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federal register

Monday
February 7, 1983

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Federal Service Impasses Panel

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Comptroller of Currency
Federal Deposit Insurance Corporation
Federal Home Loan Bank Board
Federal Reserve System
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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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Presidential Documents

Title 3—

The President

Proclamation 5018 of February 3, 1983

Year of the Bible, 1983

By the President of the United States of America

A Proclamation

Of the many influences that have shaped the United States of America into a distinctive Nation and people, none may be said to be more fundamental and enduring than the Bible.

Deep religious beliefs stemming from the Old and New Testaments of the Bible inspired many of the early settlers of our country, providing them with the strength, character, convictions, and faith necessary to withstand great hardship and danger in this new and rugged land. These shared beliefs helped forge a sense of common purpose among the widely dispersed colonies—a sense of community which laid the foundation for the spirit of nationhood that was to develop in later decades.

The Bible and its teachings helped form the basis for the Founding Fathers' abiding belief in the inalienable rights of the individual, rights which they found implicit in the Bible's teachings of the inherent worth and dignity of each individual. This same sense of man patterned the convictions of those who framed the English system of law inherited by our own Nation, as well as the ideals set forth in the Declaration of Independence and the Constitution.

For centuries the Bible's emphasis on compassion and love for our neighbor has inspired institutional and governmental expressions of benevolent outreach such as private charity, the establishment of schools and hospitals, and the abolition of slavery.

Many of our greatest national leaders—among them Presidents Washington, Jackson, Lincoln, and Wilson—have recognized the influence of the Bible on our country's development. The plainspoken Andrew Jackson referred to the Bible as no less than "the rock on which our Republic rests." Today our beloved America and, indeed, the world, is facing a decade of enormous challenge. As a people we may well be tested as we have seldom, if ever, been tested before. We will need resources of spirit even more than resources of technology, education, and armaments. There could be no more fitting moment than now to reflect with gratitude, humility, and urgency upon the wisdom revealed to us in the writing that Abraham Lincoln called "the best gift God has ever given to man . . . But for it we could not know right from wrong."

The Congress of the United States, in recognition of the unique contribution of the Bible in shaping the history and character of this Nation, and so many of its citizens, has by Senate Joint Resolution 165 authorized and requested the President to designate the year 1983 as the "Year of the Bible."

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, in recognition of the contributions and influence of the Bible on our Republic and our people, do hereby proclaim 1983 the Year of the Bible in the United States. I encourage all citizens, each in his or her own way, to reexamine and rediscover its priceless and timeless message.

IN WITNESS WHEREOF, I have hereunto set my hand this third day of February, in the year of our Lord nineteen hundred and eighty-three, and of the Independence of the United States of America the two hundred and seventh.

Ronald Reagan

[FR Doc. 82-31372
Filed 11-12-82; 11:15 am]
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Rules and Regulations

Federal Register
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FEDERAL SERVICE IMPASSES PANEL

5 CFR Ch. XIV and Part 2471

Relocation of Office

AGENCY: Federal Service Impasses Panel.

ACTION: Final rule.

SUMMARY: The Federal Service Impasses Panel has relocated its office. This amendment to Part 2471, §§ 2471.2 and 2471.4, and Appendix A, paragraph (e) of the rules and regulations of the Federal Labor Relations Authority, General Counsel of the Federal Labor Relations Authority, and the Federal Service Impasses Panel (Panel), 5 CFR Chapter XIV, sets forth the new office mailing address, zip code, and telephone number for the Panel.

EFFECTIVE DATE: February 7, 1983.

FOR FURTHER INFORMATION CONTACT: Linda A. Lafferty, Deputy Executive Director, Federal Service Impasses Panel, 500 C Street, SW., Washington, D.C. 20424, (202) 382–0981.

SUPPLEMENTARY INFORMATION: Part 2471 of Title 5 of the Code of Federal Regulations, §§ 2471.2 and 2471.4, sets forth the address at which copies of the Panel's request form may be obtained and filed. Paragraph (e) of Appendix A to 5 CFR Chapter XIV also sets forth the Panel's address and telephone number. Because of the relocation of the Panel's office it is necessary to revise these provisions.

List of Subjects in 5 CFR Part 2471

Administrative practice and procedure.

Part 2471 is amended as follows:

PART 2471—PROCEDURES OF THE PANEL

1. Section 2471.2 is revised to read as follows:

§ 2471.2 Request form.

A form has been prepared for use by the parties in filing a request with the Panel for consideration of an impasse or approval of a binding arbitration procedure. Copies are available from the Office of the Executive Director, Federal Service Impasses Panel, 500 C Street, SW., Washington, D.C. 20424.

2. Section 2471.4 is revised to read as follows:

§ 2471.4 Where to file.

Requests to the Panel provided for in this part, and inquiries or correspondence on the status of impasses or other related matters, should be addressed to the Executive Director, Federal Service Impasses Panel, 500 C Street, SW., Washington, D.C. 20424.

3. Paragraph (e) of Appendix A to 5 CFR Chapter XIV is revised to read as follows:

Appendix A to 5 CFR Chapter XIV—Current Addresses and Geographic Jurisdictions

* * * * *

(3) The Office address of the Panel is as follows: 500 C Street, SW., Washington, D.C. 20424. Telephone: FTS—382–0981, Commercial—(202) 382–0981.

* * * * *

Note.—In accordance with section 605(b) of the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Federal Service Impasses Panel has determined that this amendment does not require preparation of a regulatory flexibility analysis.

(5 U.S.C. 7119, 7134)

Dated: February 1, 1983.

Robert G. Howlett,
Chairman, Federal Service Impasses Panel.

[FR Doc. 83-3218 Filed 2-4-83; 8:45 am]
BILLING CODE 6727-01-M

5 CFR Part 2472

Impasses Arising Pursuant to Agency Determinations Not To Establish or To Terminate Flexible or Compressed Work Schedules; Procedures of the Panel

AGENCY: Federal Service Impasses Panel.

ACTION: Interim rules and regulations; request for comments.

SUMMARY: These interim rules and regulations are designed to implement section 6131 of the Federal Employees Flexible and Compressed Work Schedules Act of 1982, 5 U.S.C. 6131. As applied to the Federal Service Impasses Panel, the Act, which became effective on July 23, 1982, provides that the Panel shall resolve impasses between Federal agencies and exclusive representatives of Federal employees arising from agency determinations (1) not to establish a flexible or compressed work schedule, or (2) to terminate such a schedule. These interim rules and regulations describe the procedures by which such impasses shall be presented to and considered by the Panel. The interim rules and regulations shall remain in effect pending publication in the Federal Register of final rules and regulations.

DATE: Effective Date: February 7, 1983.

Comment Date: Written comments received by March 10, 1983, will be considered in promulgation of final rules and regulations on this subject.

ADDRESS: Comments should be mailed to Howard W. Solomon, Executive Director, Federal Service Impasses Panel, 500 C Street, SW., Washington, D.C. 20424.

FOR FURTHER INFORMATION CONTACT: Linda A. Lafferty, Deputy Executive Director, Federal Service Impasses Panel, 500 C Street, SW., Washington, D.C. 20424, (202) 382–0981.

SUPPLEMENTARY INFORMATION: The Federal Employees Flexible and Compressed Work Schedules Act of 1982, 5 U.S.C. 6121 *et seq.*, authorizes the continuation of flexible and compressed work schedules (schedules) established under the Federal Employees Flexible and Compressed Work Schedules Act of 1978, Pub. L. 95–390, and permits the establishment of new programs. The Act provides that notwithstanding the provision of any collective bargaining agreement, the head of an agency may find that a particular schedule has had or would have an adverse agency impact as defined in Section 6131(b). In the event of such a finding, the head of the agency shall determine (1) not to establish such a schedule, or (2) not to continue an already-established schedule.

With respect to schedules covering employees in a bargaining unit

represented by an exclusive representative, Section 6131(c) provides that if an agency and an exclusive representative reach an impasse with respect to an agency determination not to establish a flexible or compressed schedule, the impasse shall be presented to the Federal Service Impasses Panel. The Panel is required to promptly consider such an impasse and to take final action in favor of the agency's determination if the finding on which it is based is supported by evidence that the schedule is likely to cause an adverse agency impact. Similarly, if an agency and an exclusive representative have entered into a collective bargaining agreement providing for the use of a flexible or compressed schedule, the agency may reopen the agreement to seek termination of the schedule if the head of the agency determines that the schedule has caused an adverse agency impact. Impasses arising pursuant to such a determination shall be presented to the Panel which shall: (1) Promptly consider the case and (2) rule on the impasse not later than 60 days after the date the Panel is presented the impasse. The Panel is required to take final action in favor of the agency's determination to terminate a schedule if the finding on which the determination is based is supported by evidence that the schedule has caused an adverse agency impact.

These interim rules and regulations are necessary to implement the Panel's authority under the Act. In addition to a statement of purpose and applicable definitions (Subpart A), the interim rules and regulations contain the procedures by which requests for Panel consideration of impasses arising from agency determinations not to establish or to terminate a flexible or compressed schedule shall be filed with the Panel and the procedures to govern the Panel's consideration of such requests (Subpart B). Included within these procedures are requirements concerning the information to be included in requests for Panel consideration and responses thereto, the address to which requests and other documents should be mailed, and rules relating to the number of copies to be submitted to the Panel as well as service of documents upon parties to the impasse. With respect to impasses arising pursuant to agency determinations to terminate flexible and compressed schedules, § 2472.7(f) of the interim rules and regulations provides that the Panel shall not consider the impasse to have been presented for Panel consideration unless and until the provisions concerning the content of the request, copies of it, and service upon the other party to the impasse have been complied with. The remaining sections of the interim rules and regulations concern the procedures by which requests for Panel consideration shall be investigated; procedures to be utilized by the panel in affording the parties an opportunity to present their positions on the impasse; the conduct of hearings and prehearing conferences, if any; reports issued following informal conferences or hearings; and final action by the Panel.

List of Subjects in 5 CFR Part 2472

Administrative practice and procedure.

Chapter XIV, Subchapter D, of Title 5 of the Code of Federal Regulations is amended to add a new Part 2472 to read as follows:

PART 2472—IMPASSES ARISING PURSUANT TO AGENCY DETERMINATIONS NOT TO ESTABLISH OR TO TERMINATE FLEXIBLE OR COMPRESSED WORK SCHEDULES

Subpart A—Purpose and Definitions

Sec.

2472.1 Purpose.
2472.2 Definitions.

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2472.3 Request for Panel consideration.
2472.4 Content of request.
2472.5 Where to file.
2472.6 Agency determinations not to establish or to terminate a flexible or compressed work schedule; responses to requests for Panel consideration.
2472.7 Copies and service; paper size.
2472.8 Investigation of request; Panel assistance.
2472.9 Preliminary hearing procedures.
2472.10 Conduct of hearing and prehearing conference.
2472.11 Reports.
2472.12 Final action by the Panel.

Authority: Sec. 6131, Pub. L. 97-221, 96 Stat. 227 (5 U.S.C. 6131).

Subpart A—Purpose and Definitions

§ 2472.1 Purpose.

The regulations contained in this Part are intended to implement the provisions of Section 6131 of Title 5 of the United States Code. They prescribe procedures and methods which the Federal Service Impasses Panel may utilize in the resolution of negotiation impasses arising from agency determinations not to establish or to terminate flexible and compressed work schedules.

§ 2472.2 Definitions.

