December 31, 1996

Georgia Power Company
ATTN: Mr. J. D. Woodard
Sr. Vice President, Plant Hatch
Nuclear Operations
P. O. Box 1295
Birmingham, AL 35201

SUBJECT: RECENT REVISION TO THE NRC ENFORCEMENT POLICY REGARDING PREDECISIONAL ENFORCEMENT CONFERENCES

Dear Mr. Woodard:

This is to advise you of a change to the Nuclear Regulatory Commission's Enforcement Policy which is published as NUREG-1600, General Statement of Policy and Procedures for NRC Enforcement Actions. The significant change involves how predecisional enforcement conferences will be conducted. Effective December 10, 1996, all predecisional enforcement conferences scheduled after that date will be open to public observation with some exceptions. This change was noticed in the Federal Register, 61 FR 65088, December 10, 1996.

This action culminates a trial program initiated on July 10, 1992, where select conferences were designated as open. As stated in the referenced Federal Register notice "Opening predecisional enforcement conferences is consistent with the agency's principles of good regulation and normal agency policy. The intent of open conferences is not to maximize public attendance, but to provide the public with an opportunity to observe the regulatory process."

Region II has conducted a significant number of open conferences during the trial period. The staff has found that there has been little, if any, negative impact on their ability to engage in effective interactive communication with licensees during the conference.

Enclosed is a copy of the Federal Register notice for your information. You should refer to the notice and Section V of the Enforcement Policy for discussion of those situations where predecisional enforcement conferences will be closed to public observation.

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Should you have any questions, please contact Mr. Bruno Uryc, Director, Enforcement and Investigation Coordination Staff, Region II, at either 1-800-577-8510 or 404-331-5505.

Sincerely

(Original signed by Stewart D. Ebneter)

Stewart D. Ebneter
Regional Administrator

Docket Nos. 50-321, 50-366
License Nos. DPR-57, NPF-5

Enclosure: Federal Register, 61 FR 65088, December 10, 1996

cc w/o encl: J. Lieberman, OE

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to satisfy the plant design basis. Specifically, the blowout panels would still protect the buildings' superstructure from failure, which was considered the plant design basis. The licensee contended that the 45 psf value is not considered the plant design basis for reportability considerations and none of the principle safety barriers was seriously degraded. Therefore, the licensee does not consider that this condition was reportable given the information available in October 1993, and therefore disagrees with this violation.

The licensee also notes that the description of the violation in the Notice of Violation, and particularly, the discussion of the violation in the transmittal letter, suggests that the NRC is applying a relatively recent regulatory position regarding the status of numerical values within the UFSAR. Specifically, the licensee states that it appears that the NRC is considering all statements and commitments in the UFSAR as "stand-alone" requirements. The licensee further notes that while stated in the second paragraph on page two of the NOV transmittal letter, but not cited as such in any of the violations, it appears that the NRC considers that the failure of the blowout panels to function at the UFSAR stated pressure of 45 psf is, in itself, a violation of regulatory requirements and a reportable situation. The licensee disagrees with this interpretation of the legal significance of the UFSAR, and is participating with the Nuclear Energy Institute (NEI) to initiate a dialogue with the NRC regarding the resolution of this generic issue. The licensee further states that notwithstanding its efforts to reach agreement on what the interpretation of information in the UFSAR should be, the licensee believes that it is clear that the NRC's regulatory interpretation is inconsistent with the previously issued guidance on reportability as referenced in the licensee's response.

6. NRC Evaluation of Licensee Response

The NRC agrees that the licensee, based on its erroneous calculations in October 1993, concluded that the pressure relief panels would provide relief at values below the reactor and turbine building superstructure failure pressure of 80 psf. While the licensee clearly should have been aware that the pressure relief panels would provide relief at values above the 80 psf superstructure pressures if the calculation had been adequately performed, it is also clear that the licensee could not report a condition that it was not aware of, even though it should have been aware of the condition. Nonetheless, the licensee was aware that the panels' pressure relief values calculated in 1993 were above the stated value of 45 psf stated in the UFSAR at which the panels were supposed to provide relief. The NRC maintains that the licensee was outside of its design basis and decreased the margin to the pressure that would cause building failure and, therefore, the deviation from the UFSAR should have been reported to the NRC.

