintain the results in a file for review by the National Simulator Program Manager. Such a schedule means that all validation tests in the ATG will be completed annually.

182. No-Notice Evaluations

During the interval between the scheduled recurrent evaluations, the Administrator will conduct at least one (1) no-notice recurrent evaluation.

a. *Content.* A no-notice recurrent evaluation will consist of the following:

(1) A review of ATG validation tests accomplished since the last recurrent evaluation (either scheduled or no-notice);

(2) A review of the device's discrepancy log (including daily maintenance preflight, discrepancies, and action taken to clear discrepancies); and

(3) Observation of the device during normally scheduled training or evaluation functions.

b. *Additional content.* If the training device is available, the following items may also be accomplished:

(1) Assessing the state of the visual, motion, and other systems; and

(2) Flying the device.

c. *Reason for limiting the content.* A no-notice recurrent evaluation does not have the same level of detail and does not take as long as a scheduled recurrent evaluation because it is based on the premise that the sponsor is maintaining the performance, functions, and other characteristics of the device at the level required for initial qualification.

183. Change of Qualification Level

The upgrading of a training device or simulator may occur only after initial or upgrade evaluation. The downgrading of a training device or simulator may occur only after a special evaluation or a scheduled recurrent evaluation.

184. Discrepancies

If the evaluator observes a discrepancy during the scheduled recurrent evaluation or the no-notice evaluation which, in his opinion, may affect the qualification status, he may, after notifying the sponsor of his discovery, and at his discretion, withdraw the qualification status of the device. This original qualification status may be regained through correction of the discrepancy and on the authority of the National Simulator Program Manager.

185.–195. Reserved

Chapter 12. Role of the Air Carrier Training Branch

196. Purpose and Responsibilities of the Air Carrier Training Branch

The FAA has established an Air Carrier Training Branch at Washington Headquarters. A primary purpose for this branch is to ensure a standardized AQP approval process. This staff will assume the responsibility for the review and analysis of air carrier training programs submitted to it for approval under the provisions of SFAR XXX. This staff will also provide technical assistance to certificate holders and training centers in the development of their curriculums. (This is an advisory role only. See Chapter 13 for further information on technical assistance.) If a submitted AQP curriculum adheres to the standards described in SFAR XX and other chapters of this advisory circular, the Air Carrier Training Branch has the final authority to approve or disapprove the AQP curriculum.

197. Technical Assistance to the Staff

During the review and analysis stage of an AQP application, the assigned principal operations inspectors and other appropriate FAA personnel will participate in the review. The exchange of information between field personnel and the Air Carrier Training Branch will result in sharing technical information and a standardized approval process.

198. Application for approval

Following the procedures contained in Chapter 13, an operator may apply to the Air Carrier Training Branch for evaluation of its proposed AQP. Any Parts 121 or 135 certificate holder may apply through their assigned POI. These applications will be screened and reviewed on a timely basis depending on resources, workload, and the complexity of the application. In order

to keep the process timely, additional field and headquarters personnel may be detailed to the Air Carrier Training Branch on a temporary basis. The expected time for the review process for a newly developed curriculum is 6 months.

199.–205. Reserved

Chapter 13. Approval Process for an AQP

Section 1. General

206. The Approval Process

A certificate holder that already has an approved training program under Parts 121 or 135 will submit a transition plan (including a schedule of events) that shows how it will change from its standard training to advanced qualification training. In all their respects the procedural requirements of §§ 121.405 or 135.325, as applicable will apply. The approval process for an AQP includes provisional, initial, and final approval. The approval process discussed in this section applies to Parts 121 and 135 certificate holders and to operators of training centers who participate in an AQP. This includes but is not limited to aircraft manufacturers and to organizations whose primary business is aeronautical training. The approval process applies to a request for a new AQP or to revisions to a currently approved AQP. This chapter establishes how the FAA will grant or withdraw approval of all or part of an AQP. Approval is handled by the Air Carrier Training Branch at FAA Headquarters, Washington, DC, except for approval of training on hazardous materials and security, which must be coordinated with the Office of Civil Aviation Security (FAA) and the Office of Hazardous Materials (Research and Special Projects Administration).

207. Initiating the Process

The approval process can be initiated in two ways: (1) An operator can inform the FAA by letter of plans to establish or change an AQP; or (2) the FAA can inform an operator that revisions to its AQP are required based on acquired information relative to training techniques, aviation technology, aircraft operational history, or operator performance.

208–210. Reserved

Section 2. Developing an AQP and Initial Approval

211. FAA Guidance

The FAA will provide guidance to a certificate holder or training center who intends to develop an AQP program or revise one. The FAA will provide the following help.

a. *An operations specialist.* The FAA will identify an FAA operations specialist as the primary contact for the certificate holder or training center. The FAA representative and the certificate holder will review all general requirements in the FARs and the specific guidelines in the A/C which are applicable to the operation. The FAA representative will also determine if assistance from any other FAA specialists is needed.

b. *Format and content.* The FAA will provide advice to the certificate holder or training center on the procedures in the approval process and the types of information required to support the application for approval. The FAA will also provide advice on the general format and content of curriculums, curriculum segments, modules, flight event descriptions, courseware, facilities, and qualifications of instructors and evaluators.

c. *Advisory capacity only.* The FAA will act in an advisory capacity only. Inspectors will not participate in the actual development of curriculums. The certificate holder or training center is responsible for the development of its curriculum material and the FAA will not assume that responsibility.

212. Submission of an AQP Curriculum

The approval process begins when a certificate holder or training center submits to the FAA an AQP curriculum or curriculum segment (or portion of a curriculum segment) with relevant supporting information. A discussion of the entire AQP package appears in Chapter 2 of this A/C. The curriculum outlines and supporting information must be submitted by letter requesting approval. Two copies of each curriculum or curriculum segment should accompany the application letter.

213. General Format

Each certificate holder or training center must submit its own specific curriculum and curriculum segment outlines appropriate to make, model, and series of aircraft (or variant) and kinds of operation. The format of outlines may differ from one applicant to another. However, each curriculum or curriculum segment should be easy to revise and include a method for administrative tracking and control revisions. Curriculums for different duty positions may be combined in one curriculum provided the curriculum specifically identifies the duty positions and specifies any difference in instruction for each duty position. Details of curriculum and curriculum segment outlines are described in Chapter 2 of this A/C.

214. Supporting Information

Certificate holders and training centers should submit additional supporting information as described in Chapter 2 of this A/C and as requested by the FAA. Supporting information includes information that would be difficult to provide in a curriculum outline format. The type of supporting information may vary depending on the type of training, aircraft to be operated, and kinds of operations.

215. Review of Documents

The FAA will conduct two reviews of the submitted documents. The first is a preliminary review to determine that the package is complete. The second is an indepth review to determine if the AQP meets the requirements of applicable regulations and the guidelines of appropriate A/Cs.

a. *Preliminary review.* During the preliminary review the FAA reviews the submission for completeness, general content, and overall quality. If the submission appears to be complete, the FAA will begin an indepth review. If the submission is incomplete or conspicuously unacceptable, the FAA will return the submission within 15 working days with an explanation of the deficiencies. In this situation the approval process ceases until the curriculum or curriculum segment is corrected and resubmitted.

b. *Indepth review.* The purpose of this review is to determine the acceptability of curriculums for initial or provisional approval. The review ends with either initial or provisional approval or with rejection of all or part of the AQP curriculum.

(1) *Involvement of FAA specialists.* To complete an indepth review the Air Carrier Training Branch may need to involve other FAA personnel. The following specialists or offices may be asked to participate in the approval process:

- The PAI and PMI may be involved in qualification issues concerning weight and balance procedures, minimum equipment list procedures, long-range navigation, and lower weather minimums procedures and equipment.
- Various aviation safety inspector specialties will be involved when appropriate. For example, navigation specialists should be involved with evaluating special navigation operations.
- The Flight Standardization Board (FSB) and Flight Operations Evaluation Board (FOEB) will be used to provide

information on training recommendations and minimum equipment list procedures.

(2) *Evaluations.* Before recommending that the Air Carrier Training Branch grant or deny initial or provisional approval for a specific curriculum or curriculum segment, the FAA representative must ensure that the following evaluations are accomplished:

- A side-by-side examination of the curriculum outline with the guidance provided in this A/C to determine if the AQP includes all appropriate training and testing in required elements and events.
- An examination of the certificate holder's courseware, including sample of lesson plans, audiovisual programs, flight maneuver and procedure documents, and student handouts.
- An inspection of training facilities, training devices, and instructional aids.
- A determination of the appropriateness of the training hours specified in each curriculum segment outline. While training hours alone would not determine the quality of an AQP, the specified training hours must be realistic in terms of the complexity of each curriculum segment.