(a) The term "the Act" means the Federal Employees Flexible and Compressed Work Schedules Act of 1982, Pub. L. 97-221, 5 U.S.C. 6120 *et seq.*

(b) The term "adverse agency impact" shall have the meaning set forth in 5 U.S.C. 6131(b).

(c) The term "agency" shall have the meaning set forth in 5 U.S.C. 6121(1).

(d) The term "agency determination" means a determination (1) not to establish a flexible or compressed work schedule under 5 U.S.C. 6131(c)(2), or (2) to terminate such a schedule under 5 U.S.C. 6131(c)(3).

(e) The terms "collective bargaining agreement" and "exclusive representative" shall have the meanings set forth in 5 U.S.C. 6121(8).

(f) The term "Executive Director" means the Executive Director of the Panel.

(g) The terms "designated representative" of "designee" of the Panel means a Panel member, staff member, or other individual designated by the Panel to act on its behalf.

(h) The term "flexible and compressed work schedules" shall have the meaning set forth in 5 U.S.C. 6122 *et seq.*

(i) The term "hearing" means a factfinding hearing, arbitration hearing, or any other hearing procedures deemed necessary to accomplish the purpose of 5 U.S.C. 6131.

(j) The term "impasse" means that point in the negotiation of flexible and compressed work schedules at which the parties are unable to reach agreement on whether a schedule has had or would have an adverse agency impact.

(k) The term "Panel" means the Federal Service Impasses Panel described in 5 U.S.C. 7119(c) or a quorum thereof.

(l) The term "party" means the agency or the exclusive representative participating in negotiations concerning flexible and compressed work schedules.

(m) The term "quorum" means a majority of the members of the Panel.

(n) The term "schedule(s)" means flexible and compressed work schedules.

Subpart B—Procedures of the Panel

§ 2472.3 Request for Panel consideration.

Either party, or the parties jointly, may request the Panel to resolve an impasse resulting from an agency determination not to establish or to terminate a flexible or compressed work schedule by filing a request as hereinafter provided.

§ 2472.4 Content of request.

(a) A request from a party or parties to the Panel for consideration of an impasse arising from an agency

determination not to establish or to terminate a flexible or compressed work schedule under Section 1631(c) (2) or (3) of the Act must be in writing and shall include the following information:

(1) Identification of the parties and individuals authorized to act on their behalf;

(2) Description of the bargaining unit involved in the dispute and the date recognition was accorded to the exclusive representative;

(3) Number, length, and dates of negotiation sessions held;

(4) A copy of any collective bargaining agreement between the parties and any other agreements concerning flexible and compressed work schedules;

(5) A copy of the schedule or proposed schedule, if any, which is the subject of the agency's determination;

(6) A copy of the agency's written determination, if any; and

(7) A summary of the position of the initiating party or parties with respect to the agency's determination.

§ 2472.5 Where to file.

Requests to the Panel provided for in these rules, and inquiries or correspondence on the status of impasses or other related matters, should be directed to the Executive Director, Federal Service Impasses Panel, 500 C Street, SW., Washington, D.C. 20424.

§ 2472.6 Agency determinations not to establish or to terminate a flexible or compressed work schedule; responses to requests for Panel consideration.

Within 14 calendar days after the date of receipt of a copy of a request for Panel consideration of an impasse arising from an agency determination not to establish or to terminate a flexible or compressed work schedule under section 6131(c) (2) or (3) of the Act, the responding party shall file with the Panel a statement of its position with respect to the request.

§ 2472.7 Copies and service; paper size.

(a) Any party submitting a request or other document in connection with a request for Panel consideration of an impasse filed pursuant to § 2472.3 of these rules shall file an original and one copy with the Panel. A clean copy capable of being used as an original for purposes such as further reproduction may be submitted for the original.

(b) Any party filing a document as provided in these rules is responsible for serving a copy upon all counsel of record or other designated representative(s) of parties, or upon parties not so represented. Service upon such counsel or representative shall constitute service upon the party, but a copy also shall be transmitted to the party.

(c) A signed and dated statement of service shall accompany each document submitted to the Panel. The statement of service shall include the names of the parties and persons served, their addresses, the date of service, the nature of the document served, and the manner in which service was made.

(d) The date of service or date served shall be the day when the matter served is deposited in the U.S. mail or is delivered in person.

(e) Unless otherwise provided by the Panel or its designated representatives, any document or paper filed with the Panel under these rules, together with any enclosure filed therewith, shall be submitted on 8½ x 11 inch size paper.

(f) The Panel shall not consider an impasse arising pursuant to section 6131(c) (2) or (3) of the Act to have been presented for consideration unless and until the party filing the request has complied with §§ 2472.4, 2472.5, and 2472.7 of these rules.

§ 2472.8 Investigation of request; Panel assistance.

(a) Upon receipt of a request for consideration of an impasse filed in accordance with these rules, the Panel or its designee shall promptly conduct an investigation, consulting when necessary with the parties. After due consideration, the Panel shall determine the procedures by which the impasse shall be resolved and shall notify the parties of its determination.

(b) The procedures utilized by the Panel shall afford the parties an opportunity to present their positions, including supporting evidence and arguments, orally and/or in writing. They include, but are not limited to, informal conferences with the Panel or its designee(s), hearings, written submissions, and Show Cause Orders.

§ 2472.9 Preliminary hearing procedures.

When the Panel determines that a hearing shall be held, it will:

(a) Appoint one or more of its designees to conduct such a hearing; and

(b) Issue and serve upon each of the parties a notice of hearing and a notice of prehearing conference, if any. The notice will state: (1) The names of the parties to the dispute; (2) the date, time, place, type, and purpose of the hearing; (3) the date, time, place, and purpose of the prehearing conference, if any; (4) the name of the designated representative(s) appointed by the Panel; (5) the issue(s) to be resolved; and (6) the method, if any, by which the hearing shall be transcribed.

§ 2472.10 Conduct of hearing and prehearing conference.

(a) A designated representative of the Panel, when so appointed to conduct a hearing, shall have the authority on behalf of the Panel to:

(1) Administer oaths, take the testimony or deposition of any person under oath, receive other evidence, and issue subpoenas;

(2) Conduct the hearing in open or in closed session at the discretion of the designated representative for good cause shown;

(3) Rule on motions and requests for appearance or witnesses and the production of records;

(4) Designate the date on which posthearing briefs, if any, shall be submitted; and

(5) Determine all procedural matters concerning the hearing, including the length of sessions, conduct of persons in attendance, recesses, continuance, and adjournments; and take any other action which, in the judgment of the designated representative, will promote the purpose and objectives of the hearing.

(b) A prehearing conference may be conducted by the designated representative of the Panel to:

(1) Inform the parties of the purpose of the hearing and the procedures under which it will take place;

(2) Explore the possibilities of obtaining stipulations of fact;

(3) Clarify the positions of the parties with respect to the issues to be heard; and

(4) Discuss any other relevant matters which will assist the parties in the resolution of the dispute.

§ 2472.11 Reports.

When a report is issued after an informal conference authorized in accordance with § 2472.8, or a hearing conducted pursuant to §§ 2472.9 and 2472.10, it normally shall be in writing and shall be submitted to the Panel, with a copy to each party, within a period normally not to exceed 30 calendar days after the close of the hearing or informal conference and receipt of briefs, if any.

§ 2472.12 Final action by the Panel.

(a) After due consideration of the parties' positions, evidence, and arguments, including any report submitted in accordance with § 2472.11, the Panel shall take final action in favor of the agency's determination if:

(1) The finding on which a determination under 5 U.S.C. 6131(c)(2)

not to establish a flexible or compressed work schedule is based is supported by evidence that the schedule is likely to cause an adverse agency impact; or

(2) The finding on which a determination under 5 U.S.C. 6131(c)(3) to terminate a flexible or compressed work schedule is based is supported by evidence that the schedule has caused an adverse agency impact.

(b) In preparation for taking such final action, the Panel may hold hearings, administer oaths, take the testimony or deposition of any person under oath, and issue subpoenas, or it may appoint one or more individuals to exercise such authority on its behalf. Such action may be taken without regard to procedures previously authorized by the Panel.

(c) Notice of any final action of the Panel shall be promptly served upon the parties.

Note.—In accordance with section 605(b) of the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Federal Service Impasses Panel has determined that these interim rules and regulations do not require preparation of a regulatory flexibility analysis.

Dated: February 1, 1983.

Robert G. Howlett,

Chairman, Federal Service Impasses Panel.

[FR Doc. 83-3220 Filed 2-4-83; 8:45 am]

BILLING CODE 6727-01-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Codes and Standards for Nuclear Power Plants; Winter 1981 Addenda

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Commission is amending its regulations to incorporate by reference the Winter 1981 Addenda of the American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code. The sections of the ASME Code being incorporated provide rules for the construction of nuclear power plant components and specify requirements for inservice inspection of those components. Adoption of these amendments will permit the use of improved methods for construction and inservice inspection of nuclear power plants.

DATE: Effective March 9, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. E. T. Baker, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Telephone (301) 443-5892.

SUPPLEMENTARY INFORMATION: On July 29, 1982, the Nuclear Regulatory Commission published in the **Federal Register** (47 FR 32725) proposed amendments to its regulation, 10 CFR Part 50, "Domestic Licensing of Production and Utilization Facilities." The proposed amendments revised § 50.55a to incorporate by reference the Winter 1981 Addenda to Section III, Division 1, "Rules for the Construction of Nuclear Power Plant Components," and Section XI, Division 1, "Rules for Inservice Inspection of Nuclear Power Plant Components," of the ASME Boiler and Pressure Vessel Code.

Some of the changes effected in the addenda which are incorporated by this rule are:

1. Article NCA-9000, "Glossary," was added to Section III. This provides standard definitions for terms used in Section III.

2. Paragraph IWB-2413, "Inspection Program for Steam Generator Tubing," of Section XI was revised. The ASME Boiler and Pressure Vessel Code has deferred its requirements for the examination of steam generator tubing to the requirements contained in the NRC plant Technical Specifications.

3. Paragraph IWB-3112 of Section XI was revised to make the acceptance standards of Section III and the preservice acceptance standards of Section XI more compatible. Paragraph IWB-3112 permits flaws that are identified as construction flaws to be evaluated according to Articles NB-2500 and NB-5300, provided that the flaws were detected during the inspections conducted during construction and were recorded. If the preservice examination indicates the flaws exceed the requirements of Articles NB-2500, NB-5300, and Table IWB-3410-1, the component will be considered unacceptable for service.

4. Subsection IWE, "Requirements for Class MC Components of Light-Water Cooled Power Plants," was added to Section XI by these addenda. However, 10 CFR § 50.55a presently only incorporates those portions of Section XI that address the ISI requirements for Class 1, 2, and 3 components and their supports. The regulation does not currently address the ISI of containments. Since this amendment is only intended to update current regulatory requirements to include the latest Code addenda, the requirements of Subsection IWE are not imposed upon Commission licensees by this amendment. The applicability of Subsection IWE will be considered separately.

Interested persons were invited to submit written comments for consideration in connection with the proposed amendment by September 27, 1982. No comments were received. The Commission is adopting the proposed amendment with a minor editorial revision to accommodate the incorporation by reference of the ASME Code.