The NRC maintains this position, notwithstanding the licensee's contention that the guidance in NUREG–1022 would suggest that the condition was not reportable. The NRC believes that the licensee misinterpreted the NUREG–1022 guidance and in so doing, failed to report the subject condition to the NRC. Simply stated, the licensee's analogy of a missing high energy line break restraint, which subsequently is analyzed as not being required for compliance with the design basis, is not applicable to the pressure relief panels, a single component which provides a significant function in protecting the building superstructure in the event of an overpressure transient of the reactor or turbine buildings.

7. NRC Conclusion

The NRC concludes that the licensee has not provided an adequate basis for mitigating the civil penalty. Accordingly, the NRC has determined that a monetary civil penalty in the amount of $50,000 should be imposed for the violations in Section I of the June 18, 1996 Notice. In addition, the licensee has not provided an adequate basis for the withdrawal of Violation II.B in the Notice.

[FR Doc. 96–31323 Filed 12–9–96; 8:45 am]
BILLING CODE 7590–01–P

Policy and Procedure for Enforcement Actions; Policy Statement

AGENCY: Nuclear Regulatory Commission.

ACTION: Policy statement: Revision.

SUMMARY: The Nuclear Regulatory Commission (NRC or Commission) is amending its General Statement of Policy and Procedure for Enforcement Actions (Enforcement Policy) to revise the list of enforcement matters on which the NRC staff must consult with the Commission, to modify the Policy to provide that most predecisional enforcement conferences will be open to public observation, to clarify the circumstances in which a licensee-identified violation will be treated as a non-cited violation, and consideration of risk in developing sanctions.

DATES: This revision is effective on December 10, 1996. Comments are due on or before January 9, 1997. The change to Part V of the Enforcement Policy concerning open predecisional enforcement conferences does not apply to conferences that were announced prior to the effective date of this revision.

ADDRESSES: Send written comments to: The Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, ATTN: Docketing and Service Branch. Deliver comments to: 11555 Rockville Pike, Rockville, Maryland 20852, between 7:45 am and 4:15 pm, on Federal workdays. Copies of comments may be examined at the NRC Public Document Room, 2120 L Street, NW. (Lower-Level), Washington, DC.

FOR FURTHER INFORMATION CONTACT: James Lieberman, Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555 (301) 415–2741.

SUPPLEMENTARY INFORMATION: The "General Statement of Policy and Procedure for NRC Enforcement Actions" (Enforcement Policy or Policy) was first issued on September 4, 1980. Since that time, the Enforcement Policy has been revised on a number of occasions. On June 30, 1995 (60 FR 34381), the Enforcement Policy was revised in its entirety and was also published as NUREG–1600. The Policy primarily addresses violations by licensees and certain non-licensed persons, as discussed further in footnote 3 to Section I, Introduction and Purpose, and in Section X: Enforcement Action Against Non-licensees. As described below, the Commission is amending the Enforcement Policy to address issues regarding consultation with the Commission, open predecisional enforcement conferences, non-cited violations, and risk-significant violations.

Commission Consultation

Most enforcement decisions are made at the NRC staff level. However, based on guidance in Section III of the Enforcement Policy "Responsibilities," certain cases require formal Commission consultation. The practice of Commission consultation has existed since the Enforcement Policy was first published as an interim Policy in 1980. After 1980, the number of cases requiring this type of consultation has more than doubled. Most of the criteria for consultation were adopted many years ago, to address particular

Commissioner concerns or areas where the NRC staff had little experience. The NRC staff has had substantial experience in implementing the objectives of the Enforcement Policy. It is relatively rare that the Commission deviates from the recommended NRC staff approach. Thus, there is less need for mandatory Commission involvement in many enforcement matters.

Based on these factors and considering the significant effort currently expended in providing Commission consultation on enforcement matters, the Commission has given the NRC staff more flexibility to decide what enforcement issues should be brought to the Commission's attention because of policy significance, controversy, or known Commission interest.