216. Delays

Operators should be aware of potential delays to approval. Delays may occur for any of the following reasons:

- Not meeting the proposed schedule of events for submitting to FAA inspection.
- Failing to expeditiously transmit information to the FAA.
- Change in plans (e.g., changing training locations).
- Deficiencies discovered in the program.
- Delays in obtaining equipment (e.g., simulators) or equipment approval.

217. New Air Operators

An applicant for a new air operator certificate may be unable to provide all the information required for its AQP application. The applicant may not yet know what training facilities or devices will be used. The lack of such information will not automatically result in a rejection of the training curriculum. If the operator and the FAA have identified the missing portions, the FAA can conduct an indepth review. However, the FAA will withhold initial or provisional approval until all pertinent portions of a specific curriculum or curriculum segment have been examined and found acceptable. If an excessive number of curriculum segments are incomplete, the FAA may be unable to conduct an indepth review. In such a situation, the FAA will either return the submission with an explanation or delay the indepth review until the necessary information is submitted.

218. Method of Granting Initial or Provisional Approval

a. *Approval of letter.* The FAA grants initial or provisional AQP approval by letter. The initial or provisional approval letter includes at least the following information:

- Specific identification of the curriculums and curriculum segments initially or provisionally approved including page numbers and revision control dates.
- A statement that initial or provisional approval is granted and what the effective and expiration dates (for initial approval) are.
- Any specific conditions affecting the initial or provisional approval.
- A request for advance notice of activity schedules so that program evaluations may be planned.

b. *Copies.* A copy of the training curriculum, curriculum segments, with a copy of the transmittal letter attached shall be maintained on file in the certificate holder's District Office by the POI during the period initial approval is valid. A copy of the same material shall be maintained by the Air Carrier Training Branch. Copies of a training center's provisionally approved curriculum material shall be maintained at the training center's local Flight Standards District Office, the Air Carrier Training Branch, and the certificate holder's assigned District Office.

219. Method of Denying Initial or Provisional Approval

If the FAA determines that initial or provisional approval of a proposed curriculum or curriculum segment must be denied, the FAA will notify all the affected operators in writing. The letter of notification identifies any deficiency in a curriculum which was the cause of denial. The principal operator may redevelop or correct the deficient portion and resubmit the AQP for approval.

220. Expiration Dates For Initial Approval

A curriculum granted initial approval has an expiration date. Usually, this date shall not be later than 24 months after the initial approval date. When the FAA decides not to grant final approval before the expiration date, it must notify the certificate holder of this decision in writing, at least 30 days before the expiration date of the initially-approved curriculum. Final approval may not be granted for several reasons. One reason, for example, may be the certificate holder's inability to achieve an acceptable level of training effectiveness during the approval process. Another example of a reason for not granting final approval is the discontinued use of the initially-approved curriculum. The notification letter should contain the reasons for allowing the curriculum to expire and should state that any further activity under the expired curriculum will not be in compliance with regulatory requirements. Should the FAA inadvertently fail to provide 30-day notification, it must establish a new expiration date for the curriculum so that appropriate notification can then be given to the certificate holder. A certificate holder not so notified should not assume that the initial approval will continue in effect until receipt of notification of either final approval or termination. If the FAA does not grant final approval before the expiration date, activities conducted under that curriculum must terminate as of that date.

221. Withdrawal of Initial or Provisional Approval

The FAA may decide to withdraw initial or provisional approval at any time the AQP is not in regulatory compliance, does not provide for safe operations, or does not effectively prepare crewmembers or dispatchers to meet qualification objectives. The FAA withdraws initial or provisional approval by letter which states that initial or provisional approval is withdrawn, reasons for the withdrawal, and the effective date of withdrawal. A certificate holder or training center who receives a letter of withdrawal may revise or refine the curriculum and resubmit it for initial or provisional approval.

222.–230. Reserved

Section 3. Final Approval Process

231. Evaluating Initially Approved Curriculums

An AQP user should provide the POI with ongoing schedules of all training, evaluation, and other activities to be accomplished under an initially approved AQP. The POI and Air Carrier Training Branch will monitor these activities whenever possible. An FAA inspector should be present at enough activities to evaluate the effectiveness of the program. If deficiencies are detected, the FAA will notify the

certificate holder or training center in writing. Adjustments may be minor or may substantially change the curriculum and require a new approval process. If the applicant transmits proposed revisions to the FAA before the expiration date of initial approval, the FAA may establish a separate, extended expiration date for those revisions to allow sufficient time for evaluation. If a certificate holder or training center fails to make adjustments for any identified deficiencies, the FAA shall advise the certificate holder in writing that initial or provisional approval is withdrawn.

232. Final Approval

Based on the results of the evaluation accomplished during initial approval, the FAA will determine whether to grant or deny final approval of an AQP. This determination is made before the expiration date of the initial approval. Final approval is *never* directly granted for provisionally approved AQPs. If the FAA grants final approval the procedures described below are followed.

a. *Stamped approval.* The original and a copy of each page of any AQP curriculum and curriculum segment are stamped approved, dated, and signed by a designated FAA operations official. The approval stamp appears on each page and is a facsimile of the following stamp:

FAA APPROVED

OFFICE DESIGNATOR:

EFFECTIVE DATE:

13–12

NAME:

SIGNATURE:

b. *Approval letter.* The original of the stamped curriculum or curriculum segment is transmitted to the certificate holder with an approval letter signed by the Manager, Air Carrier Training Branch. When training centers are not involved, the Manager, Air Carrier Training Branch, may delegate this authority to the certificate holder's assigned POI. The letter specifically identifies the curriculum or curriculum segment, contains a statement that final approval is granted, and provides the effective date of approval. The letter also states that final approval remains in effect until otherwise notified by the FAA.

c. *Copies.* A copy of the stamped curriculum or curriculum segment and a copy of the approval letter is kept on file in the certificate holder's District Office, at the Air Carrier Training Branch, and at the location designated by the operator as its principal training site. If a training center is involved, a copy of pertinent portions of the curriculum are kept on file at the training center and the District Office assigned to the surveillance of the training center.

233.–240. Reserved

Section 4. Continuing Evaluation

241. Continuing Evaluation

Although the level of monitoring and evaluation by the FAA normally diminishes after an AQP has received final approval, the operator's evaluation plan continues (along with FAA monitoring of the AQP) for the life of the AQP.

242. Revision To An AQP

Revisions to an AQP usually require a complete approval process. However, the process may be abbreviated according to the extent of the revision. Circumstances that typically trigger revisions are changes in the kinds of operations, size and complexity of operations, or type of aircraft operated; special authorizations through operations specifications, maintenance program, or MEL: and exemptions or deviations. The Manager, Air Carrier Training Branch, may delegate certain approval authority for revision to POIs through FAA internal directives.

243. Withdrawal of Approval

The FAA may withdraw approval of a curriculum anytime after its final approval if the FAA determines that sufficient safety reasons exist. The FAA will make reasonable efforts to convince a certificate holder to make any necessary corrections to its AQP before withdrawing approval. The FAA withdraws approval by letter which identifies the AQP affected, states the reasons for the withrawal, and states the effective date of the withdrawal (not less than seven days except in an emergency). The letter advises the certificate holder that withdrawal may be appealed and contains instructions on how to appeal.

244. Appeal of a Withdrawal

To appeal the FAA withdrawal of final approval, a certificate holder should petition the Manager, Flight Standards Service, AFS–1, for reconsideration within 30 days after receiving withdrawal notification. The petition should be in writing and explain in detail why the certificate holder believes the revisions described in the withdrawal notice are not necessary. The Manager, Flight Standards Service, AFS–1, may immediately deny the appeal upon receipt if the Manager believes that an emergency exists which directly affects aviation safety. The Manager will inform the certificate holder in writing of the decision to deny the appeal. The letter will state that an emergency exists and describes the required revisions and the reasons for the revisions. If the Manager does not believe an emergency exists, the Manager carefully considers both the certificate holder's petition and the FAA's reason for withdrawal of approval. The certificate holder's petition stays the withdrawal and the certificate holder may continue to use the AQP curriculum pending the decision of the Manager, Flight Standards Service, AFS–1. The Manager may find it necessary to conduct additional evaluations of the certificate holder's AQP. In any case, the Manager will make a final decision within 60 days of receiving the certificate holder's appeal. The Manager may rescind the letter of withdrawal or uphold the withdrawal action. If the decision is to uphold the withdrawal action, the certificate holder will be notified by letter. The letter will contain the reasons for denying the petition and a statement confirming the withdrawal of final AQP approval.

245. Expiration

Final approval does not have an expiration date.