Paperwork Reduction Act Statement

Pursuant to the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511), the NRC has made a determination that this proposed rule does not impose new or impact existing information collection requirements.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission hereby certifies that this rule will not have a significant economic impact on a substantial number of small entities. This rule affects only the licensing and operation of nuclear power plants. The companies that own these plants do not fall within the scope of the definition of "small entities" set forth in the Regulatory Flexibility Act or the Small Business Size Standards set out in regulations issued by the Small Business Administration at 13 CFR Part 121. Since these companies are dominant in their service areas, this rule does not fall within the purview of the Act.

List of Subjects in 10 CFR Part 50

Antitrust, Classified information, Fire prevention, Incorporation by reference, Intergovernmental relations, Nuclear power plants and reactors, Penalty, Radiation protection, Reactor siting criteria, Reporting requirements.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and sections 552 and 553 of title 5 of the United States Code, the following amendments to Title 10, Chapter 1, Code of Federal Regulations, Part 50 are published as a document subject to codification.

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

1. The authority citation for Part 50 continues to read as follows:

Authority: Secs. 103, 104, 161, 182, 183, 189, 68 Stat. 936, 937, 948, 953, 954, 955, 956, as amended Sec. 234, 83 Stat 1244, as amended (42 U.S.C. 2133, 2134, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, 202, 206, 88 Stat. 1243, 1244, 1246 as amended (42 U.S.C. 5841, 5842, 5846), unless otherwise noted.

Section 50.7 also issued under Pub. L. 95-601, Sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 50.78 also issued under sec. 122, 68

Stat. 939 (42 U.S.C. 2152). Sections 50.80–50.81 also issued under sec. 184, 68 Stat. 954, as amended; (42 U.S.C. 2234). Sections 50.100–50.102 also issued under sec. 186, 68 Stat. 955; (42 U.S.C. 2236).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273), §§50.10(a), (b), and (c), 50.44, 50.46, 50.48, 50.54, and 50.80(a) are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); §§ 50.10(b) and (c) and 50.54 are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§ 50.55(e), 50.59(b), 50.70, 50.71, 50.72, and 50.78 are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. In § 50.55a, paragraph (b)(1), the introductory text of paragraph (b)(2), and footnotes 3 and 7 are revised to read as follows:

§ 50.55a Codes and standards.

* * * * *

(b)* * *

(1) As used in this section, references to Section III of the ASME Boiler and Pressure Vessel Code refer to Section III, Division 1, and include editions through the 1980 Edition and addenda through the Winter 1981 Addenda.

(2) As used in this section, references to Section XI of the ASME Boiler and Pressure Vessel Code refer to Section XI, Division 1 and include editions through the 1980 Edition and addenda through the Winter 1981 Addenda, subject to the following limitations and modifications:

* * * * *

[3] Copies may be obtained from the American Society of Mechanical Engineers, United Engineering Center, 345 East 47th St., New York, NY 10017. Copies are available for inspection at the Commission's Technical Library, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland.

* * * * *

[7] For purposes of this regulation the proposed IEEE 279 became "in effect" on August 30, 1968, and the revised issue IEEE 279–1971 became "in effect" on June 3, 1971. Copies may be obtained from the Institute of Electrical and Electronics Engineers, United Engineering Center, 345 East 47th St., New York, NY 10017. Copies are available for inspection at the Commission's Technical Library, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland.

Dated at Bethesda, Maryland this 29, day of December 1982.

For the Nuclear Regulatory Commission.

William J. Dircks,

Executive Director for Operations.

[FR Doc. 83-3262 Filed 2-4-83; 8:45 am]

BILLING CODE 7590-01-M

FEDERAL RESERVE SYSTEM

12 CFR Part 212

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

12 CFR Part 26

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 348

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 563f

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 711

[Docket No. 83-7]

Management Official Interlocks

AGENCIES: Board of Governors of the Federal Reserve System, Comptroller of the Currency, Federal Deposit Insurance Corporation, Federal Home Loan Bank Board, and National Credit Union Administration.

ACTION: Final rule.

SUMMARY: The Federal Reserve Board, Comptroller of the Currency, Federal Deposit Insurance Corporation, Federal Home Loan Bank Board and National Credit Union Administration are amending their respective regulations implementing the Depository Institution Management Interlocks Act, 12 U.S.C. 3201 *et seq.*, to permit a management official of a depository organization who terminated a grandfather interlock because of a change in circumstances, as defined by the agencies, to resume the interlock for the duration of the grandfather period under the Act. The agencies are extending to such management officials the benefit of a statutory amendment to the Act, which permits management officials currently serving in grandfathered interlocks to continue such service until November 10, 1988, despite the occurrence of a change in circumstances.

EFFECTIVE DATE: The amendment is immediately effective upon publication in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Bronwen Mason (202) 452–3564 or Melanie Fein (202) 452–3594, Board of Governors of the Federal Reserve System; Rosemarie Oda (202) 447–1880, Office of the Comptroller of the Currency; Pamela E. F. LeCren (202) 389–4171, or Barbara I. Gersten (202) 389–4171, Federal Deposit Insurance Corporation; David J. Bristol (202) 377–6461 or Kenneth F. Hall (202) 377–6466, Federal Home Loan Bank Board; or Steven R. Bisker (202) 357–1030, National Credit Union Administration.

SUPPLEMENTARY INFORMATION: On December 28, 1981, Pub. L. 97–110 was signed into law amending the Depository Institution Management Interlocks Act ("Interlocks Act"), 12 U.S.C. 3201 *et seq.*, to provide that mergers, acquisitions, consolidations and the establishment of offices do not constitute changes in circumstances that require termination of grandfathered interlocks. Consequently, in a final regulation published at 47 FR 47369 (October 26, 1982) the agencies rescinded provisions which specified that those events constituted changes in circumstances requiring termination of grandfathered interlocks. This action had the effect of permitting management officials currently serving in grandfathered interlocking positions to continue such service until November 10, 1988, despite the occurrence of a merger, consolidation, acquisition or the establishment of an office.

This related final regulation allows management officials who terminate their interlocking service to resume such service. Under the rulemaking authority granted by section 209 of the Interlocks Act, 12 U.S.C. 3207, the agencies are amending their respective regulations to permit such management officials to resume their interlocking service for the duration of the grandfathered period. A management official who terminated a grandfathered interlock for some reason other than a change in circumstances enumerated in the regulations would not be permitted to resume the interlock. Similarly, any person who resigned from a grandfathered interlock or otherwise terminated such service for reasons other than a change in circumstances after enactment of the amendment would not be permitted to resume the interlocking service.

The agencies believe that this amendment is consistent with the Congressional intent underlying the statutory amendment to afford an uninterrupted grandfather period for interlocks that were in existence when the Interlocks Act was enacted. This intent was expressed in a statement during Congressional consideration of the statutory amendment that management officials would be permitted to resume interlocking service for the duration of the grandfather period. 127 Cong. Rec. S. 15309 (daily ed. Dec. 15, 1981) (remarks of Senator Garn).

Interested persons were invited to comment on the proposed regulation for thirty days from the date of publication on October 26, 1982. 47 FR 47404. Fourteen comments were received. The commenters' reaction was overwhelmingly in favor of the amendment. In response to one comment recommending a change in the language of the amendment, the agencies have clarified the reference to the former definition of change in circumstances by listing the types of transactions that were included in that phrase that no longer apply to grandfathered interlocks.

The amendments are made effective immediately pursuant to 5 U.S.C. 553(d)(1), which authorizes waiver of a delayed effective date in the case of a substantive rule which grants or recognizes an exemption or relieves a restriction.

Regulatory Flexibility Act Analysis. Pursuant to section 605(b) of the Regulatory Flexibility Act (Pub. L. No. 96-354, 5 U.S.C. 601 *et seq.*), the Board of Governors of the Federal Reserve System, the Secretary of the Treasury, the Board of Directors of the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the Board of Directors of the National Credit Union Administration certify that the amendment will not have a significant economic impact on a substantial number of small entities. The amendment would ease the application of the existing regulations. The effect of the amendment is expected to be beneficial rather than adverse and small entities are generally expected to share the benefits of the amendment equally with larger institutions.

Regulatory Impact Analysis. Pursuant to Section 3(g)(1) of Executive Order 12291 of February 17, 1981, it has been determined that the amendment does not constitute a major rule within the meaning of Section 1(b) of the Executive Order. The amendment eases restrictions imposed by regulations implementing the Depository Institution Management Interlocks Act, 12 U.S.C. 3201 *et seq.*, and would have no adverse effect on the operations of the depository institutions subject to it. As such, the amendment would not have an annual effect on the economy of $100 million or more, would not affect cost or prices for consumers, individual industries, government agencies or geographic regions, and would not have adverse effects on competition, employment, investment, productivity, or on the ability of United States based enterprises to compete with foreign based enterprises in domestic or export markets.

List of Subjects

12 CFR Part 26

National banks, Management official interlocks.

12 CFR Part 212

Antitrust, Holding companies.

12 CFR Part 348

Antitrust, Banks, Banking, Federal Deposit Insurance Corporation, Holding companies.

12 CFR Part 563f

Antitrust, Savings and loan associations.

12 CFR Part 711

Antitrust, Credit unions.

Accordingly, pursuant to their respective authority under section 209 of the Depository Institution Management Interlocks Act (12 U.S.C. 3207), the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the National Credit Union Administration amend 12 CFR by amending Parts 212, 26, 348, 563f, and 711, respectively, as follows:

Federal Reserve System

PART 212—[AMENDED]

12 CFR Part 212 is amended as follows:

1. The authority citation for Part 212 reads as follows:

Authority: 12 U.S.C. 3201 *et seq.*

2. Section 212.5 is amended by revising it as follows:

§ 212.5 Grandfathered interlocking relationships.

A person whose interlocking service in a position as a management official of two or more depository organizations began prior to November 10, 1978, and was not immediately prior to that date in violation of Section 8 of the Clayton Act (15 U.S.C. 19) is not prohibited from continuing to serve in such interlocking positions until November 10, 1988. Any management official who has been required to terminate or who has terminated service in one or more such interlocking positions as a result of a merger, acquisition, consolidation, or establishment of an office that formerly was defined as a change in circumstances in 12 CFR 212.6(a) (1981) is not prohibited from continuing or resuming such service until November 10, 1988.

By order of the Board of Governors of the Federal Reserve System, effective January 19, 1983.

William W. Wiles,

Secretary of Board.

Comptroller of the Currency

PART 26—[AMENDED]

12 CFR Part 26 is amended as follows:

1. The authority citation for Part 26 reads as follows:

Authority: Depository Institution Management Interlocks Act, 92 Stat. 3672 (12 U.S.C. 3201 *et seq.*).

2. Section 26.5 is revised to read as follows:

§ 26.5 Grandfathered interlocking relationships.

A person whose interlocking service in a position as a management official of two or more depository organizations began prior to November 10, 1978, and was not immediately prior to that date in violation of Section 8 of the Clayton Act (15 U.S.C. 19) is not prohibited from continuing to serve in such interlocking positions until November 10, 1988. Any management official who has been required to terminate or who has terminated service in one or more such interlocking positions as a result of a merger, acquisition, consolidation or establishment of offices that was formerly defined as a change in circumstances in 12 CFR 26.6(a) (1981) is not prohibited from continuing or resuming such service until November 10, 1988.

Dated: January 6, 1983.

C. T. Conover,

Comptroller of the Currency.

Federal Deposit Insurance Corporation

PART 348—[AMENDED]

12 CFR Part 348 is amended as follows:

1. The authority citation for Part 348 reads as follows:

Authority: Sec. 209, Pub. L. No. 95-630, 92 Stat. 3675 (12 U.S.C. 3207).