Section III of the Enforcement Policy is being modified to delete the specific requirements for consultation with the Commission before the NRC staff issues enforcement actions involving material false statements, orders or civil penalties to unlicensed individuals, or civil penalties to licensed reactor operators. Because of the egregious nature of material false statement cases, it is logical that they would be considered very significant regulatory concerns and be categorized at Severity Level I and require Commission consultation on that basis (Section III(3) of the Enforcement Policy). The Commission believes that consultation regarding individual actions should be based on the merits of the particular case. Further, under the current Policy, civil penalties are not normally issued to unlicensed individuals or operators. These cases would receive Commission consultation at the request of the Executive Director for Operations (EDO). The Commission receives advance notification of all orders, including those issued to unlicensed individuals.

In addition, consultation will no longer be required when the NRC staff exercises discretion under Section VII.B.2 [1] and refrains from taking enforcement action for certain violations identified during extended shutdowns. The Commission will receive advance notification through Enforcement Notifications (ENs) for the first exercise of discretion for a plant meeting the criteria of Section VII.B.2. Notification, not consultation, will be required when the NRC staff exercises discretion under Section VII.A.1 in matters in which the civil penalty to be proposed deviates from more than two times the amount of the base civil penalty. However, item (2) of Section III of the Policy is being clarified to require consultation when the NRC staff proposes a civil penalty greater than 3 times the Severity Level I values shown in Table 1A for a single violation or problem. The NRC staff will continue to provide notification to the Commission for all civil penalties and orders.

[1] After the issuance of NUREG–1525, Section VII.B.3 of the Enforcement Policy was renumbered as Section VII.B.2.

Predecisional Enforcement Conferences

Historically, the Enforcement Policy has provided that enforcement conferences are closed meetings between the NRC and licensees to exchange information on potential safety issues. Section V of the current Enforcement Policy states that conferences, "are not normally open to the public observation." However, on July 10, 1992, the Commission established a 2-year trial program to determine if the Policy should be changed to make most enforcement conferences open to the public. On July 19, 1994, the NRC announced that the trial program would be continued until the Commission had acted on the enforcement review team's recommendations.

The announcement of the trial program explained that the Commission's decision on whether to establish a permanent policy for making enforcement conferences open would be based on an assessment of the following criteria:

(1) Whether the fact that the conference was open impacted the NRC's ability to conduct a meaningful conference and/or implement the NRC's enforcement program;

(2) Whether the open conference impacted the licensee's participation in the conference;

(3) Whether the NRC expended a significant amount of resources in making the conference public; and

(4) The extent of public interest in opening the enforcement conference.

Under the trial program, approximately 25 percent of all eligible enforcement conferences were open to public observation. Open enforcement conferences were conducted in each regional office and with various types of licensees. Members of the public attended 40 of the 113 open conferences conducted. In most cases, three or fewer members of the public attended. The Commission received and evaluated comments from licensees and members of the public.

The most significant concern in allowing public observation at enforcement conferences was that open conferences could inhibit open and candid discussions between the NRC and licensees, limit the free exchange of information, reduce conference effectiveness, and negatively impact the enforcement program. Although industry reiterated this concern during the trial program, the Commission has not found that open enforcement conferences conducted during the trial program were substantially less frank and open, nor was the NRC prevented from obtaining the information required to implement its enforcement program. In some cases, the NRC staff needed to ask licensees additional questions, but the information ultimately provided was always sufficient to meet predecisional enforcement conference goals.

Opening predecisional enforcement conferences is consistent with the agency's principles of good regulation and normal agency policy ("Staff Meetings Open to the Public; Final Policy Statement," 59 FR 48340; September 20, 1994). The intent of open conferences is not to maximize public attendance, but to provide the public with an opportunity to observe the regulatory process. Although making highly technical meetings open to the public exposes participants to the risk that information may be misunderstood or misconstrued, the Commission does not find that the risk outweighs the public confidence gained by allowing open observation of NRC predecisional enforcement conferences.