246.–255. Reserved

[FR Doc. 89–3985 Filed 2–16–89; 4:51 pm]

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federal register

Wednesday
February 22, 1989

Part IV

Department of Education

Office of Postsecondary Education

34 CFR Part 642

Training Program for Special Programs Staff and Leadership Personnel; Final Rule

DEPARTMENT OF EDUCATION

Office of Postsecondary Education

34 CFR Part 642

Training Program for Special Programs Staff and Leadership Personnel

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends the regulations governing the Training Program for Special Programs Staff and Leadership Personnel. These amendments incorporate legislative changes, establish Secretarial priorities, and place limits on the number of applications an applicant may submit under this Program. The Secretary amends the regulations to conform to the statute as amended by the Higher Education Amendments of 1986 and makes other changes to improve the administration of the program.

EFFECTIVE DATE: These regulations take effect either 45 days after publication in the **Federal Register** or later if Congress takes certain adjournments. If you want to know the effective date of these regulations, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Jowava M. Leggett, Office of Postsecondary Education, Department of Education, (Room 3060, ROB-3), 400 Maryland Avenue SW., Washington, DC 20202-5249. Telephone: (202) 732-4804.

SUPPLEMENTARY INFORMATION: The Training Program for Special Programs Staff and Leadership Personnel is authorized under Title IV-A-4 of the Higher Education Act of 1965, as amended (HEA). Its purpose is to improve the operations of the Special Programs for Students from Disadvantaged Backgrounds (Student Support Services, Upward Bound, Talent Search, Educational Opportunity Centers, and the Ronald E. McNair Post-Baccalaureate Achievement Program) by providing project staff and leadership personnel with training in carrying out project activities.

On June 23, 1988 the Secretary published a notice of proposed rulemaking for the Training Program for Special Programs Staff and Leadership Personnel in the **Federal Register** (53 FR 23724).

The Secretary amends the regulations to conform to the statute as amended by the Higher Education Amendments of 1986 and makes other changes to improve the administration of the program. There are no differences between the NPRM and these final regulations.

Analysis of Comments and Changes

In response to the Secretary's invitation in the NPRM, nine parties submitted comments on the proposed regulations. An analysis of the comments follows.

Substantive issues are discussed under the section of the regulations to which they pertain. Technical and other minor changes—and suggested changes that the Secretary is not legally authorized to make under the applicable statutory authority—are not addressed.

Section 642.6 What is the allowable number of applications?

Comments: Seven commenters suggested that § 642.6, limiting the number of an applicant's applications, be deleted because it imposes an unnecessary restriction which reduces competition. Several commenters suggested that the provision prevents an applicant from focusing on special population groups within a priority which would be better served by separate grants.

Discussion: The Secretary has retained § 642.6 of the regulations for two reasons: (1) The submission of one application for each priority does not limit the number of trainees or the target area an applicant may propose for each priority since in addressing the selection criteria for project participants, an applicant may include various groups of people from different backgrounds with similar needs under one priority; and (2) The Secretary believes that to improve the administration of the grants it is best to limit the applicant to one application for each priority or topic. This change will afford more high ranking applicants an opportunity to be funded and alleviate the expense of processing several applications submitted by one applicant who proposes to provide identical services to different target populations. Thus, the competitiveness is increased and the administrative burden and cost of administering the program is reduced.

Section 642.34 Priorities for funding

Comments: Nine comments suggested that § 642.34(a), establishing potential subjects of training priorities, be deleted because the State, Regional and National Associations for Special Programs did not have an opportunity to provide input and the proposed priorities listed limit and exclude topics for which the associations have expressed a need for training.

Discussion: The proposed priorities listed in § 642.34(a) are based on training needs documented by the Department from previously solicited public comments. These include comments of persons from regional, State, and national professional associations having special knowledge with respect to the training needs of Special Programs personnel. Additionally, § 642.34(a) of the regulations states that the Secretary will consult with regional and State professional associations prior to selecting one or more of the subjects listed as potential training priorities. In addition, § 642.34(b) of the regulations enables applicants to submit proposals for any topic that addresses a significant training need.

Changes: None

Executive Order 12291

These regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the order.

Assessment of Educational Impact

In the notice of proposed rulemaking, the Secretary requested comments on whether the proposed regulations would require transmission of information that is already being gathered by or is available from any other agency or authority of the United States.

Based on the response to the proposed rules and on its own review, the Department has determined that the regulations in this document do not require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 642

Education, Education of disadvantaged, Education of handicapped, Grants programs, Training.

Dated: February 2, 1989.

Lauro F. Cavazos,

Secretary of Education.

(Catalog of Federal Domestic Assistance Number: 84.103 Training Program for Special Programs Staff and Leadership Personnel)

The Secretary amends Part 642 of Title 34 of the Code of Federal Regulations as follows:

PART 642—TRAINING PROGRAM FOR SPECIAL PROGRAMS STAFF AND LEADERSHIP PERSONNEL

1. The authority citation for Part 642 is revised to read as follows:

Authority: 20 U.S.C. 1070d-1d, unless otherwise noted.

2. In § 642.5, the definition of "Special Programs" and the authority citation following the definition in paragraph (b) are revised to read as follows:

§ 642.5 Definitions that apply to the Training Program.

* * * * *

(b) * * *

"Special Programs" means the Upward Bound, Talent Search, Student Support Services, Educational Opportunity Centers, and Ronald E. McNair Post-Baccalaureate Achievement Programs.

(Authority: 20 U.S.C. 1070d–1d)

3. Section 642.6 is added in Subpart A to read as follows:

§ 642.6 What is the allowable number of applications?

An applicant may submit only one application for—

(a) Each priority the Secretary announces under § 642.34(a); and

(b) Each significant training need addressed under § 642.34(b).

(Authority: 20 U.S.C. 1070d–1d)

4. In § 642.10, paragraph (b) and the authority citation are revised to read as follows:

§ 642.10 Activities the Secretary assists under the Training Program.

* * * * *

(b) The grants may provide support for conferences, seminars, internships, workshops, and the publication of manuals designed to improve the operations of the Special Programs.

(Authority: 20 U.S.C. 1070d–1d)

5. Section 642.34 is revised to read as follows:

§ 642.34 Priorities for funding.

(a) The Secretary, after consultation with regional and State professional associations of persons having special knowledge with respect to the training needs of Special Programs personnel, may select one or more of the following subjects as training priorities:

(1) Basic skills instruction in reading, mathematics, written and oral communication, and study skills.

(2) Counseling.

(3) Assessment of student needs.

(4) Academic tests and testing.

(5) College and university admissions policies and procedures.

(6) Student financial aid.

(7) Cultural enrichment programs.

(8) Career planning.

(9) Tutorial programs.

(10) Retention and graduation strategies.

(11) Support services for persons of limited proficiency in English.

(12) Support services for physically handicapped persons.

(13) Strategies for preparing students for doctoral studies.

(14) Project evaluation.

(15) Budget management.

(16) Personnel management.

(17) Reporting student and project performance.

(18) Coordinating project activities with other available resources and activities.

(19) General project management for new directors.

(b) The Secretary may consider an application for a Training Program project that does not address one of the established priorities if the applicant addresses another significant training need in the local area being served by the Special Programs.

(Authority: 20 U.S.C. 1070d, 1070d–1d)

[FR Doc. 89–4083 Filed 2–21–89; 8:45 am]

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federal register

Wednesday
February 22, 1989

Part V

Environmental Protection Agency

Pesticides For Which Registration Standards Have Been Issued; Notice

ENVIRONMENTAL PROTECTION AGENCY

[OPP-34001; FRL 3526-9]

Pesticides for Which Registration Standards Have Been Issued

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is publishing a list of chemical substances for which pesticide Registration Standards have been issued. A Registration Standard is a document describing the Agency's scientific conclusions and regulatory findings about chemicals that are ingredients in pesticide products. This list is the first of a series of four such lists required by the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended. Inclusion on this list does not affect the registration status of any pesticide product.

ADDRESS: Registration Standards are available and may be purchased from the National Technical Information Service (NTIS), at the following address: National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161 (702-487-4650).

Orders may be placed by telephone to the NTIS order desk and charged against a deposit account or American Express, VISA or MasterCard, or sent by mail with check, money order, or deposit account number.

FOR FURTHER INFORMATION CONTACT:

By mail: Jean M. Frane, Special Review and Reregistration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and phone number: Rm. 1114, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-0944).

SUPPLEMENTARY INFORMATION:

I. Background

Section 3(g) of the Federal Insecticide, Fungicide and Rodenticide Act, as amended in 1972, required that all registered pesticides be reregistered in accordance with new standards for registration contained in section 3(c)(5). These include, among other things, a determination by the Agency that the pesticide and its uses will not cause unreasonable adverse effects on the environment [3(c)(5) (C) and (D)]. To make this determination for the estimated 600 active ingredients (or groups of active ingredients) then registered, EPA established the Registration Standards program in 1980.