2. Section 348.5 is amended by revising it to read as follows:

§ 348.5 Grandfathered interlocking relationships.

A person whose interlocking service in a position as a management official of two or more depository organizations began prior to November 10, 1978, and was not immediately prior to that date in violation of section 8 of the Clayton Act (15 U.S.C. 19) is not prohibited from continuing to serve in such interlocking

positions until November 10, 1988. Any management official who has been required to terminate or who has terminated service in one or more such interlocking positions as a result of a merger, acquisition, consolidation or establishment of offices that was formerly defined as a change in circumstances in 12 CFR 348.6(a) (1981) is not prohibited from continuing or resuming such service until November 10, 1988.

By Order of the Board of Directors of the Federal Deposit Insurance Corporation this 24th day of January 1983.

Hoyle L. Robinson,

Executive Secretary.

Federal Home Loan Bank Board

PART 563f—[AMENDED]

Revise § 563f.5, to read as follows:

§ 563f.5 Grandfathered interlocking relationships.

A person whose interlocking service in a position as a management official of two or more depository organizations began prior to November 10, 1978, and was not immediately prior to that date in violation of section 8 of the Clayton Act (15 U.S.C. 19) is not prohibited from continuing to serve in such interlocking positions until November 10, 1988. Any management official who has been required to terminate or who has terminated service in one or more such interlocking positions as a result of a merger, acquisition, consolidation or establishment of offices that was formerly defined as a change in circumstances in 12 CFR 563f.6(a) (1981) is not prohibited from continuing or resuming such service until November 10, 1988.

(Pub. L. No. 95-630 (12 U.S.C. 3201 *et seq., as amended by* International Banking Facility Deposit Insurance Act, Pub. L. No. 97-110, section 302 (December 26, 1981)); Reorg. Plan No. 3 of 1947; 3 CFR, 1943-1948 comp., p. 1071)

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

National Credit Union Administration

PART 711—[AMENDED]

12 CFR Part 711 is amended as follows:

1. The authority citation for Part 711 reads as follows:

Authority: Sec. 209, Pub. L. No. 95-630, Stat. 3672 (12 U.S.C. 3207).

2. Section 711.5 is amended by revising it as follows:

§ 711.5 Grandfathered interlocking relationships.

A person whose interlocking service in a position as a management official of two or more depository organizations began prior to November 10, 1978, and was not immediately prior to that date in violation of Section 8 of the Clayton Act (15 U.S.C. 19) is not prohibited from continuing to serve in such interlocking positions until November 10, 1988. Any management official who has been required to terminate or who has terminated service in one or more such interlocking positions as a result of a merger, acquisition, consolidation or establishment of offices that was formerly defined as a change in circumstances in 12 CFR 711.6(a) (1981) is not prohibited from continuing or resuming such service until November 10, 1988.

Dated: January 25, 1983.

Rosemary Brady,

Secretary, National Credit Union Administration Board.

[FR Doc. 83-3296 Filed 2-4-83; 8:45 am]

BILLING CODES 6210-01-M, 4810-33-M, 6714-01-M, 7535-01-M, 6720-01-M

12 CFR Part 265

[Docket No. R-0452]

Rules Regarding Delegation of Authority

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: In order to expedite and facilitate the performance of certain of its functions, the Board of Governors has delegated to the Federal Reserve Banks the authority to grant permission to member banks and certain United States branches and agencies of foreign banks to create bankers' acceptances of the type described in 12 U.S.C. 372 up to 200 per cent of capital stock and surplus. The Board has specified certain factors the Reserve Banks should take into account in considering requests for such permission.

DATE: Effective February 1, 1983.

FOR FURTHER INFORMATION CONTACT: Gilbert T. Schwartz, Associate General Counsel (202/452-3625), or Robert G. Ballen, Attorney (202/452-3265), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: Section 207 of the Bank Export Services Act (Title II of Pub. L. 97-290) ("BESA") provides that a member bank or a Federal or State branch or agency in the United States whose parent foreign bank has, or is controlled by a foreign company or companies that have, more than $1 billion in total worldwide consolidated bank assets, may accept drafts or bills of exchange drawn upon it of the type described in that section in the aggregate up to 150 per cent of its paid up and unimpaired capital stock and surplus and, with the permission of the Board, up to 200 per cent of its paid up and unimpaired capital stock and surplus (12 U.S.C. 372).

The Board has amended its Rules Regarding Delegation of Authority to authorize the Federal Reserve Banks to grant permission to a member bank or a U.S. branch or agency of the type described above to accept drafts or bills of exchange of the type described in 12 U.S.C. 372 in an aggregate amount up to 200 per cent of its capital and surplus. (For purposes of considering applications from U.S. branches and agencies of foreign banks, the identity of the parent foreign bank is the same as for reserve requirement purposes. Accordingly, the parent of the U.S. branch or agency would be the bank entity that owns the branch or agency most directly.) The Reserve Banks may grant such permission after giving consideration to the institution's capitalization in relation to the character and condition of its assets, liabilities and other corporate responsibilities, including the volume of its risk assets and of its marginal and inferior quality assets, all considered in relation to the strength of its management.

Reserve Banks are not to consider a request for permission to accept such drafts or bills of exchange up to 200 per cent of capital and surplus unless the institution requesting such permission plans to make use of it in the reasonably near future, which generally would be no more than twelve months. The Board reserves the right to withdraw such permission if changes in circumstances warrant. In addition, Reserve Banks should use the occasion of the consideration of requests for permission to accept bankers' acceptances up to 200 per cent of capital to encourage banks to increase their capital.

In this connection, the Board determined that Reserve Banks should consider the following factors in evaluating requests for permission to create bankers' acceptances of the type described in 12 U.S.C. 372 up to 200 per cent of capital and surplus:

(1) The reasons why the expanded authority is being requested, including a quantification of the extent to which the general authority in section 13 of the

Federal Reserve Act has been used to date (including the type, tenor and general quality of acceptances issued by the Applicant and participations purchased by the Applicant that are currently outstanding) and Applicant's plans for implementation of the expanded acceptance authority over time.

(2) An assessment of the financial condition of the Applicant, including an evaluation of the Applicant's capital position in relation to the character and conditions of its assets and to its deposit liabilities and other corporate responsibilities, including the volume of its risk assets and of its marginal and inferior quality assets.

(3) Projected growth and sources of capital of the Applicant over the next 12 months.

(4) An assessment of management strengths and weaknesses of the Applicant.

The provisions of sections 553 and 604 of Title 5, United States Code, relating to notice, public participation, deferred effective date, and regulatory flexibility analysis are not followed in connection with these matters because the delegation is procedural in nature.

List of Subjects in 12 CFR Part 265

Authority delegations (Government agencies), Banks, banking, Federal Reserve System.

PART 265—[AMENDED]

Pursuant to its authority under section 11(k) and the seventh paragraph of section 13 of the Federal Reserve Act (12 U.S.C. 248(k) and 372), the Board of Governors amends its Rules Regarding Delegation of Authority (12 CFR Part 265) effective February 1, 1983, by revising paragraph (f)(6) of § 265.2 to read as follows:

§ 265.2 Specific functions delegated to board employees and to Federal Reserve Banks.

* * * * *

(f) * * *

(6) Under the provisions of the seventh paragraph of section 13 of the Federal Reserve Act (12 U.S.C. 372), to permit a member bank or a Federal or State branch or agency of a foreign bank that is subject to reserve requirements under section 7 of the International Banking Act of 1978 (12 U.S.C. 3105) to accept drafts or bills of exchange in an aggregate amount at any one time up to 200 per cent of its paid up and unimpaired capital stock and surplus, if the Reserve Bank is satisfied that such permission is warranted after giving consideration to the institution's capitalization in relation to the character and condition of its assets and to its deposit liabilities and other corporate responsibilities, including the volume of its risk assets and of its marginal and inferior quality assets, all considered in relation to the strength of its management.

* * * * *

By order of the Board of Governors, February 1, 1983.

William W. Wiles,

Secretary of the Board.

[FR Doc. 83-3209 Filed 2-4-83; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 82-NM-61-AD; Amdt. 39-4561]

Airworthiness Directives: Boeing Model 727 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This Amendment adds a new Airworthiness Directive (AD) which requires inspection and repair, if necessary, of the forward entry doorway forward frame on certain Boeing Model 727 series airplanes. The AD is prompted by numerous reports of fatigue cracks originating in the frame web. This action is necessary to ensure the structural integrity of the forward entry doorway.

DATES: Effective March 11, 1983.

ADDRESSES: The applicable service bulletins may be obtained upon request from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. This information also may be examined at the Federal Aviation Administration, Northwest Mountain Region, Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Don Gonder, Airframe Branch, ANM-120S, at FAA, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 767-2516. Mailing Address: Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an AD requiring the inspection and repair, as necessary, of the forward entry doorway forward frame on certain Boeing Model 727 series airplanes was published in the **Federal Register** on August 23, 1982 (47 FR 36652). The comment period for the proposal closed on October 22, 1982.

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

The Air Transport Association of America (ATA) commenting on behalf of its member operators requested that the comment period be extended to February 22, 1983. ATA stated that this would give industry and the FAA time to review the B727 Supplemental Structural Inspection Document (SSID) presently in development. The FAA does not concur. It has been previously established and is well documented that the structural details covered by the SSID include only those details for which there are no known fatigue cracking histories. The fatigue cracking history of the forward entry doorway forward frame is well established. As such, the inspection of the affected frame will not be included in the SSID.

The manufacturer commented that a revision of Service Bulletin No. 727-53-153 to include repair instructions as terminating action was being prepared for release in the fourth quarter of 1982. It was suggested that the proposed AD be revised to state that repair in accordance with the planned service bulletin revision constitutes terminating action for the required inspections. The FAA concurs that this would not have an adverse impact on safety and would be in the public interest. Therefore, the AD as adopted, includes repair in accordance with Boeing Service Bulletin No. 727-53-153, Revision 2, as terminating action.

The manufacturer also stated that the applicable service bulletin allows for the use of any nondestructive test (NDT) procedure deemed adequate by the operator in lieu of visual inspection and that the AD does not. It was suggested that Paragraph G. of the NPRM be revised to authorize FAA Principal Maintenance Inspectors (PMI) to make approvals for the use of NDT procedures. The FAA does not concur. The evaluation of NDT techniques and reinspection intervals requires the use of engineering technology which may not be available to PMIs.

Paragraph G. of the NPRM allows for the use of an alternate means of compliance when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

Two commentors requested that an NDT alternative to the manufacturer's published visual procedure be included

in the AD. Since the manufacturer does not currently recommend a specific NDT procedure or an appropriate reinspection interval, the FAA can only review such proposals on an individual basis in accordance with Paragraph F. of the AD.

Several comments received requested that credit be given for inspections accomplished prior to the effective date of the AD. This is already provided for by the compliance paragraph which states compliance is required as indicated unless already accomplished.

Comments were also received from airline operators that the initial inspection times and the reinspection intervals were either too conservative or were not concurrent with their normal maintenance times. Several of those commentors stated that their findings to date do not indicate that the proposed times are warrented. The FAA does not concur. Service history of the earliest reported cracks supports the initial inspection threshold. Although, in general the initial inspection threshold cannot be changed, the Paragraph F. of the AD provides for the adjustment of the initial threshold and the repeat interval.