After considering the impact on the NRC's ability to exercise its regulatory and safety responsibilities, the impact on the candor and openness of communications during enforcement conferences, the impact on NRC resources, and the benefit to the public, the Commission has decided to modify the Enforcement Policy to provide that most conferences will be open to public observation. However, as for any public meeting, the NRC retains the discretion to close the conference for a specific case. The criteria for closing conferences are currently addressed in Section V of the Enforcement Policy. With two additions, these criteria will continue to be used. The changes involve opening a conference if it is based on an NRC Office of Investigations (OI) report that has been publicly disclosed and providing flexibility to open or close a conference with the approval of the Executive Director for Operations. The Enforcement Policy will continue to emphasize that predecisional enforcement conferences are open for public observation and not participation consistent with the NRC's policy on open meetings. The change to the Enforcement Policy that opens predecisional enforcement conferences

will be applied to conferences for which the date is announced after the effective date of this revision.

Non-Cited Violations

The Enforcement Policy provides examples of when discretion generally should be considered for departing from the normal approach under the Policy. Section VII.B.1. addresses non-cited violations (NCVs) which are used to recognize the existence of a legal violation but are not formal violations. NCVs are used to provide an incentive to licensees to identify and correct violations. Criterion 1.(a), in Section VII.B.1. is a Severity Level IV violation that was "identified by the licensee, including identification through an event."

This discretion is normally used when the licensee identifies and corrects a non-recurring violation. However, this provision is not normally used for violations that meet the criteria for Severity Level III violations, and where the circumstances justify characterization at Severity Level IV. Such cases normally are the more significant Severity Level IV violations. In addition, the NRC has considered whether this exercise of discretion should normally be used in cases involving violations identified through an event. If the root cause of the event is obvious or the licensee had prior opportunity to identify the problem but failed to take action that would have prevented the event, the licensee should not be rewarded by the NRC's exercising discretion not to cite the violation. On the other hand, there may be cases when, notwithstanding a self-disclosing violation, the licensee demonstrated initiative in identifying the violation's root cause. In such a case, an NCV may be appropriate.

In general, when the licensee's identification is through an event, discretion should only be exercised when the licensee has demonstrated initiative. Further, the violation should be cited if it caused the event, the cause is obvious, or a clear opportunity existed to identify the violation and take action to prevent the event. The Commission believes that the Enforcement Policy should be clarified by deleting the reference to identification through an event in the criterion in Section VII.B.1.(a) to make it clear that use of discretion is not automatic if the violation is identified through a self-disclosing event.

Risk-significant Violations

In evaluating violations for enforcement, the higher the risk from a violation, the greater the severity level and sanction should be. However, the converse is not necessarily true; low risk should not necessarily result in no sanction or a minor violation being cited. This is because many violations, although having low risk significance, may indicate a broader problem, often indicative of a programmatic licensee failure to comply with NRC requirements and, therefore, have a high regulatory significance.

The Enforcement Policy currently does not address risk explicitly, except in Section VII.A.1.e, which addresses the escalation of enforcement sanctions in situations when the excessive duration of a problem has resulted in a substantial increase in risk. Although there is inherent discretion in the Enforcement Policy to increase Severity Levels and sanctions based on risk, the Commission believes it is appropriate to modify the Policy to state the consideration of risk aspects more clearly.

In analyzing risk, the NRC recognizes the uncertainties associated with risk assessment. Generally, qualitative rather than quantitative risk assessments are made given the number of variables associated with risk assessment. Risk should be a consideration in proposing enforcement actions, but not necessarily determinatative. In developing higher civil penalties, the Commission intends to consider, where appropriate, assessing separate civil penalties for each violation that is aggregated into a Severity Level II problem.

Therefore, to provide sufficient discretion to be able to appropriately consider risk in enforcement decisions, Section IV of the Policy is being modified to state that in considering the significance of a violation, the NRC considers the technical significance, i.e., actual and potential consequences, and the regulatory significance; and that in evaluating the technical significance, risk is an appropriate consideration. Further, Section VII.A.1.(e) is being modified to state that exercise of discretion should be considered in situations where the violation has resulted in a substantial increase in risk, including cases in which the duration of the violation has contributed to the substantial increase.

Paperwork Reduction Act Statement

This policy statement does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.). Existing requirements were approved by the Office of Management and Budget, approval number 3150–0011. The approved information collection requirements contained in this policy statement appear in Section VII.C.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Small Business Regulatory Enforcement Fairness Act

In accordance with the Small Business Regulatory Enforcement Fairness Act of 1996, the NRC has determined that this action is not a major rule and has verified this determination with the Office of Information and Regulatory Affairs of OMB.