Under this program, the Agency evaluates the scientific data base underlying each active ingredient and identifies missing data, as well as regulatory and labeling restrictions needed to protect health and the environment. These measures are set out in a Registration Standard, a document which describes the Agency's regulatory positions and rationales. Since 1980, the Agency has issued 194 Registration Standards, covering 350 chemical substances used as active and inert ingredients in pesticide products. (Some Standards apply to a number of structurally related chemicals.) The majority of these Standards have served primarily to identify and call in the additional data needed for reassessment of pesticide products against the "unreasonable adverse effects" standard.

II. FIFRA Amendments of 1988

On October 25, 1988, the President signed a new law, the FIFRA Amendments of 1988, which, among other things, makes significant changes in the way EPA will carry out its responsibility to reregister currently registered pesticides. Section 4 of FIFRA, as amended, mandates an accelerated reregistration scheme, to be carried out in 5 phases over a 9-year period. The thrust of this phased approach is to generate a complete data base for each pesticide product before evaluation by the Agency and reregistration of products. The responsibility for making data available lies with pesticide registrants.

Briefly, FIFRA sec. 4 (c) through (g) establishes the following five phases of reregistration:

A. Phase I

1. Identification of active ingredients subject to reregistration. All products containing an active ingredient that was first registered before November 1, 1984, must be reregistered.

2. Categorization of active ingredients into four lists (A, B, C, and D) according to priorities set by the Act.

3. Notification to registrants of active ingredients of when they must indicate their intention to reregister products (see Phase II for additional information registrants must furnish).

B. Phase II

1. Responses by registrants indicating whether they intend to seek reregistration.

2. Identification by registrants of applicable data requirements based upon current regulations, and of missing or inadequate studies.

3. Commitments by registrants to support the reregistration of their pesticide products by submission of missing studies or replacement of inadequate existing studies.

C. Phase III

1. Resubmission by registrants of existing studies that have been reformatted and the data summarized according to guidance issued by the Agency.

2. Additional commitment by registrants to fill all applicable data requirements identified by the registrant.

D. Phase IV

1. Review by the Agency of the Phase II and III submissions.

2. Independent determination by the Agency of data requirements applying to each active ingredient.

3. Notification to registrants of the additional data requirements and commitment by registrants to fulfill those requirements.

E. Phase V

1. Review by the Agency of all data concerning a pesticide (both existing studies deemed to be adequate and new studies generated by registrants).

2. Determination by the Agency whether products containing the pesticide may be reregistered based upon the data reviewed.

3. Submission by registrants of product-specific data if necessary.

4. Reregistration of products, or other appropriate regulatory action.

III. Lists of Pesticides

A. What the Law Requires

Under Phase I, the Agency is required to develop and publish in the **Federal Register** four lists. The first is a list of active ingredients for which Registration Standards have been issued as of December 24, 1988, the effective date of the new law. This notice provides that list (called List A). A copy of List A will be sent by certified mail to each registrant having a product containing a List A chemical.

The other three lists (Lists B, C, and D) are to include all other active ingredients contained in a product first registered before November 1, 1984, for which Registration Standards have not been issued. These lists are to be published in the **Federal Register** in groups of 150 active ingredients in April and July, 1989, with a final list of remaining pesticides in October 1989. Additional information about each list will be provided when it is published in the **Federal Register.**

B. Organization of List A

List A provides the following information about each Registration Standard:

1. The title of the Registration Standard, in alphabetical order. The name is given as it appears on the title page of the Standard, and is usually the accepted common name of the active ingredient or class of pesticide.

2. The calendar year of issuance of the Registration Standard.

3. The case number of the Registration Standard. This is an internal reference number identifying the Standard and the pesticide chemicals included in that Standard.

4. The Chemical Abstracts Service (CAS) number of each individual chemical included in the Standard. In a few cases, CAS numbers have not been assigned and so are not given.

5. The acceptable common name (or chemical name if there is no acceptable common name) of each individual chemical included in the Standard. A number of Registration Standards cover structurally related chemical compounds, such as salts and esters of acids, or isomers of the chemical.

BILLING CODE 6560-50-M

CHEMICALS WITH REGISTRATION STANDARDS

Registration Standard	Date	Case	CAS No.	Chemical/Common Name
Acephate	87	0042	30560-19-1	Acephate
ADBAC	85	0350	63449-41-2	Alkyl dimethyl benzyl ammonium chloride
			8001-54-5	Alkyl dimethyl ethylbenzyl ammonium chloride
			87175-02-8	Alkyl dimethyl dodecylbenzyl ammonium chloride
			61789-68-2	Alkyl bis(2-hydroxyethyl) benzyl ammonium chloride
			68424-87-3	Dialkyl methyl benzyl ammonium chloride
			1733-96-6	Alkyl dimethyl 1-napthylmethyl ammonium chloride
			1330-85-4	Trimethyl dodecylbenzyl ammonium chloride
			3734-33-6	((2,6- Xylylcarbamoyl)methyl diethyl benzyl ammonium benzoate
			121-54-0	2-(2-(p-(Diisobutyl)phenoxy)ethoxy)ethyl dimethyl benzyl ammonium chloride
			25155-18-4	2-(2-(p-(Diisobutyl)cresoxy)ethoxy)ethyl dimethyl benzyl ammonium chloride
Alachlor	84	0063	15972-60-8	Alachlor
Aldicarb	84	0140	116-06-3	Aldicarb
Aldrin	86	0172	309-00-2	Aldrin
Aliette	86	0646	39148-24-8	Fosetyl-Al
Allethrin stereoisomers	88	0437	584-79-2	Allethrin
				Allethrin Coil
			28057-48-9	d-trans- Allethrin
			28434-00-6	S- Bioallethrin
			42534-61-2	d-cis-trans- Allethrin
Al & Mg Phosphide	86	0025	20859-73-8	Aluminum phosphide
		0645	12057-74-8	Magnesium phosphide
4-Aminopyridine	80	0015	504-24-5	4- Aminopyridine
Amitraz	87	0234	33089-61-1	Amitraz
Amitrole	84	0095	61-82-5	Amitrole
Ammonium sulfamate	81	0016	7773-06-0	Ammonium sulfamate
Anilazine	83	0114	101-05-3	Anilazine
Arsenic Acid	86	0389	7778-39-4	Arsenic acid
Aspon	80	0019	3244-90-4	Aspon
Asulam	88	0265	3337-71-1	Asulam
			2302-17-2	Sodium asulam
Atrazine	83	0062	1912-24-9	Atrazine
Azinphos-Methyl	86	0235	86-50-0	Azinphos-methyl
BT	88	0247	68038-71-1	Bacillus thuringiensis (Berliner) var. israelensis
			68038-71-1	Bacillus thuringiensis (Berliner) var. kurstaki
			68038-71-1	Bacillus thuringiensis (Berliner) var. aizawai
			68038-71-1	Bacillus thuringiensis (berliner) var. tenebrionis
			68038-71-1	Bacillus thuringiensis (Berliner) var. san diego
Barium metaborate	83	0632	13701-59-2	Barium metaborate
			7775-19-1	Sodium metaborate
Bendiocarb	87	0409	22781-23-3	Bendiocarb

Benomyl	87	0119	17804-35-2	Benomyl
			52316-55-9	Methyl (2-benzimidazole)carbamate phosphate
Bentazon	85	0182	50723-80-3	Sodium bentazon
Bifenox	81	0013	42576-02-3	Bifenox
BKLFI-2	81	0074		Iodine complex of POE monoester of 5-(and 6-)carboxy-4-hexyl-2-cyclohexene-1-octanoic acid
Boric Acid	83	0024	10043-35-3	Boric acid
			1303-86-2	Boric oxide
			1303-96-4	Borax
			12280-03-4	Disodium octaborate tetrahydrate
Bromacil	82	0041	314-40-9	Bromacil
			53404-19-6	Lithium bromacil
			69484-12-4	Sodium bromacil
				Bromacil, dimethylamine salt
Brominated Salicylanilide	85	0347	87-12-7	4',5- Dibromosalicylanilide
			87-10-5	3,4',5- Tribromosalicylanilide
			2577-72-2	3,5- Dibromosalicylanilide
Butoxycarboxim	81	0077	34681-23-7	Butoxycarboxim
Butylate	83	0071	2008-41-5	Butylate
Captafol	84	0116	2939-80-2	Captafol
Captan	86	0120	133-06-2	Captan
Carbaryl	84	0080	63-25-2	Carbaryl
Carbofuran	84	0101	1563-66-2	Carbofuran
Carbophenothion	84	0108	786-19-6	Carbophenothion
Carboxin	81	0012	5234-68-4	Carboxin
			5259-88-1	Oxycarboxin
Chloramben	81	0086	1076-46-6	Ammonium chloramben
			7286-84-2	Chloramben, methyl ester
			1954-81-0	Sodium chloramben
Chlordane	86	0173	57-74-9	Chlordane
Chlordimeform HCl	85	0142	6164-98-3	Chlordimeform
			19750-95-9	Chlordimeform hydrochloride
Chlorinated Isocyanurates	87	0569	2782-57-2	Dichloroisocyanuric acid
			108-80-5	Cyanuric acid
			2244-21-5	Potassium dichloroisocyanurate
			2893-78-9	Sodium dichloroisocyanurate
			87-90-1	Trichloroisocyanuric acid
			30622-37-8	Penta-s-triazinetrione
			51580-86-0	Sodium dichloroisocyanurate dihydrate
Chlorobenzilate	83	0072	510-15-6	Chlorobenzilate
Chloroneb	80	0007	2675-77-6	Chloroneb
Chloropicrin	82	0040	76-06-2	Chloropicrin
Chlorothalonil	88	0097	1897-45-6	Chlorothalonil
Chlorpropham	87	0271	101-21-3	Chlorpropham
Chlorpyrifos	84	0100	2921-88-2	Chlorpyrifos
Chlorsulfuron	82	0631	64902-72-3	2- Chlorsulfuron
Chromated Arsenicals	86	0132	1303-28-2	Arsenic pentoxide
			1327-53-3	Arsenic trioxide