Approximately 834 airplanes of U.S. registry are affected by this AD. It is estimated that the required inspections will take approximately 45 manhours and that the average labor cost is $40 per manhour. Based on these figures, the total cost is estimated not to exceed $1,503,000 per inspection cycle. For these reasons the AD is not considered to be a major rule under the criteria of Executive Order 12291. Few, if any, small entities within the meaning of the Regulatory Flexibility Act will be affected.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and public interest require the adoption of the proposed rule with the changes previously noted.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

Boeing: Applies to Model 727 series airplanes certificated in all categories listed in Boeing Service Bulletin No. 727–53–153, Rev. 1, or later FAA approved revisions.

Compliance required as indicated unless already accomplished.

To ensure the structural integrity of the forward entry doorway forward frame, accomplish the following:

A. Visually inspect the forward entry doorway forward frame for cracks in accordance with Boeing Service Bulletin No. 727–53–153, dated February 1, 1980, or later FAA approved revisions at the following times:

1. Within the next 1850 landings after the effective date of the AD, or prior to accumulating 25,000 landings, whichever occurs later; and

2. Repeat the inspection at intervals not to exceed 3,700 landings.

B. Any cracked structure is to be repaired prior to further flight in accordance with Boeing Service Bulletin No. 727–53–153, dated February 1, 1980, or later FAA approved revisions. Repair in accordance with Revision 2 or latter FAA approved revisions, of the above service bulletin constitutes terminating action for the requirements of this AD.

C. Modification in accordance with Boeing Service Bulletin No. 727–53–153, dated February 1, 1980, or later FAA approved revisions, constitutes terminating action for the requirements of this AD.

D. Aircraft may be ferried to a maintenance base for repair in accordance with FAR 21.197 and 21.199.

E. For the purpose of this AD, and when approved by an FAA maintenance inspector, the number of landings may be computed by dividing each airplane's time in service by the operator's fleet average time from takeoff to landing for the aircraft type.

F. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may also be examined at the FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

This amendement becomes effective March 11, 1983.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—For the reasons discussed earlier in the preamble, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). It is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities since it involves few, if any, small entities. A final evaluation has been prepared for this regulation and has been placed in the docket. A copy of it may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Seattle, Washington on January 26, 1983.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 83-3126 Filed 2-4-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 82-NM-127-AD; Amdt. 39-4547]

Airworthiness Directives: CASA Model 212 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new Airworthiness Directive (AD) applicable to CASA 212 series airplanes which requires the replacement of the existing paper fuel ejector filter with a larger metal filter. Several incidents of fuel line blockage have occurred when ice accumulated, blocking the filter. This resulted in the loss of engine power. Loss of engine power during flight could result in the loss of the airplane.

DATE: Effective February 7, 1983.

ADDRESSES: The service bulletin specified in this AD may be obtained upon request to Constructiones Aeronauticas S.A., Getafe, Madrid, Spain or may be examined at the address shown below.

FOR FURTHER INFORMATION CONTACT: Mr. H. N. Wantiez, P.E., Foreign Aircraft Certification Branch, ANM-150S, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 767-2530. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: The Instituto Nacional de Techica Aerospacial (INTA) has classified CASA Service Bulletin 212-28-19 dated December 14, 1982 as mandatory. This service bulletin requires the removal of the existing fuel ejector paper filter and the installation of a 70-50 micron metal filter. Several incidents of fuel line blockage have occurred which resulted in the loss of engine power during flight. In order to prevent this from happening, the INTA, which is the civil aviation authority for Spain, is requiring the filter system modification.

This airplane model is manufactured in Spain and type certificated in the United States under the provisions of Section 21.29 of the Federal Aviation Regulations and the applicable airworthiness bilateral agreement.

Since this condition is likely to exist or develop on airplanes of this model registered in the United States, the FAA has determined that an AD is necessary which requires the previously mentioned modification.

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

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

CASA: Applies to all CASA 212 series airplanes certificated in all categories. Compliance required within the next 300 hours time in service or 60 days after the effective date of this AD, whichever occurs first.

To prevent fuel line blockage accomplish the following unless already accomplished:

1. Modify the ejector fuel filter system in accordance with CASA Service Bulletin 212-28-19 dated December 1982.

2. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

3. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

This amendment becomes effective February 7, 1983.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT."**

Issued in Seattle, Washington, on January 17, 1983.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc 83-3125 Filed 2-4-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 82-NM-123-AD; Amdt. 39-4545]

Airworthiness Directives: McDonnell Douglas Model DC-8-70 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new Airworthiness Directive (AD) which requires inspection and replacement, if necessary, of the countersunk washers and bolts which attach the thrust reverser halves to the pylon of DC-8-70 series airplanes. Loose and missing bolts have been discovered in service. This AD is necessary to detect incorrectly installed countersunk washers and damaged, loose, or missing bolts which could result in loss of the thrust reverser from the airplane.

DATE: Effective February 7, 1983. Compliance schedule as prescribed in the body of the AD, unless already accomplished.

ADDRESSES: The applicable service information may be obtained from: McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, CI-750 (54-60). This information also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington or 4344 Donald Douglas Drive, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Michael E. O'Neil, Aerospace Engineer, Air-frame Branch, ANM-122L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808, telephone (213) 548-2828.

SUPPLEMENTARY INFORMATION: During normal maintenance, one operator discovered a missing thrust reverser hinge attach bolt at the forward hinge of the thrust reverser. Examination of the remaining hinges revealed loose attach bolts at all four pylons. Subsequent investigation of another DC-8-71 disclosed a similar situation. It was determined that the loose bolts were caused by incorrect installation of the countersunk washers under the heads of the thrust reverser hinge attach bolts. The manufacturer has issued an alert service bulletin recommending inspection of the countersunk washers and bolts to determine proper installation.

Since this situation is likely to exist or develop on other airplanes of the same type design, this AD requires a one-time inspection of the thrust reverser hinge attach bolts to determine the proper installation of the countersunk washers and to replace incorrectly installed washers and their respective bolts.

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

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

McDonnell Douglas: Applies to McDonnell Douglas Model DC-8-70 series airplanes, certificated in all categories. Compliance required as indicated, unless previously accomplished.

To prevent possible loss of the thrust reverser from the aircraft, accomplish the following:

A. Within 300 hours time in service after the effective date of this AD, gain access to the thrust reverser hinge attach bolts, remove bolts and inspect for proper installation of countersunk washers and re-install or replace, if necessary, in accordance with the Accomplishment Instructions in McDonnell Douglas DC-8-70 Alert Service Bulletin A54-83, Revision 1, dated December 2, 1982, or later revisions approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

B. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to base for the accomplishment of inspection/modifications required by this AD.

C. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Los

Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, Cl-750 (54-60). These documents also may be examined at FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington or Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California.

This Amendment becomes effective February 7, 1983.

(Sec. 313(a), 601, and 603 of the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATON CONTACT."

Issued in Seattle, Washington on January 17, 1983.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 83-3124 Filed 2-4-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR 39

[Docket No. 82-NM-124-AD; Amdt. 39-4544]

Airworthiness Directives: McDonnell Douglas Model DC-8-70 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new Airworthiness Directive (AD) which requires replacement of all engine exhaust nozzle plug splice attachment screws on McDonnell Douglas Model DC-8-70 series airplanes. One incident has been reported of the separation of the exhaust plug from the airplane in flight. This action is necessary to prevent similar incidents.

DATES: Effective date February 7, 1983. Compliance schedule as prescribed in the body of the AD, unless already accomplished.

ADDRESSES: The applicable service information may be obtained from: McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, Cl-750 (54-60). This information also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or 4344 Donald Douglas Drive, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Stephen Kolb, Aerospace Engineer, Propulsion Branch, ANM-140L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808, telephone (213) 548-2835.

SUPPLEMENTARY INFORMATION: Twelve instances of loose or missing attachment screws of the exhaust nozzle plug splice joint have been reported. In one incident the exhaust nozzle plug separated from an engine in flight. Investigation revealed that a tolerance buildup can result at the splice joint and could cause the shanks of the attachment screws to bottom out prior to clamp up. Installation of shorter grip length screws will minimize the potential for exhaust plug separation. A hazard exists if a plug separation should occur over a populated area.

Since this situation is likely to exist or develop on other airplanes of the same type design, this AD requires replacement of the exhaust plug splice joint attachment screws.

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

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

McDonnell Douglas: Applies to McDonnell Douglas Model DC-8-70 series airplanes, certificated in all categories. Compliance required as indicated, unless previously accomplished.

To prevent separation of the exhaust nozzle plug, accomplish the following within 300 flight hours after the effective date of this AD:

A. Replace all NAS560XK4-5 screws with NAS560XK4-4 screws and check for running torque at the exhaust plug splice in accordance with McDonnell Douglas DC-8-70 Alert Service Bulletin A78-107, dated November 30, 1982, or later revisions approved by the Manager, Los Angeles, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

B. Replace all nut plates not meeting the minimum run down torque of five-inch pounds.

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

D. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, Cl-750-54-60). These documents also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California.

This amendment becomes effective February 7, 1983.

(Sec. 313(a), 601, and 603 Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note:—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major

regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, and evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Seattle, Washington on January 17, 1983.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 83-3123 Filed 2-4-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-ASO-10]

Alteration and Designation of Control Zone and Transition Area, Fort Myers, Florida

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule

SUMMARY: This amendment alters the Fort Myers, Florida, control zone and transition area by lowering the base of controlled airspace southeast of Page Field. A new airport, Southwest Florida Regional Airport, has been established approximately eight miles southeast of Page Field and is scheduled to become operational on May 1, 1983. Conduct of aeronautical activities at the new airport necessitates the designation of additional controlled airspace for containment of Instrument Flight Rule (IFR) operations.

EFFECTIVE DATE: 0901 G.M.T., April 14, 1983.

FOR FURTHER INFORMATION CONTACT: Donald Ross, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763-7646

SUPPLEMENTARY INFORMATION:

History

On Thursday, April 1, 1982, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by increasing the size of the Fort Myers control zone and transition area to provide controlled airspace for containment of IFR operations at the new Southwest Florida Regional Airport (47 FR 13834). In order to provide the maximum level of safety, designated airspace protection to the surface is required to contain IFR operations in the vicinity of the new airport.

Subsequent to publication of the proposal, the FAA decided that two separate control zones, one to serve each airport, would provide for a more efficient utilization of airspace. Accordingly, rather than include the new airport within the Page Field control zone as originally proposed, a new control zone will be established around Southwest Florida Regional Airport. This action will not result in the designation of airspace in addition to that proposed in the original notice.

This modification to the original proposal will slightly increase the radio communications burden on pilots operating in the vicinity of Fort Myers. In addition to having to be cognizant of their aircrafts' positions with respect to two control zones, pilots must be aware that there are two air traffic control towers with which they may be required to communicate. This situation is not uncommon in many metropolitan areas throughout the nation and cannot be avoided in most instances where there are two or more controlled airports located near each other.

The slightly increased communications workload imposed on pilots by this modification is not so significant that republication of this airspace action is considered necessary. The opening of the new airport, with the resultant benefits to the aeronautical public, outweighs the minor inconvenience incurred by the establishment of two control zones rather than one.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. All comments received in response to the original publication were favorable.

Sections 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations were republished in Advisory Circular AC 70-3A dated January 3, 1983.