Accordingly, the NRC Enforcement Policy is amended by revising Section III, the first paragraph in Section IV, Section V, and Sections VII.A.1.(e) and VII.B.1(a) to read as follows:

GENERAL STATEMENT OF POLICY AND PROCEDURE FOR NRC ENFORCEMENT ACTIONS

* * * * *

III. Responsibilities

The Executive Director for Operations (EDO) and the principal enforcement officers of the NRC, the Deputy Executive Director for Nuclear Material Safety, Safeguards and Operations Support (DEDS), and the Deputy Executive Director for Nuclear Reactor Regulation, Regional Operations, and Research (DEDR), have been delegated the authority to approve or issue all escalated enforcement actions.[4] The DEDS is responsible to the EDO for the NRC enforcement programs. The Office of Enforcement (OE) exercises oversight of and implements the NRC enforcement programs. The Director, OE, acts for the Deputy Executive Directors in enforcement matters in their absence or as delegated.

Subject to the oversight and direction of OE, and with the approval of the appropriate Deputy Executive Director, where necessary, the regional offices normally issue Notices of Violation and proposed civil penalties. However, subject to the same oversight as the regional offices, the Office of Nuclear Reactor Regulation (NRR) and the Office of Nuclear Material Safety and Safeguards (NMSS) may also issue Notices of Violation and proposed civil penalties for certain activities.

[4] The term "escalated enforcement action" as used in this policy means a Notice of Violation or civil penalty for any Severity Level I, II, or III violation (or problem) or any order based upon a violation.

Enforcement orders are normally issued by a Deputy Executive Director or the Director, OE. However, orders may also be issued by the EDO, especially those involving the more significant matters. The Directors of NRR and NMSS have also been delegated authority to issue orders, but it is expected that normal use of this authority by NRR and NMSS will be confined to actions not associated with compliance issues. The Director, Office of the Controller, has been delegated the authority to issue orders where licensees violate Commission regulations by nonpayment of license and inspection fees.

In recognition that the regulation of nuclear activities in many cases does not lend itself to a mechanistic treatment, judgment and discretion must be exercised in determining the severity levels of the violations and the appropriate enforcement sanctions, including the decision to issue a Notice of Violation, or to propose or impose a civil penalty and the amount of this penalty, after considering the general principles of this statement of policy and the technical significance of the violations and the surrounding circumstances.

Unless Commission consultation or notification is required by this policy, the NRC staff may depart, where warranted in the public's interest, from this policy as provided in Section VII, "Exercise of Enforcement Discretion." The Commission will be provided written notification of all enforcement actions involving civil penalties or orders. The Commission will also be provided notice the first time that discretion is exercised for a plant meeting the criteria of Section VII.B.2. In addition, the Commission will be consulted prior to taking action in the following situations (unless the urgency of the situation dictates immediate action):

(1) An action affecting a licensee's operation that requires balancing the public health and safety or common defense and security implications of not operating with the potential radiological or other hazards associated with continued operation;

(2) Proposals to impose a civil penalty greater than 3 times the Severity Level I values shown in Table 1A for a single violation or problem;

(3) Any proposed enforcement action that involves a Severity Level I violation;

(4) Any action the EDO believes warrants Commission involvement;

(5) Any proposed enforcement case involving an Office of Investigations (OI) report where the NRC staff (other than the OI staff) does not arrive at the same conclusions as those in the OI report concerning issues of intent if the Director of OI concludes that Commission consultation is warranted; and

(6) Any proposed enforcement action on which the Commission asks to be consulted.

IV. Severity of Violations

Regulatory requirements[3] have varying degrees of safety, safeguards, or environmental significance. Therefore, the relative importance of each violation, including both the technical significance and the regulatory significance, is evaluated as the first step in the enforcement process. In considering the significance of a violation, the staff considers the technical significance, i.e., actual and potential consequences, and the regulatory significance. In evaluating the technical significance, risk is an appropriate consideration.