			13464-38-5	Sodium arsenate
			13464-42-1	Sodium pyroarsenate
			7738-94-5	Chromic acid
			7778-50-9	Potassium dichromate
			10588-01-9	Sodium dichromate
Coal Tar/Creosote	88	0139	8052-42-4	Asphalt
			8052-42-4	Bitumen
			8007-45-2	Coal tar
			8007-45-2	Tar
			8002-29-7	Coal tar neutral oils
			8021-39-4	Wood creosote
			70321-79-8	Creosote oil (Derived from any source)
			8001-58-9	Coal tar creosote
Copper Compounds: Grp II	87	0649	1332-40-7	Basic copper chloride
			16828-95-8	Copper in the form of an ammonia complex
			33113-08-5	Copper ammonium carbonate
			1184-64-1	Copper carbonate
			20427-59-2	Copper hydroxide
			1332-40-7	Copper oxychloride
			8012-69-9	Copper oxychloride sulfate
			10402-15-0	Chelates of copper citrate
			527-09-3	Chelates of copper gluconate
			814-91-5	Copper oxalate
			10125-13-0	Copper chloride dihydrate
			3251-23-8	Copper nitrate
Copper Sulfate	86	0636	1344-73-6	Basic copper sulfate
			7758-99-8	Copper sulfate, pentahydrate.
			10257-54-2	Copper sulfate, monohydrate
			7758-98-7	Copper sulfate (anhydrous)
Coumaphos	81	0018	56-72-4	Coumaphos
Cryolite	88	0087	15096-52-3	Cryolite
Cyanazine	84	0066	21725-46-2	Cyanazine
Cycloheximide	82	0038	66-81-9	Cycloheximide
Cyhexatin	85	0237	13121-70-5	Cyhexatin
Dalapon	87	0274	75-99-0	Dalapon
			127-20-8	Sodium dalapon
			29110-22-3	Magnesium dalapon
Daminozide	84	0032	1596-84-5	Daminozide
DCNA	83	0113	99-30-9	Dichloran
DCPA	88	0270	1861-32-1	Chlorthal-dimethyl
DDVP	87	0310	62-73-7	Dichlorvos
Deet	85	0002	134-62-3	N,N- Diethyl-meta-toluamide and other isomers
Demeton	85	0143	8065-48-3	Demeton
Dialifor	81	0010	10311-84-9	Dialifor
Diallate	83	0098	2303-16-4	Diallate
Diazinon	88	0238	333-41-5	Diazinon
Dicamba	83	0065	1918-00-9	Dicamba
			2300-66-5	Dimethylamine dicamba
			25059-78-3	Diethanolamine dicamba
			53404-28-7	Monoethanolamine dicamba
			1982-69-0	Sodium dicamba
				Dicamba, diglycoamine salt
				Dicamba, isopropylamine salt
Dichlobenil	87	0263	1194-65-6	Dichlobenil

Dichlone	81	0008	117-80-6		Dichlone
Dicofol	83	0021	115-32-2	1,1-	Bis(chlorophenyl)-2,2,2-trichloroethanol
Dicrotophos	82	0145	141-66-2		Dicrotophos
Difenzoquat	88	0223	43222-48-6		Difenzoquat methyl sulfate
Diflubenzuron	85	0144	35367-38-5		Diflubenzuron
Dimethoate	83	0088	60-51-5		Dimethoate
Dioxathion	83	0089	78-34-2		Dioxathion
Diphenamid	87	0269	957-51-7		Diphenamid
Dipropetryn	85	0224	4147-51-7		Dipropetryn
Diquat Dibromide	86	0288	85-00-7		Diquat dibromide
Disulfoton	85	0102	298-04-4		Disulfoton
Diuron	83	0046	330-54-1		Diuron
Dodine	87	0161	2439-10-3		Dodine
			19727-17-4	N-	Dodecylguanidine terephthalate
			13590-97-1		Dodecylguanidine hydrochloride
Endosulfan	82	0014	115-29-7		Endosulfan
EPN	87	0147	2104-64-5	O-	Ethyl O-(p-nitrophenyl) phenylphosphonothioate
EPTC	83	0064	759-94-4	S-	Ethyl dipropylthiocarbamate
Ethephon	88	0382	16672-87-0		Ethephon
Ethion	82	0090	563-12-2		Ethion
Ethoprop	88	0106	13194-48-4		Ethoprop
Ethoxyquin	81	0003	91-53-2		Ethoxyquin
Ethyl-Parathion	86	0155	56-38-2		Parathion
Fenaminosulf	83	0126	140-56-7		Fenaminosulf
Fenamiphos	87	0333	22224-92-6		Fenamiphos
Fenitrothion	87	0445	122-14-5		Fenitrothion
Fensulfothion	83	0107	115-90-2		Fensulfothion
Fenthion	88	0290	55-38-9		Fenthion
Fluchloralin	85	0189	33245-39-5		Fluchloralin
Fluometuron	85	0049	2164-17-2		Fluometuron
Folpet	87	0630	133-07-3		Folpet
Fonofos	84	0105	944-22-9		Fonofos
Formaldehyde	88	0556	50-00-0		Formaldehyde
			30525-89-4		Paraformaldehyde
Formetanate HCl	83	0091	23422-53-9		Formetanate hydrochloride
Fumarin	80	0004	117-52-2		Coumafuryl
			34490-93-2		Sodium fumarin
Glyphosate	86	0178	38641-94-0		Isopropylamine glyphosate
			34494-03-6		Sodium glyphosate
Heliothis NPV	84	0151			Polyhedral inclusion bodies of Heliothis nuclear polyhedrosis virus

Heptachlor	86	0175	76-44-8	Heptachlor
Hexazinone	88	0266	51235-04-2	Hexazinone
Isopropalin	81	0005	33820-53-0	Isopropalin
Lindane	85	0315	58-89-9	Lindane
Linuron	84	0047	330-55-2	Linuron
Malathion	88	0248	121-75-5	Malathion
Maleic Hydrazide	88	0381	123-33-1	1,2- Dihydro-3,6-pyridazinedione
			28382-15-2	Potassium 1,2-dihydro-3,6-pyridazinedione
			5716-15-4	Diethanolamine 1,2-dihydro-3,6-pyridazinedione
Mancozeb	87	0643	8018-01-7	Mancozeb
Maneb	88	0642	12427-38-2	Maneb
MCPA	82	0017	94-74-6	2- Methyl-4-chlorophenoxyacetic acid
			3653-48-3	Sodium 2-methyl-4-chlorophenoxyacetate
			20405-19-0	Diethanolamine 2-methyl-4-chlorophenoxyacetate
			2039-46-5	Dimethylamine 2-methyl-4-chlorophenoxyacetate
			19480-43-4	2- Butoxyethyl 2-methyl-4-chlorophenoxyacetate
			1713-12-8	Butyl 2-methyl-4-chlorophenoxyacetate
			1713-11-7	Isobutyl 2-methyl-4-chlorophenoxyacetate
			26544-20-7	Isooctyl 2-methyl-4-chlorophenoxyacetate
			2698-40-0	Isopropyl 2-methyl-4-chlorophenoxyacetate
MCPP	88	0377	7085-19-0	Mecoprop
			1929-86-8	Potassium 2-(2-methyl-4-chlorophenoxy)propionate
			32351-70-5	Dimethylamine 2-(2-methyl-4-chlorophenoxy)propionate
			1432-14-0	Diethanolamine 2-(2-methyl-4-chlorophenoxy)propionate
			28437-03-2	Isooctyl 2-(2-methyl-4-chlorophenoxy)propionate
Metalaxyl	88	0081	57837-19-1	Metalaxyl
Metaldehyde	88	0576	108-62-3	Metaldehyde
Methamidophos	82	0043	10265-92-6	Methamidophos
Methidathion	88	0034	950-37-8	Methidathion
Methiocarb	87	0577	2032-65-7	Methiocarb
Methomyl	88	0028	16752-77-5	Methomyl
Methoprene	82	0030	40596-69-8	Methoprene
Methoxychlor	88	0249	72-43-5	Methoxychlor
Methyl Bromide	86	0335	74-83-9	Methyl bromide
Methyl-Parathion	86	0153	298-00-0	Methyl parathion
Metiram	88	0644	9006-42-2	Metiram
Metolachlor	87	0001	51218-45-2	Metolachlor
Metribuzin	85	0181	21087-64-9	Metribuzin
Mevinphos	88	0250	7786-34-7	Mevinphos
Monocrotophos	85	0154	6923-22-4	Monocrotophos
Monuron	83	0045	150-68-5	Monuron
Monuron TCA	83	0045	140-41-0	Monuron trichloroacetate
Nabam	87	0641	142-59-6	Nabam