Rule

This amendment to Part 71 of the Federal Aviation Regulations increases the size of the Fort Myers transition area, designates the Fort Myers Southwest Regional Airport control zone and alters the description of the Fort Myers Page Field control zone to preclude an overlap of the new control zone.

List of Subjects in 14 CFR Part 71

Aviation safety, Airspace, Control zone, Transition area.

Adoption of the Amendment

PART 71—[AMENDED]

§71.181 [Amended]

Accordingly, pursuant to the authority delegated to me, §71.171 and §71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) (as amended) are further amended, effective 0901 G.m.t., April 14, 1983, as follows:

Fort Myers Page Field, FL [Revised]

By amending 71.171 in the description of the Fort Myers, FL control zone by adding the following words to the end of the present text, ". . . Excluding that portion that coincides with Fort Myers Southwest Florida Regional Airport . . .".

Fort Myers Page Field, FL [Revised]

By amending 71.181 in the description of the Fort Myers, FL transition area by deleting the words, ". . . northeast of the VORTAC . . ." and substituting for them the words ". . . northeast of the VORTAC; within an 8.5-mile radius of Southwest Florida Regional Airport (Lat. 26°32'10"N., Long. 81°45'18"W.) . . .".

Fort Myers Southwest Florida Regional Airport, FL [New]

By amending 71.171 by adding the following, ". . . Within a 5-mile radius of Southwest Florida Regional Airport (Lat. 26°32'10"N., Long. 81°45'18"W.); excluding that portion which lies 3.5 miles north of and parallel to the extended centerline of Runway 6/24. This control zone is effective during the specific days and times established in advance by a Notice to Airmen. The effective days and times will thereafter be continuously published in the Airport/Facility Directory . . .".

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

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

Issued in East Point, Georgia, on January 24, 1983.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 83-3122 Filed 2-4-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-ASO-54]

Alteration of Terminal Control Area, Miami, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action alters the Miami, FL, Terminal Control Area (TCA) by raising the floor of the TCA from 1,500 feet mean sea level (MSL) to 2,000 feet MSL in an area west of the Opa Locka Airport. This action reduces the size of the Miami TCA which will allow aircraft conducting the Opa Locka ILS Runway 9L approach to avoid TCA airspace and thus be relieved of Federal aviation regulation (FAR) Part 91.90(a) requirements.

EFFECTIVE DATE: March 17, 1983.

FOR FURTHER INFORMATION CONTACT: Bill Hill, Airspace Regulations and Obstructions Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION:

History

On November 4, 1982 (47 FR 49979), the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the Miami TCA by raising the floor of the TCA from 1,500 feet MSL to 2,000 feet MSL in an area west of the Opa Locka Airport. The original configuration of the Miami TCA required aircraft conducting an ILS approach to the Opa Locka Airport to briefly penetrate the TCA. They were also subject to operating and equipment rules for operation in a Group I TCA specified in § 91.90(a) of Part 91 of the Federal Aviation Regulations. This action will raise the floor of the TCA in the affected area which will allow aircraft executing the Opa Locka ILS approach to avoid the Miami TCA. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.401 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3A dated January 3, 1983.

Rule

This amendment to Part 71 of the Federal Aviation Regulations amends the description of the Miami TCA by redefining the boundaries of Areas A and B and adding a new Area H.

List of Subjects in 14 CFR Part 71

Terminal control areas.

Adoption of Amendment

Accordingly, pursuant to the authority delegated to me, § 71.401 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.m.t., March 17, 1983, as follows:

By revising the descriptions of Areas A and B and adding Area H to the Miami, FL, TCA as follows:

Miami, FL, TCA [Amended]

Primary Airport

Miami International Airport (lat. 25°47'34"N., Long. 80°17'10"W.)

Boundaries

Area A. That airspace extending upward from the surface to and including 7,000 feet MSL within a 6-mile radius of the Miami International Airport, excluding that airspace that is north of lat. 25°52'02"N., (N.W. 103rd Street/49th Street in the City of Hialeah), and within and underlying Area F described hereinafter.

Area B. That airspace extending upward from 1,500 feet MSL to and including 7,000 feet MSL within a 10-mile radius of Miami International Airport, excluding that airspace that is north of 1at. 25°52'02"N., that airspace south of Biscayne Bay VORTAC (lat. 25°40'17"N., long. 80°10'40"W.) 090° and 270° radials, Area A previously described, and within and underlying Areas C and F described hereinafter.

Area H. That airspace extending upward from 2,000 feet MSL to and including 7,000 feet MSL bounded on the northeast by the Miami VORTAC 130° radial, on the south by lat. 25°52'02"N., and on the northwest by a 10-mile radius arc of the Miami International Airport

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655 (c)); and 14 CFR 1169.)

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

Issued in Washington, D.C., on February 2, 1983.

L. Lane Speck,

Acting Director, Air Traffic Service.

[FR Doc. 83-3222 Filed 2-4-83; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 97

[Docket No. 23515; Amdt. No. 1235]

Air Traffic and General Operating Rules; Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATE: An effective date for each SIAP is specified in the amendatory provisions.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Information Center (APA-430), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendant of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

FOR FURTHER INFORMATION CONTACT: Donald K. Funai, Flight Procedures and Airspace Branch (AFO-730), Aircraft Programs Division, Office of Flight

Operations, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. § 522(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260-3, 8260-4 and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at lest 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, or contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

List of Subjects in 14 CFR Part 97

Approaches, Standard instrument, Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.m.t. on the dates specified, as follows:

PART 97—[AMENDED]

§ 97.23 [Amended]

1. By amending § 97.23 VOR-VOR/DME SIAPs identified as follows:

. . . Effective April 14, 1983

Hot Springs, AR—Memorial Field, VOR-1, Rwy 5, Amdt. 13

Hot Springs, AR—Memorial Field, VOR-2, Rwy 5, Amdt. 1

. . . Effective March 31, 1983

Macomb, IL—Macomb Muni, VOR/DME-A, Amdt. 3

Ashland, OH—Ashland County, VOR-A, Amdt. 3

Cable, WI—Cable Union, VOR/DME-A, Amdt. 3

Richland Center, WI—Richland, VOR-A, Amdt. 2

. . . Effective March 17, 1983

Burbank, CA—Burbank-Glendale-Pasadena, VOR Rwy 7, Amdt. 6

Lancaster, CA—General Wm. J. Fox Airfield, VOR-B, Amdt. 1

Santa Ana, CA—John Wayne Airport-Orange County, VOR Rwy 19R, Amdt. 21

Lakeland, FL—Lakeland Muni, VOR Rwy 13, Amdt. 2

Lake Wales, FL—Lake Wales Muni, VOR/DME-B, Amdt. 2

Miami, FL—Miami Intl, VOR Rwy 30, Amdt. 5

Rome, GA—Richard B Russell, VOR/DME- Rwy 18, Amdt. 3

Rome, GA—Richard B Russell, VOR/DME- Rwy 36, Amdt. 4

Galesburg, IL—Galesburg Muni, VOR Rwy 2, Amdt. 2

Galesburg, IL—Galesburg Muni, VOR Rwy 20, Amdt. 2

Kankakee, IL—Greater Kankakee, VOR Rwy 22, Amdt. 4

Picayune, MS—Picayune Pearl River County, VOR-A, Amdt. 9

Mexico, MO—Mexico Memorial, VOR/DME-A, Amdt. 4

Butte, MT—Bert Mooney, VOR/DME-A, Amdt. 2

Washington, NC—Warren Field, VOR/DME Rwy 5, Amdt. 1

Urbana, OH—Grimes Field, VOR-A, Amdt. 1

Chambersburg, PA—Chambersburg Muni, VOR/DME-A, Amdt. 1

Pottsville, PA—Schuylkill County (Joe Zerbey), VOR Rwy 4, Amdt. 3

West Chamber, PA—Brandywine, VOR-A, Original

St George, SC—St George Muni, VOR/DME-A, Original

Chattanooga, TN—Lovell Field, VOR Rwy 33, Amdt. 14

Christiansted, St. Croix, VI—Alexander Hamilton, VOR Rwy 27, Amdt. 18

. . . Effective February 17, 1983

Lakeville, MN—Airlake Industrial Park, VOR-A, Original

. . . Effective January 20, 1983

Brainerd, MN—Brainerd-Crow Wing Co/Walter F. Wieland Fld, VOR/DME Rwy 12, Amdt. 5

Brainerd, MN—Brainerd-Crow Wing Co/Walter F. Wieland Fld, VOR Rwy 30, Amdt. 9

. . . Effective January 13, 1983

Marco Island, FL—Marco Island, VOR/DME Rwy 17, Amdt. 2

Note.—The FAA published an amendment in Docket No. 23501, Amdt. No., 1234 to Part 97 of the Federal Aviation Regulations (Vol 48 FR No. 16 page 2966; dated January 24, 1983) under § 97.23 effective March 17, 1983, which is hereby amended as follows: Elizabethtown, KY, Elizabethtown RNAV Rwy 5 Orig shall be removed from this § 97.23 and added to § 97.33 with same effective date of March 17, 1983.

§ 97.25 [Amended]

2. By amending § 97.25 SDF-LOC-LDA SIAPs identified as follows:

. . . Effective March 17, 1983

Chicage, IL—Chicago Midway, LOC Rwy 31L, Amdt. 9, cancelled

New Bedford, MA—New Bedford Muni, LOC BC Rwy 23, Amdt. 3

Allentown, PA—Allentown-Bethlehem-Easton, LOC BC Rwy 24, Amdt. 17

Somerset, PA—Somerset County, LOC Rwy 24, Amdt. 1

. . . Effective February 17, 1983

Bar Harbor, ME—Hancock County-Bar Harbor, LOC Rwy 22, Amdt. 3, cancelled

§ 97.27 [Amended]

3. By amending § 97.27 NDB/ADF SIAPs identified as follows:

. . . Effective April 14, 1983

Hot Springs, AR—Memorial Field, NDB Rwy 5, Amdt. 5

. . . Effective March 31, 1983

Macomb, IL—Macomb Muni, NDB Rwy 26, Amdt. 8

Houghton Lake, MI—Roscommon County, NDB Rwy 27, Amdt. 7

Ashland, OH—Ashland County, NDB Rwy 18, Amdt. 5

Cable, WI—Cable Union, NDB-B, Amdt. 7

Mineral Point, WI—Iowa County, NDB Rwy 22, Amdt. 1

. . . Effective March 17, 1983

Rome, GA—Richard B Russell, NDB-A, Amdt. 2

New Bedford, MA—New Bedford Muni, NDB Rwy 5, Amdt. 8

Alexandria, MN—Chandler Field, NDB Rwy 31, Amdt. 1

Asheville, NC—Asheville Regional, NDB Rwy 16, Amdt. 14

Asheville, NC—Asheville Regional, NDB Rwy 34, Amdt. 15

Wilmington, NC—New Hanover County, NDB Rwy 34, Amdt. 14

Pottsville, PA—Schuylkill County (Joe Zerbey), NDB Rwy 29, Amdt. 2

Somerset, PA—Somerset County, NDB Rwy 24, Amdt. 3

Newberry, SC—Newberry Muni, NDB Rwy 22, Amdt. 1

Chattanooga, TN—Lovell Field, NDB Rwy 20, Amdt. 26

Springfield, TN—Springfield Muni, NDB Rwy 21, Original

Houston, TX—Lakeside, NDB Rwy 15, Original

Houston, TX—Lakeside, NDB Rwy 15, Amdt. 2, cancelled

Houston, TX—Lakeside, NDB Rwy 33, Original

Seminole, TX—Gaines County, NDB Rwy 35, Original

Lyndonville, VT—Caledonia County, NDB Rwy 2, Amdt. 1

. . . Effective February 17, 1983

Bar Harbor, ME—Hancock County-Bar Harbor, NDB Rwy 22, Amdt. 1

San Marcos, TX—San Marcos Muni, NDB Rwy 30, Amdt. 1, cancelled

. . . Effective January 13, 1983

Middletown, DE—Summit Airpark, NDB-A, Amdt. 5

Marco Island, FL—Marco Island, NDB Rwy 35, Amdt. 2

Note.—The FAA published an amendment in Docket No. 23501, Amdt No. 1234 to part 97 of the federal aviation regulations (vol 48 FR No. 16 page 2967; Dated January 24, 1983) under § 97.27 effective March 3, 1983, which is hereby amended as follows: Providence, RI-Theodore Francis Green State, NDB Rwy 5R, Amdt. 12 is rescinded. Providence, RI-Theodore Francis Green State, NDB Rwy 5R Amdt. 11 remains in effect.