* * * * *

V. Predecisional Enforcement Conferences

Whenever the NRC has learned of the existence of a potential violation for which escalated enforcement action appears to be warranted, or recurring nonconformance on the part of a vendor, the NRC may provide an opportunity for a predecisional enforcement conference with the licensee, vendor, or other person before taking enforcement action. The purpose of the conference is to obtain information that will assist the NRC in determining the appropriate enforcement action, such as: (1) a common understanding of facts, root causes and missed opportunities associated with the apparent violations, (2) a common understanding of corrective action taken or planned, and (3) a common understanding of the significance of issues and the need for lasting comprehensive corrective action.

If the NRC concludes that it has sufficient information to make an informed enforcement decision, a conference will not normally be held unless the licensee requests it. However, an opportunity for a conference will normally be provided before issuing an order based on a violation of the rule on Deliberate Misconduct or a civil penalty to an unlicensed person. If a conference is not held, the licensee will normally be requested to provide a written response to an inspection report, if issued, as to the licensee's views on the apparent violations and their root causes and a description of planned or implemented corrective action.

During the predecisional enforcement conference, the licensee, vendor, or other persons will be given an opportunity to provide information consistent with the purpose of the conference, including an explanation to the NRC of the immediate corrective actions (if any) that were taken following identification of the potential violation or nonconformance and the long-term comprehensive actions that were taken or will be taken to prevent recurrence. Licensees, vendors, or other persons will be told when a meeting is a predecisional enforcement conference.

A predecisional enforcement conference is a meeting between the NRC and the licensee. Conferences are normally held in the regional offices and are normally open to public observation. Conferences will not normally be open to the public if the enforcement action being contemplated:

(1) Would be taken against an individual, or if the action, though not taken against an individual, turns on whether an individual has committed wrongdoing;

(2) Involves significant personnel failures where the NRC has requested that the individual(s) involved be present at the conference;

(3) Is based on the findings of an NRC Office of Investigations report that has not been publicly disclosed; or

(4) Involves safeguards information, Privacy Act information, or information which could be considered proprietary;

In addition, conferences will not normally be open to the public if:

(5) The conference involves medical misadministrations or overexposures and the conference cannot be conducted without disclosing the exposed individual's name; or

(6) The conference will be conducted by telephone or the conference will be conducted at a relatively small licensee's facility.

Notwithstanding meeting any of these criteria, a conference may still be open if the conference involves issues related to an ongoing adjudicatory proceeding with one or more intervenors or where the evidentiary basis for the conference is a matter of public record, such as an adjudicatory decision by the Department of Labor. In addition, notwithstanding the above normal criteria for opening or closing conferences, with the approval of the Executive Director for Operations, conferences may either be open or closed to the public after balancing the benefit of the public observation against

[3] The term "requirement" as used in this policy means a legally binding requirement such as a statute, regulation, license condition, technical specification, or order.

the potential impact on the agency's decision-making process in a particular case.

The NRC will notify the licensee that the conference will be open to public observation. Consistent with the agency's policy on open meetings, "Staff Meetings Open to Public," published September 20, 1994 (59 FR 48340), the NRC intends to announce open conferences normally at least 10 working days in advance of conferences through (1) notices posted in the Public Document Room, (2) a toll-free telephone recording at 800–952–9674, (3) a toll-free electronic bulletin board at 800–952–9676, and on the World Wide Web at the NRC Office of Enforcement homepage (www.nrc.gov/OE). In addition, the NRC normally will also issue a press release and notify appropriate State liaison officers that a predecisional enforcement conference has been scheduled and that it is open to public observation.

The public attending open conferences may observe but not participate in the conference. It is noted that the purpose of conducting open conferences is not to maximize public attendance, but rather to provide the public with opportunities to be informed of NRC activities consistent with the NRC's ability to exercise its regulatory and safety responsibilities. Therefore, members of the public will be allowed access to the NRC regional offices to attend open enforcement conferences in accordance with the "Standard Operating Procedures for Providing Security Support for NRC Hearings and Meetings," published November 1, 1991 (56 FR 56251). These procedures provide that visitors may be subject to personnel screening, that signs, banners, posters, etc., not larger than 18" be permitted, and that disruptive persons may be removed. The open conference will be terminated if disruption interferes with a successful conference. NRC's Predecisional Enforcement Conferences (whether open or closed) normally will be held at the NRC's regional offices or in NRC Headquarters Offices and not in the vicinity of the licensee's facility.