Naled	83	0092	300-76-5		Naled
Naptalam	85	0183	132-66-1	N-1-	Naphthylphthalamic acid
			132-67-2		Sodium N-1-naphthylphthalamate
Napthalene	81	0022	91-20-3		Naphthalene
Napthaleneacetic Acid	81	0379	86-87-3	1-	Naphthaleneacetic acid
			86-86-2	1-	Naphthaleneacetamide
			15165-79-4		Potassium 1-naphthaleneacetate
			25545-89-5		Ammonium 1-naphthaleneacetate
			61-31-4		Sodium 1-naphthaleneacetate
			2122-70-5		Ethyl 1-naphthaleneacetate
Nitrapyrin	85	0213	1929-82-4		Nitrapyrin
Norflurazon	84	0229	27314-13-2		Norflurazon
OBPA	81	0044	58-36-6	10,10'-	Oxybisphenoxarsine
Oryzalin	87	0186	19044-88-3		Oryzalin
Oxamyl	87	0253	23135-22-0		Oxamyl
Oxydemeton-Methyl	87	0258	301-12-2		Oxydemeton-methyl
Oxytetracycline	88	0655	79-57-2		Oxytetracycline
			2058-46-0		Oxytetracycline hydrochloride
			7179-50-2		Calcium oxytetracycline
Paraquat Dichloride	87	0262	1910-42-5		Paraquat dichloride
			2074-50-2		Paraquat bis(methylsulfate)
PCNB	87	0128	82-68-8		Quintozene
Pendimethalin	85	0187	40487-42-1		Pendimethalin
Perfluidone	85	0195	37924-13-3		Perfluidone
Phenmedipham	87	0277	13684-63-4		Phenmedipham
Phorate	88	0103	298-02-2		Phorate
Phosalone	87	0027	2310-17-0		Phosalone
Phosmet	86	0242	732-11-6		Phosmet
Phosphamidon	87	0157	13171-21-6		Phosphamidon
			297-99-4	(E)-	Phosphamidon
			23783-98-4	(Z)-	Phosphamidon
Picloram	88	0096	1918-02-1		Picloram
			6753-47-5		Triisopropanolamine picloram
			26952-20-5		Isooctyl picloram
			2545-60-0		Potassium picloram
			35832-11-2		Triethylamine picloram
					Isopropanolamine picloram
Potassium Bromide	84	0342	7758-02-3		Potassium bromide
Potassium permanganate	85	0220	7722-64-7		Potassium permanganate
Prometryn	87	0467	7287-19-6		Prometryn
Pronamide	86	0082	23950-58-5		Propyzamide
Propachlor	85	0177	1918-16-7		Propachlor
Propanil	87	0226	709-98-8		Propanil
Propargite	86	0243	2312-35-8		Propargite
Propazine	88	0230	139-40-2		Propazine

Propham	87	0283	122-42-9	Propham
Resmethrin	88	0421	10453-86-8 28434-01-7	Resmethrin Bioresmethrin
Rotenone	88	0255	83-79-4	Rotenone Derris resins other than rotenone Cube Resins other than rotenone
Simazine	84	0070	122-34-9	Simazine
Na & Ca Hypochlorite	86	0029	7778-54-3 7681-52-9	Calcium hypochlorite Sodium hypochlorite
Sodium Omadine	85	0209	15922-78-8	Omadine sodium
Streptomycin	88	0169	57-92-1 3810-74-0	Streptomycin Streptomycin sulfate
Sulfotepp	88	0338	3689-24-5	Sulfotepp
Sulfur	82	0031	7704-34-9	Sulfur
Sulfuryl Fluoride	85	0176	2699-79-8	Sulfuryl fluoride
Sulprofos	81	0076	35400-43-2	Sulprofos
Sumithrin	87	0426	26002-80-2	Phenothrin
Tebuthiuron	87	0054	34014-18-1	Tebuthiuron
Telone	86	0328	542-75-6	1,3- Dichloropropene
Temephos	81	0006	3383-96-8	Temephos
Terbacil	82	0039	5902-51-2	Terbacil
Terbufos	88	0109	13071-79-9	Terbufos
Terbutryn	86	0085	886-50-0	Terbutryn
Terrazole	80	0009	2593-15-9	Etridiazole
Tetrachlorvinphos	88	0321	22248-79-9	Tetrachlorvinphos
Thiophanate-Ethyl	85	0378	23564-06-9	Thiophanate
Thiram	84	0122	137-26-8	Thiram
TPTH	84	0280	76-87-9	Triphenyltin hydroxide
Trichlorfon	84	0104	52-68-6	Trichlorfon
Trifluralin	87	0179	1582-09-8	Trifluralin
Trimethacarb	85	0112	2686-99-9 2655-15-4	3,4,5- Trimethylphenyl methylcarbamate 2,3,5- Trimethylphenyl methylcarbamate
Vendex	87	0245	13356-08-6	Fenbutatin-oxide
Warfarin & its Na salt	81	0011	81-81-2 129-06-6	Warfarin Sodium warfarin
Zinc Phosphide	82	0026	1314-84-7	Zinc phosphide
2,4-D	88	0073	94-75-7 3766-27-6 2702-72-9 2307-55-3 2212-54-6 28685-18-9	2,4- Dichlorophenoxyacetic acid Lithium 2,4-dichlorophenoxyacetate Sodium 2,4-dichlorophenoxyacetate Ammonium 2,4-dichlorophenoxyacetate Alkanol* amine 2,4-dichlorophenoxyacetate *(salts of the ethanol and isopropanol series) Alkyl* amine 2,4-dichlorophenoxyacetate *(100% C12) Alkyl* amine 2,4-dichlorophenoxyacetate *(100% C14)

					Alkyl* amine 2,4-dichlorophenoxyacetate *(as in fatty acids of tall oil)
			5742-19-8		Diethanolamine 2,4-dichlorophenoxyacetate
			20940-37-8		Diethylamine 2,4-dichlorophenoxyacetate
			2008-39-1		Dimethylamine 2,4-dichlorophenoxyacetate
			53535-36-7	N,N-	Dimethyloleylamine 2,4-dichlorophenoxyacetate
			3599-58-4		Ethanolamine 2,4-dichlorophenoxyacetate
			37102-63-9		Heptylamine 2,4-dichlorophenoxyacetate
			6365-72-6		Isopropanolamine 2,4-dichlorophenoxyacetate
			5742-17-6		Isopropylamine 2,4-dichlorophenoxyacetate
			6365-73-7		Morpholine 2,4-dichlorophenoxyacetate
			2212-59-1	N-	Oleyl-1,3-propylenediamine 2,4-dichlorophenoxyacetate
			2212-53-5		Octylamine 2,4-dichlorophenoxyacetate
			2569-01-9		Triethanolamine 2,4-dichlorophenoxyacetate
			2646-78-8		Triethylamine 2,4-dichlorophenoxyacetate
			32341-80-3		Triisopropanolamine 2,4-dichlorophenoxyacetate
			55256-32-1	N,N-	Dimethyl oleyl-linoleyl amine 2,4-dichlorophenoxyacetate
			1928-57-0		Butoxyethoxypropyl 2,4-dichlorophenoxyacetate
			1929-73-3		Butoxyethyl 2,4-dichlorophenoxyacetate
			1928-45-6		Butoxypropyl 2,4-dichlorophenoxyacetate
			94-80-4		Butyl 2,4-dichlorophenoxyacetate
			1713-15-1		Isobutyl 2,4-dichlorophenoxyacetate
			1928-43-4		Isooctyl(2-ethylhexyl) 2,4-dichlorophenoxyacetate
			53404-37-8		Isooctyl(2-ethyl-4-methylpentyl) 2,4-dichlorophenoxyacetate
			1917-97-1		Isooctyl(2-octyl) 2,4-dichlorophenoxyacetate
			94-11-1		Isopropyl 2,4-dichlorophenoxyacetate
			1320-18-9		Propylene glycol butyl ether 2,4-dichlorophenoxyacetate
2,4-DB	88	0196	94-82-6	4-(2,4-	Dichlorophenoxy)butyric acid
			10433-59-7		Sodium 4-(2,4-dichlorophenoxy)butyrate
			2758-42-1		Dimethylamine 4-(2,4-dichlorophenoxy)butyrate
			32357-46-3		Butoxyethanol 4-(2,4-dichlorophenoxy)butyrate
			6753-24-8		Butyl 4-(2,4-dichlorophenoxy)butyrate
			1320-15-6		Isooctyl 4-(2,4-dichlorophenoxy)butyrate
2,4-DP	88	0294	120-36-5	2-(2,4-	Dichlorophenoxy)propionic acid
			53404-32-3		Dimethylamine 2-(2,4-dichlorophenoxy)propionate
			53404-31-2		Butoxyethyl 2-(2,4-dichlorophenoxy)propionate
			28631-35-8		Isooctyl 2-(2,4-dichlorophenoxy)propionate
6-12	81	0654	94-96-2	2-	Ethyl-1,3-hexanediol