Note.—The FAA published an amendment in Docket No. 23501, Amdt No. 1234 to part 97 of the federal aviation regulations (vol 48 FR No. 16 page 2967; Dated January 24, 1983) under § 97.27 effective March 3, 1983, which is hereby amended as follows: Washington, DC—Dulles Intl. VOR/DME or Tacan Rwy 12 Amdt. 5 shall be removed from this Part 97.27 and added to part 97.23 with same effective date of March 3, 1983. Farmington, NY-Republic, VOR-A Amdt. 6 cancelled shall be removed from this Part 97.27 and added to Part 97.23 with same effective date of cancellation March 3, 1983.

§ 97.29 [Amended]

4. By amending Part 97.29 ILS-MLS SIAPs identified as follows:

. . . Effective April 14, 1983

Hot Springs, AR—Memorial Field, ILS Rwy 5, Amdt. 7

. . . Effective March 17, 1983

Ontario, CA—Ontario Int'l, ILS Rwy 26L, Amdt. 3

Santa Ana, CA—John Wayne Airport-Orange County, ILS Rwy 19R, Amdt. 10

Van Nuys, CA—Van Nuys, ILS Rwy 16R, Amdt. 2

Chicago, IL—Chicago Midway, ILS Rwy 31L, Original

Galesburg, IL—Galesburg Muni, ILS Rwy 2, Amdt. 5

Indianapolis, IN—Mt. Comfort, ILS Rwy 25, Amdt.

New Bedford, Ma—New Bedford Muni, ILS Rwy 5, Amdt. 20

Asheville, NC—Asheville Regional, ILS Rwy 16, Amdt. 1

Asheville, NC—Asheville Regional, ILS Rwy 34, Amdt. 20

Wilmington, NC—New Hanover County, ILS Rwy 34, Amdt. 18

Allentown, PA—Allentown-Bethlehem-Easton, ILS Rwy 13, Amdt. 4

Philadelphia, PA—Philadelphia Intl, ILS Rwy 17, Original

Chattanooga, TN—Lovell Field, ILS Rwy 2, Amdt. 3

Chattanooga, TN—Lovell Field, ILS Rwy 20, Amdt. 31

. . . Effective February 17, 1983

Bar Harbor, ME—Hancock County—Bar Harbor, ILS Rwy 22, Original

San Marcos, TX—San Marcos Muni, ILS Rwy 12, Original

. . . Effective November 5, 1982

Trenton, NJ—Mercer County, ILS Rwy 6, Amdt. 6

Note.—The FAA published two amendments in Docket No. 23501, Amdt No. 1234 to part 97 of the Federal Aviation Regulations (Vol 48 FR No. 16 page 2967; Dated January 24, 1983) under § 97.29 effective March 3, 1983, which is hereby amended as follows: Providence, RI—Theodore Francis Green State, ILS Rwy 5R, Amdt 10 and ILS Rwy 23L Amdt 1 are rescinded. Providence, RI—Theodore Francis Green State, ILS Rwy 5R Amdt 9 and ILS Rwy 23Y 23L orig remain in effect.

§ 97.31 [Amended]

5. By amending § 97.31 RADAR SIAPs identified as follows:

. . . Effective March 17, 1983

Tampa, FL—Tampa Intl, RADAR-1, Amdt. 9

Asheville, NC—Asheville Regional, RADAR-1, Amdt. 5

Middletown, PA—Harrisburg Intl Arpt-Olmsted Fld, RADAR-1, Amdt. 5

Chattanooga, TN—Lovell Field, RADAR-1, Amdt. 7

Green Bay, WI—Austin-Straubel Field, RADAR-1, Amdt. 5

§ 97.33 [Amended]

6. By amending § 97.33 RNAV SIAPs identified as follows:

. . . Effective March 31, 1983

Cable, WI—Cable Union, RNAV Rwy 34, Amdt. 2

. . . Effective March 17, 1983

Kankakee, IL—Greater Kankakee, RNAV Rwy 22, Amdt. 1

Pottsville, PA—Schuylkill County (Joe Zerbey), RNAV Rwy 29, Original

Somerset, PA—Somerset County, RNAV Rwy 24, Amdt. 1

West Chester, PA—Brandywine, RNAV Rwy 27, Original

(Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354(a), 1421, and 1510); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.49(b)(3)

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

Issued in Washington, D.C., on January 28, 1983.

John M. Howard,

Manager, Aircraft Programs Division.

Note.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

[FR Doc. 83-3118 Filed 2-4-83; 8:45 am]

BILLING CODE 4910-13-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 140 and 145

Commission Headquarters Office and Western and Southwestern Regional Offices; Change and Address

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule; correction.

SUMMARY: This document corrects a telephone number for the Kansas City Regional Office and the Compliance Staff, which was published on January 21, 1983 (48 FR 2734).

FOR FURTHER INFORMATION CONTACT: Donald L. Tendick, Acting Executive Director, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, (202) 254-7556.

The Commodity Futures Trading Commission is correcting the following telephone numbers:

On page 2734, column 3, line 24 in the Supplementary Information Section, the telephone number for general information at the Kansas City Regional Office is (816)/374-2994.

On page 2735, column 1, line 30, § 145.6, the telephone number for the Compliance Staff is (202)/254-3382.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 83-3206 Filed 2-4-83; 8:45 am]

BILLING CODE 6351-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 200

[Release No. IC-12999]

Delegation of Authority to Director of Division of Investment Management

AGENCY: Securities and Exchange Commission.

ACTION: Final rule amendment.

SUMMARY: The Commission is today adopting amendments to its rules of general organization to correct inaccuracies in those rules relating to the delegation of authority by the Commission to the Director of the Division of Investment Management. References contained in that delegation of authority are now incorrect because of several amendments to the rules of general organization in recent years. The amendments that are being adopted today will revise the delegation of authority to the Director of the Division of Investment Management by conforming the references contained in that rule with the organizational changes that have occurred since 1976.

DATE: Effective February 7, 1983.

FOR FURTHER INFORMATION CONTACT: Jane A. Kanter, Special Counsel, (202) 272-2115 or Larry L. Greene, Attorney, (202) 272-7320, Division of Investment Management, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Commission announced today the adoption of amendments to Article 30-5 [17 CFR 200.30-5] of its Rules Delegating Functions to Division Directors, Regional Administrators and the Secretary of the Commission ("rules of organization") [17 CFR 200.30-1 *et seq.*] for the purpose of correcting inaccuracies in the delegation of authority to the Division of Investment Management. The amendments to Article 30-5, which are adopted, conform such rule to changes in other delegations of authority which are referenced in that rule. Specifically, paragraph (b) of Article 30-5 is amended in order to delegate to the Director of the Division of Investment Management (the "Division Director") the same functions as those delegated to the Director of the Division of Corporation Finance in Article 30-1, paragraphs (a), (e) and (f); and paragraph (h) of Article 30-5 is amended in order to delegate to the Division Director the same functions as those delegated to each Regional Administrator in Article 30-6, paragraphs (b)(1), (b)(2), (b)(3), (c) and (f).

Background and Discussion

Under Article 30-5 [17 CFR 200.30-5], of the Commission's rules of general organization the Commission has delegated authority to the Division Director with respect to certain specified functions to be performed by him or under his direction by such other persons as may be designated from time to time by the Chairman of the Commission.

In June 1976, in connection with the reorganization of the Division of Investment Management (the "Division") the Commission transferred to the Division certain functions of the Division of Corporation Finance by revoking certain authority delegated to the Director of the Division of Corporation Finance, in Article 30-1 [17 CFR 200.30-1] of the rules of general organization, and by amending Article 30-5 to include that authority among the functions delegated to the Director of the Division of Investment Management.[1] Specifically, paragraph (b) of Article 30-5 was added in order to delegate to the Division Director, with respect to matters pertaining to investment companies registered under the Investment Company Act of 1940 (the "1940 Act") and pooled investment funds or accounts, the same functions under the Securities Act of 1933 (the "1933 Act") [15 U.S.C. 77a, *et seq.*], the Securities Exchange Act of 1934 (the "1934 Act") [15 U.S.C. 78a, *et seq.*], and the Trust Indenture Act of 1939 [15 U.S.C. 77aaa, *et seq.*] as are delegated to the Director of the Division of Corporation Finance with regard to operating companies, in paragraphs (a), (c), and (d) of Article 30-1.[2] Also in connection with the reorganization of the Division, the Commission added paragraph (h) to Article 30-5 thereby delegating to the Division Director the same authority with respect to the 1933 Act, Regulation A [17 CFR 230.251, *et seq.*] and Regulation F [17 CFR 230.651, *et seq.*] as that delegated to each Regional Administrator in paragraphs (a), (b), and (d) of Article 30-6 [17 CFR 200.30-6].

Since 1976, there have been several amendments to the authority delegated to the Director of the Division of Corporation Finance. These amendments have: (1) Caused paragraphs (c) and (d) of Article 30-1 to be redesignated as paragraphs (e) and

[1] Securities Act Release No. 5720 (June 22, 1976) [41 FR 29374 (July 16, 1976)].

[2] Article 30-5(b) was subsequently amended to add the "general assets or separate accounts of insurance companies" to the list of companies as to which the Director of the Division of Investment Management has delegated authority coextensive with that of the Director of the Division of Corporation Finance in paragraphs (a), (c) and (d) of Article 30-1. Securities Act Release No. 6228 (August 22, 1980) [45 FR 57701 (August 29, 1980)].

(f);[3] (ii) resulted in the addition of two subparagraphs (f)(9) and (f)(10);[4] and (iii) effected the revision of subparagraph (f)(2).[5] Similarly, amendments to the delegation to the Regional Administrators have: (i) Caused paragraphs (a), (b) and (d) of Article 30–6 to be redesignated as paragraphs (b), (c) and (f);[6] and (ii) resulted in the addition of subparagraphs (b)(4) to Article 30–6.[7]

In light of these changes in Articles 30–1 and 30–6, the delegation of authority to the Division Director contains references to other delegations that are currently incorrect. The Commission, therefore, is amending Article 30–5 by conforming the references in this Division's delegation of authority with the appropriate paragraphs in the delegations of authority to the Director of the Division of Corporation Finance and the Regional Administrators. Specifically, the Commission is amending paragraph (b) of Article 30–5 to delegate to the Division Director the same functions as are delegated to the Director of the Division of Corporation Finance in paragraphs (a), (e), and (f) of Article 30–1; and is also amending paragraph (h) of Article 30–5 to delegate to the Director the same functions as are delegated to the Regional Administrators in subparagraphs (b)(1), (b)(2) and (b)(3), and paragraphs (c) and (f) of Article 30–6.