Members of the public attending open conferences will be reminded that (1) the apparent violations discussed at predecisional enforcement conferences are subject to further review and may be subject to change prior to any resulting enforcement action and (2) the statements of views or expressions of opinion made by NRC employees at predecisional enforcement conferences, or the lack thereof, are not intended to represent final determinations or beliefs.

When needed to protect the public health and safety or common defense and security, escalated enforcement action, such as the issuance of an immediately effective order, will be taken before the conference. In these cases, a conference may be held after the escalated enforcement action is taken.

VII. Exercise of Discretion

* * * * *

A. Escalation of Enforcement Sanctions

* * * * *

1. * * *

(e) Situations when the violation results in a substantial increase in risk, including cases in which the duration of the violation has contributed to the substantial increase;

* * * * *

B. Mitigation of Enforcement Sanctions

* * * * *

1. Licensee-Identified Severity Level IV Violations. The NRC, with the approval of the Regional Administrator or his or her designee, may refrain from issuing a Notice of Violation for a Severity Level IV violation that is documented in an inspection report (or official field notes for some material cases) and described therein as a Non-Cited Violation (NCV) provided that the inspection report includes a brief description of the corrective action and that the violation meets all of the following criteria:

(a) It was identified by the licensee;

* * * * *

Dated at Rockville, MD, this 4th day of December, 1996.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Secretary of the Commission.

[FR Doc. 96–31319 Filed 12–9–96; 8:45 am]

BILLING CODE 7590–01–P

POSTAL RATE COMMISSION

Sunshine Act Meeting

NAME OF AGENCY: Postal Rate Commission.

TIME AND DATE: 2:30 p.m. on December 9, 1996.

PLACE: Conference Room, 1333 H Street, NW., Suite 300, Washington, DC 20268.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Issues in Docket No. C96–1.

CONTACT PERSON FOR MORE INFORMATION: Margaret P. Crenshaw, Secretary, Postal Rate Commission, Suite 300, 1333 H Street, NW., Washington, DC 20268–0001, Telephone (202) 789–6840.

Margaret P. Crenshaw,

Secretary.

[FR Doc. 96–31406 Filed 12–6–96; 10:50 am]

BILLING CODE 7710–FW–P

POSTAL SERVICE

Sunshine Act Meeting; Board of Governors

Notice of Vote to Close Meeting

At its meeting on December 2, 1996, the Board of Governors of the United States Postal Service voted unanimously to close to public observation its meeting scheduled for January 6, 1997, in Washington, D.C. The members will be briefed on: (1) Classroom Publication Prices; (2) a proposed filing with the Postal Rate Commission for Parcels; and (3) will consider funding approval for International Service Centers.

The meeting is expected to be attended by the following persons: Governors Alvarado, Daniels, del Junco, Dyhrkopp, Fineman, Mackie, McWherter, Rider and Winters; Postmaster General Runyon, Deputy Postmaster General Coughlin, Secretary to the Board Koerber, and General Counsel Elcano.

As to the first and second item, the Board determined that pursuant to section 552b(c)(3) of title 5, United States Code, and section 7.3(c) of title 39, Code of Federal Regulations, this portion of the meeting is exempt from the open meeting requirement of the Government in the Sunshine Act [5 U.S.C. 552b(b)] because it is likely to disclose information in connection with proceedings under Chapter 36 of title 39, United States Code (having to do with postal ratemaking, mail classification and changes in postal services), which is specifically exempted from disclosure by section 410(c) of title 39, United States Code.

The Board has determined further that pursuant to section 552b(c)(10) of title 5, United States Code, and section 7.3(j) of title 39, Code of Federal Regulations, the discussion is exempt because it is likely to specifically concern participation of the Postal Service in a civil action or proceeding involving a determination on the record after opportunity for a hearing.

As to the third item, the Board determined that pursuant to section 552b(c) (3) and (10) of title 5, United States Code; and section 410(c) (2) and (3) of title 39, United States Code; and section 7.3 (c) and (j) of title 39, Code of Federal Regulations, the meeting is