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IV. Significance of Inclusion on List A

Active ingredients included on List A are not subject to FIFRA sec. 4(d), 4(e), or 4(f) (Phases II, III or IV of the accelerated reregistration scheme), but are required to be reregistered under section 4(g) (Phase V). Although List A pesticides are not covered by these sections of the new law, if the Agency determines that additional data are necessary to support reregistration of a List A pesticide, it will use its authority under FIFRA sec. 3(c)(2)(B) to require submission of data.

In addition, fees are to be collected for each List A active ingredient in accordance with FIFRA sec. 4(i)(2). The Agency has determined that, for the purpose of reregistration fees, the term "active ingredient" refers to the chemical (or group of chemicals) associated with a single Registration Standard. In List A, individual Registration Standards which are deemed to be "active ingredients" for fee purposes are listed in the first column.

The publication of List A is required by FIFRA sec. 4(c). Publication is for information purposes only, and does not affect the registration status of any currently registered pesticide product. Publication of this list does not modify any existing requirement for additional data identified in any Standard on the list, nor does it modify or extend any timeframe specified for submission of such studies. Similarly, publication of the list does not affect any labeling revisions specified in any Standard, nor the timeframes for compliance with such labeling requirements.

Dated: February 16, 1989.

Douglas D. Campt,

Director, Office of Pesticide Programs.

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Reader Aids

Federal Register

Vol. 54, No. 34

Wednesday, February 22, 1989

INFORMATION AND ASSISTANCE

Federal Register

Index, finding aids & general information	523-5227
Public inspection desk	523-5215
Corrections to published documents	523-5237
Document drafting information	523-5237
Machine readable documents	523-5237

Code of Federal Regulations

Index, finding aids & general information	523-5227
Printing schedules	523-3419

Laws

Public Laws Update Service (numbers, dates, etc.)	523-6641
Additional information	523-5230

Presidential Documents

Executive orders and proclamations	523-5230
Public Papers of the Presidents	523-5230
Weekly Compilation of Presidential Documents	523-5230

The United States Government Manual

General information	523-5230

Other Services

Data base and machine readable specifications	523-3408
Guide to Record Retention Requirements	523-3187
Legal staff	523-4534
Library	523-5240
Privacy Act Compilation	523-3187
Public Laws Update Service (PLUS)	523-6641
TDD for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, FEBRUARY

5071-5206 1
5207-5404 2
5405-5582 3
5583-5920 6
5921-6114 7
6115-6262 8
6263-6380 9
6381-6502 10
6503-6640 13
6641-6860 14
6861-7028 15
7029-7170 16
7171-7390 17
7391-7520 21
7521-7750 22

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.

1 CFR

305 ..... 5207, 6861
310 6861

3 CFR

Administrative Orders:

Memorandums
Dec. 22, 1988 6237

Presidential Determinations:
No. 89-10 of
Jan. 18, 1989 5071

5 CFR

Proposed Rules:

550 5494
890 7039

7 CFR

1 5073
26 5921
68 5923
250 7521
271 6990
272 6990
273 6990
274 6990
275 6990
276 6990
401 ..... 7391, 7526
405 6381
800 5924
802 5925
905 ..... 5405, 5583
907 ..... 5406, 6503, 7171, 7172
910 ..... 5407, 6381, 7172
919 5584
932 5585
959 6862
981 ..... 5408, 6863
1006 6382
1012 6382
1013 6382
1124 5587
1125 5587
1150 6263
1413 6232
1700 6867
1709 6867
1735 5925
1822 6873
1924 6874
1955 6874
1965 ..... 6874, 7528
1980 5409
3017 6363

Proposed Rules:

29 5494
54 7431
58 6681
354 7195
401 7432
905 6136
1933 6532
1944 6532
1980 6417

8 CFR

101 5927
103 6875
235 6365
245a 6504
299 7173
499 7173

Proposed Rules:

204 7433

9 CFR

11 7174
94 7391
201 5073
307 6388
350 6388
351 6388
352 6388
354 6388
355 6388
362 6388
381 6388
391 6388

Proposed Rules:

92 5089
97 7195
113 5939
307 6684
310 6684
381 7434

10 CFR

50 ..... 7178, 7530
62 5409
70 6876
74 6876
430 6062
1036 6363

Proposed Rules:

20 ..... 5089, 6296
50 6935
430 6364
600 6296
710 5376

11 CFR

Proposed Rules:

110 6684
113 6684
114 6684
116 6684

12 CFR

208 ..... 6115, 7180, 7182
516 6363
525 6112
550 7395
569c 6109

578 ... 6108
615 ... 5074, 6118, 6264, 7029
618 ... 5074
624 ... 6265
Proposed Rules:
229 ... 5495
543 ... 5629
544 ... 5629
545 ... 5629, 6685
546 ... 6685
552 ... 5629
561 ... 6685
563 ... 6685
563b ... 6685
563c ... 6685
570 ... 6685
571 ... 6685
584 ... 6689

13 CFR

101 ... 6512
108 ... 6265
121 ... 6267, 7029
123 ... 6268
142 ... 6271
145 ... 6363
Proposed Rules:
121 ... 6298

14 CFR

39 ... 5928, 6118, 6281, 6365, 6391, 6512, 6514, 6641, 6642, 6878, 7396, 7397
71 ... 5214–5219, 5929
73 ... 6879
75 ... 6879
91 ... 5580
97 ... 5587, 6515
121 ... 7384
135 ... 7384
217 ... 7183
241 ... 5588, 7183
1203 ... 6880
1265 ... 6363
Proposed Rules:
Ch. I ... 5637
39 ... 5637, 6549, 6689–6692, 7443–7446
61 ... 7770
63 ... 7770
65 ... 7770
71 ... 5246, 6233, 6301, 6935, 7506
121 ... 7770
135 ... 7770
399 ... 5497, 6475

15 CFR

26 ... 6363
770 ... 6643
771 ... 6643
772 ... 6643
773 ... 6643
774 ... 6643
775 ... 6643
776 ... 6643
777 ... 6643

16 CFR

4 ... 7399
13 ... 5929
305 ... 6517
1031 ... 6646
1032 ... 6646
Proposed Rules:
13 ... 6141, 7197, 7204
414 ... 5090
436 ... 7041

17 CFR

4 ... 5597
231 ... 5600
241 ... 5600
Proposed Rules:
1 ... 5576
3 ... 5576
31 ... 5576
145 ... 5576
147 ... 5576
240 ... 6693
250 ... 6701
259 ... 6701

18 CFR

2 ... 7400
157 ... 6120
201 ... 5424
271 ... 5075
284 ... 5219
381 ... 5424
Proposed Rules:
410 ... 5638

19 CFR

Ch. I ... 6881
4 ... 6883
122 ... 5427, 6884, 6987
148 ... 5076
162 ... 5076
178 ... 5427
207 ... 5077, 5220
356 ... 5930
Proposed Rules:
134 ... 6418
141 ... 5091
152 ... 5197
162 ... 6420
178 ... 5091
353 ... 5092

20 CFR

204 ... 5223
235 ... 5225
302 ... 5226
337 ... 5226
404 ... 5603
Proposed Rules:
219 ... 7045
422 ... 6707

21 CFR

5 ... 6517, 6884
10 ... 6885
107 ... 6804
133 ... 6120
172 ... 7401
178 ... 5604, 6121, 6124, 6365, 6657
179 ... 6475, 7404
182 ... 6365, 7401
184 ... 7401
189 ... 7188
211 ... 5227
338 ... 6814
510 ... 6232, 6658, 7405
520 ... 6232, 6658, 6804
522 ... 6232, 7406
524 ... 5431, 6232
529 ... 5431
546 ... 6232
555 ... 6232
556 ... 5229
558 ... 5229, 5930, 6518, 7189
880 ... 6804
892 ... 5077, 6804
Proposed Rules:
50 ... 6060
56 ... 6060
106 ... 6804
163 ... 6987
310 ... 5576
343 ... 5576
355 ... 7448
369 ... 5576
630 ... 5497, 7130
1310 ... 6144
1313 ... 6144

22 CFR

44 ... 7166
137 ... 6363
208 ... 6363
310 ... 6363
513 ... 6363
1006 ... 6363
1508 ... 6363
Proposed Rules:
151 ... 7449
503 ... 6420

24 CFR

24 ... 6363
125 ... 6492
904 ... 6886
905 ... 6886
913 ... 6886
960 ... 6886
966 ... 6886

25 CFR

2 ... 6478, 7666

26 CFR

1 ... 5577
601 ... 6363
Proposed Rules:
1 ... 5577, 5939, 6710
53 ... 6060, 7666
56 ... 6060

27 CFR

4 ... 7160
5 ... 7160
7 ... 7160
16 ... 7160
Proposed Rules:
4 ... 7164
5 ... 7164
7 ... 7164
16 ... 7164

28 CFR

67 ... 6363
Proposed Rules:
34 ... 6098

29 CFR

1 ... 5303
5 ... 5303
98 ... 6363
502 ... 7668
1471 ... 6363
1910 ... 6886
1915 ... 6886
1917 ... 6886
1918 ... 6886
1926 ... 6886
1928 ... 6886
2610 ... 6888
2676 ... 6889
2704 ... 6284
Proposed Rules:
530 ... 5303, 5500
1602 ... 6551
1627 ... 6551

30 CFR

5 ... 6365
935 ... 7406
Proposed Rules:
250 ... 6302
761 ... 5577
917 ... 7550
925 ... 6423
935 ... 5940
943 ... 7205

31 CFR

19 ... 6363
500 ... 5229
515 ... 5229

32 CFR

45 ... 7409
146 ... 7539
199 ... 5604
217 ... 7539
232 ... 7539
233 ... 7539
234 ... 7539
265 ... 7539
280 ... 6363
286b ... 5235
351 ... 5607
366 ... 7031
367 ... 6890
706 ... 7189
Proposed Rules:
169 ... 5640
1904 ... 7056
230 ... 7551
231 ... 7558
231a ... 7561
301 ... 7566

33 CFR

100 ... 5432, 6392, 6519
110 ... 7190
117 ... 7032
162 ... 7190
165 ... 5432, 7190
173 ... 5608
174 ... 5608
207 ... 6519
334 ... 6519, 7033
Proposed Rules:
165 ... 7571
334 ... 7065

34 CFR

60 ... 7148
73 ... 6364
85 ... 6363
222 ... 6858
642 ... 7736
Proposed Rules:
379 ... 6808

35 CFR

253 ... 6364

36 CFR

211 ... 6891
217 ... 6891
228 ... 6892
251 ... 6891, 6892
1190 ... 5434
1209 ... 6363

Proposed Rules:

Ch. VII ... 6553
222 ... 6425

37 CFR

1 ... 6893
2 ... 6893
10 ... 6520, 6659

Proposed Rules:

1 ... 6936
211 ... 5942

38 CFR

1 ... 6520
2 ... 5610
3 ... 5235, 5610
4 ... 7067
8 ... 5931
14 ... 5610, 5613
19 ... 5610
44 ... 6363

Proposed Rules:

21 ... 5640, 5944, 5945, 7206

39 CFR

111 ... 6911
265 ... 7417
3001 ... 7191

Proposed Rules:

111 ... 5641

40 CFR

32 ... 6363
52 ... 5236, 5448, 5449, 6125, 6286, 6287, 6912, 7034, 7543
60 ... 5078, 6660
61 ... 5078
81 ... 5237
82 ... 6376
149 ... 6836
162 ... 6288
180 ... 5079, 5080, 6126–6130, 6392, 6915–6918
185 ... 6129, 6130
186 ... 6130
248 ... 7328
261 ... 5081
262 ... 7036
271 ... 6290, 6396, 7417
272 ... 7420, 7422
280 ... 5451
300 ... 6521, 7424, 7548, 7549
704 ... 5197, 6918

Proposed Rules:

52 ... 5083, 5247, 5249, 6302, 6307, 6430, 6936, 7068, 7069, 7207, 7572
60 ... 5302, 6850
81 ... 6733
180 ... 5502, 6151, 6937
228 ... 7207, 7211
257 ... 5746
260 ... 7214
261 ... 7214
262 ... 7214
264 ... 7214
265 ... 7214
270 ... 7214
271 ... 5500, 7214
300 ... 6153
302 ... 7214
372 ... 7214
503 ... 5746

41 CFR

101-17 ... 6291
101-50 ... 6363
105-68 ... 6363

Proposed Rules:

201-1 ... 5904, 5905
201-2 ... 5905
201-6 ... 5905
201-7 ... 5904
201-8 ... 5905
201-11 ... 5905
201-16 ... 5904
201-23 ... 5904, 5905
201-24 ... 5904, 5905
201-30 ... 5904, 5905
201-32 ... 5904, 5905
201-38 ... 5904, 5905
201-39 ... 5905
201-40 ... 5904, 5905
201-41 ... 5905

42 CFR

57 ... 5615
413 ... 5316, 5619
433 ... 5452
442 ... 5316
447 ... 5316
483 ... 5316
488 ... 5316
489 ... 5316
498 ... 5316

Proposed Rules:

405 ... 5946
415 ... 5946

43 CFR

4 ... 6483, 7504
12 ... 6363

Public Land Orders:

3708 ... 6919
6696 ... 5302
6706 ... 6232
6707 ... 5932
6708 ... 6919
6709 ... 6919

Proposed Rules:

11 ... 5093

44 CFR

17 ... 6363
64 ... 5462, 6522
65 ... 5238, 5239
67 ... 5240, 6920

Proposed Rules:

67 ... 5971, 5979

45 CFR

76 ... 6363
400 ... 5463
620 ... 6363
670 ... 7132
1080 ... 6368
1154 ... 6363
1169 ... 6363
1185 ... 6363
1229 ... 6363
2016 ... 6363

Proposed Rules:

670 ... 7071
704 ... 5504

46 CFR

25 ... 6396
58 ... 6396
147 ... 6396
184 ... 6396
221 ... 5382
252 ... 5085
282 ... 5086

Proposed Rules:

31 ... 5642
71 ... 5642
91 ... 5642
550 ... 5253, 5506
580 ... 5506
581 ... 5506

47 CFR

25 ... 5483
69 ... 6292
73 ... 5243–5245, 5623, 5624 5932, 5933, 6132–6134, 6294, 6930
97 ... 5933

Proposed Rules:

73 ... 5979–5983, 6154, 6155, 6307, 6308, 6939, 7450–7453

48 CFR

52 ... 6931
204 ... 5484, 7425
205 ... 7525
207 ... 7425
213 ... 7425
215 ... 7425
216 ... 7425
219 ... 5484, 7425
223 ... 7425
225 ... 7425
235 ... 7425
245 ... 7425
252 ... 7191, 7425
552 ... 6931
1828 ... 7037
1837 ... 5625
1852 ... 7037

Proposed Rules:

25 ... 6251
52 ... 6251, 7515
505 ... 5516
509 ... 6308
552 ... 6308
1515 ... 7072
1552 ... 7072

49 CFR

29 ... 6363
192 ... 5484, 5625
195 ... 5625
218 ... 5485
1312 ... 6403
1314 ... 6403
385 ... 7191
386 ... 7191
390 ... 7191
391 ... 7191
392 ... 7191
393 ... 7191
394 ... 7191
395 ... 7191
396 ... 7191
398 ... 7191
399 ... 7191

Proposed Rules:

218 ... 7219
350 ... 7224
390 ... 7224, 7362
391 ... 7362
392 ... 5516, 7362
393 ... 5516, 7362
395 ... 7362
396 ... 5518
544 ... 5519
1016 ... 7454

50 CFR

17 ... 5935
285 ... 7430
380 ... 6407
611 ... 6524, 6932
646 ... 5938
652 ... 6415
672 ... 6524
675 ... 6134, 6934
683 ... 6531

Proposed Rules:

17 ... 5095, 5983, 5986, 7225
18 ... 6940
672 ... 6734

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 February 10, 1989

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