Procedural Matters

The Commission finds, in accordance with section 553(d) of the Administrative Procedure Act ("APA") [5 U.S.C. 553(d)], that the foregoing action relates solely to rules of agency organization, procedure, or practice; that section 553(b) [5 U.S.C. 553(b)] of the APA makes it unnecessary to publish general notice of rulemaking as required by that section; and that, in view of the foregoing, good cause exists for dispensing with the normal 30-day delay in effectiveness. Accordingly, the amendments to Article 30–5 described in this release will become effective immediately upon publication in the **Federal Register**.

[3] Securities Act Release No. 6289 (February 13, 1981) [46 FR 13505 (February 23, 1981)].

[4] Securities Exchange Act Release No. 13190 (January 19, 1977) [42 FR 5040 (January 27, 1977)]; Securities Exchange Act Release No. 14210 (November 29, 1977) [42 FR 62127 (December 9, 1977)].

[5] Securities Act Release No. 6280 (November 13, 1980) [45 FR 76974 (November 21, 1980)].

[6] Securities Act Release No. 6049 (April 3, 1979) [44 FR 21562 (April 10, 1979)].

[7] Securities Act Release No. 5871 (September 29, 1977) [42 FR 54530 (October 7, 1977)].

Statutory Authority

The Commission hereby amends Article 30–5 paragraphs (b) and (h) of the rules of the Commission relating to general organization (17 CFR 200.30–5) pursuant to the authority contained in Pub. L. No. 87–592, 76 Stat. 394 [15 U.S.C. 78d–1, 78d–2].

List of Subjects in 17 CFR Part 200

Administrative practice and procedure, Freedom of information, Privacy, and Securities.

Text of Amendment

Accordingly, 17 CFR Part 200 is amended as follows:

PART 200—ORGANIZATION, CONDUCT AND ETHICS, AND INFORMATION AND REQUESTS

By revising paragraphs (b) and (h)(1) of § 200.30–5 to read as follows:

§ 200.30–5 Delegation of authority to Director of Division of Investment Management.

* * * * *

(b) With respect to matters pertaining to investment companies registered under the Investment Company Act of 1940, pooled investment funds or accounts, and the general assets or separate accounts of insurance companies, all arising under the Securities Act of 1933, the Securities Exchange Act of 1934 and the Trust Indenture Act of 1939, the same functions as are delegated to the Director of the Division of Corporation Finance in regard to companies other than such registered investment companies in paragraphs (a), (e) and (f) of Article 30–1 (§ 200.30–1 of this chapter) of these articles.

* * * * *

(h) * * *

(1) The Director of the Division of Investment Management shall have the same authority with respect to the Securities Act of 1933 [15 U.S.C. 77a, et seq.], Regulation A [17 CFR 230.251, et seq.] and Regulation F [17 CFR 230.651, et seq.] as that delegated to each Regional Administrator in paragraphs (b)(1), (b)(2) and (b)(3), and in paragraphs (c) and (f) of Article 30–6 of the Commission's Statement of Organization, Conduct and Ethics, and Information and Requests [17 CFR 200.30–6].

Dated: January 28, 1983.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-3223 Filed 2-4-83; 8:45 am]

BILLING CODE 8010-01-M

National Highway Traffic Safety Administration

23 CFR Part 1209

[Docket No. 82–18; Notice 5]

Incentive Grant Criteria for Alcohol Traffic Safety Programs

AGENCY: National Highway Traffic Safety Administration (NHTSA).

ACTION: Final rule.

SUMMARY: This notice establishes criteria for effective programs to reduce crashes resulting from persons driving while under the influence of alcohol. This effort is undertaken pursuant to Pub. L. 97–364, which provides for two categories of federal incentive grants, basic grants and supplemental grants, to States that implement effective programs to reduce drunk driving. This final rule also sets forth the procedures a State must use to demonstrate it is eligible for a grant and the procedures NHTSA will use to award the grants.

DATES: These rules become effective by statute, February 7, 1983, except that § 1209.6 becomes effective by statute, on April 1, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. George Reagle, Associate Administrator for Traffic Safety Programs, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590 (202–426–0837).

SUPPLEMENTARY INFORMATION: On November 4, 1982, (47 FR 51152) the National Highway Traffic Safety Administration (NHTSA) issued an advance notice of proposed rulemaking seeking comments on possible ways to implement the alcohol traffic safety incentive grant program established by Public Law 97–364 (23 U.S.C. 408, the Act). Based on the comments to that Notice, NHTSA issued a notice of proposed rulemaking on December 30, 1982 (48 FR 425). NHTSA primarily sought comments on what definitions and criteria the agency should establish for States to be eligible for both basic and supplemental grants, which can total up to 50 percent of the amount apportioned to a State in fiscal year 1983 under Section 402 of the Highway Safety Act of 1966.

To provide an increased opportunity for public comment, NHTSA held public hearings on December 13, 1982, in Washington, D.C. and January 11, 1983, in Atlanta, Georgia on its proposals. Persons representing numerous States, professional organizations, citizen groups, and others testified. In addition,

many interested parties submitted written comments to the docket for this rulemaking.

The final rule being issued today is based on the agency's review of the hearing testimony, comments received on the notice of proposed rulemaking and the Interim Report to the Nation prepared by the Presidential Commission on Drunk Driving. Significant comments to the notice are addressed below.

Basic Grant Criteria

The Act established four criteria that must be met by a State in order to be eligible for a basic grant in the amount of 30 percent of each State's fiscal year 1983 apportionment under section 402 of the Highway Safety Act. The agency notes again that because the four basic criteria are statutorily mandated by Congress, the agency does not have the authority to change, by deletion or addition, the substantive requirements for a basic grant, as was requested by some of the commenters. As was also noted in the agency's prior notices, however, several of the terms used in the statutory language setting forth the basic grant criteria were undefined, and NHTSA sought comments on several possible definitions that the agency believed would be consistent with the legislative purpose of the Act. In addition, NHTSA sought comments on ways by which States might most easily and effectively demonstrate that they have met the basic grant criteria.

Criterion No. 1: Prompt License Suspension

The first criterion established by Congress for basic grant eligibility requires:

> The prompt suspension, for a period not less than ninety days in the case of a first offender and not less than one year in the case of any repeat offender, of the driver's license of any individual who a law enforcement officer has probable cause under State law to believe has committed an alcohol-related traffic offense, and (i) to whom is administered one or more chemical tests to determine whether the individual was intoxicated while operating the motor vehicle and who is determined, as a result of such tests to be intoxicated, or (ii) who refuses to submit to such a test as proposed by the officer.

Terms Used: "Prompt"

The agency proposed to define "prompt" as a mandatory suspension of the privileges of a driver's license that occurs no later than 30 days after a person is arrested for drunk driving, in at least 60 percent of the cases. In addition, the agency proposed that the average time to suspend a license could not exceed 45 days.

As in their responses to the agency's advance notice, numerous States voiced their concerns about the effect of the proposed definition of "prompt" on States that have judicially imposed, rather than administratively imposed, license suspension. While agreeing with the need to reduce the amount of time required to judicially impose a license suspension, numerous States, such as Florida, Georgia, Pennsylvania and Tennessee, urged the agency to establish a definition that would allow States to use an improved judicial suspension system.

They said that because of cost and other reasons, it may be difficult to convince their legislatures to adopt an administrative system. Florida, for example, noted that its legislature has twice turned down efforts to create an administrative systems of license suspension. Tennessee said that its prior administrative system had been overturned in court, because it failed to meet due process requirements, and that reinstatement of an administrative system would not be cost beneficial.

States proposed a number of alternative ways to accommodate the use of a judicial system, while still requiring improvements in those systems. New Jersey, which said that it can probably meet a 45 days average requirement, urged the agency to consider establishing an initial requirement of suspension within 120 days and then require improvement in subsequent years to a level of 90, 60 or 30 days. New Jersey said that without such an approach, the "States most in need of assistance to improve systems with serious problems will not qualify for the very funding needed to bring about improvements." Florida suggested that setting a requirement of 30 percent within 30 days, 60 percent within 60 days or less and 90 percent within 90 days or less would encourage States with judicial systems to improve those systems.

Numerous commenters, such as the National Association of Governors' Highway Safety Representatives (NAGHSR), Iowa, Maine, Missouri, New Mexico, and North and South Carolina, supported a requirement that the average time for suspension take no longer than 45 days.

States that currently have administrative systems of license suspension also urged the agency to modify its proposed definition to account for procedural and due process considerations built into their current systems. Delaware noted that each party in its administrative proceedings is allowed at least one continuance, which means that a certain percentage of cases stretch out beyond 40 days after arrest. Delaware suggested that the agency adopt an average of 45 days.

In formulating this final rule, the agency has attempted to fufill the Congress's intention that States substantially reduce the current long delays between arrest and subsequent license sanction. Since one of the principal deterrents to drunk driving is the certainty and swiftness of punishment, it is crucial that States act promptly in imposing license suspensions. At the same time, the agency recognizes that if the time limit set for license suspension is too short, States that currently have long delays of five months or more may not have a realistic opportunity to meet the time limit and thus will be unable to receive the funds necessary to help them improve their program.

The agency has thus decided to define "prompt" as license suspension within an average of 45 days from time of arrest. However, States that have reached an average of 90 days from time of arrest may qualify for a basic grant, if they submit a plan showing how they will reduce that average to 45 days. In addition, the agency has decided to make as a condition to being eligible for each of the supplemental criteria, that a State have a license suspension system in which the average time to suspend a license does not exceed 45 days.

These actions will have a two-fold effect. First, they will serve as an incentive to States with long delays to cut those delays in order to be eligible for a basic grant. Second, with the funds received under the basic grant, those States can then make further improvements in their systems in order to receive a supplemental grant. The system adopted by the agency will also provide a substantial reward to those States that have already, either through an administrative or judicial suspension system, reduced their average time to suspend a license to 45 days from arrest. Those States, if they meet the other criteria for a basic grant, will be eligible for consideration for supplemental grants. Whereas States that do not meet the 45 day average will not be eligible for a supplemental grant until the average of 45 days is achieved.

"Suspension"

The agency proposed two alternative definitions of the term "suspension." The first would have defined suspension as including only a full loss of driving privileges for the statutorily mandated period of 90 days. The second would

have allowed the use of a 30-day full suspension, followed by a 60-day period of restricted driving privileges. The restricted license could only be issued, under State-wide published guidelines, in exceptional circumstances specific to each offender and for the limited purpose of driving between a residence and a place of employment, and/or to and from an alcohol education or treatment program.

The agency also proposed that restricted licenses not be available for repeat offenders or for those who refuse to take a chemical test under implied consent statutes.

Permitting the use of a restricted license for a first offender was widely supported by such commenters, as the American Automobile Association (AAA), Iowa, Maryland, Michigan, Mississippi, National Council on Alcoholism (NCA), New York, and Wisconsin. In urging the use of restricted licenses, many of those commenters referred to the problem of possible loss of employment and difficulty in attending treatment/rehabilitation programs for rural drivers who do not have access to public transportation systems. Several of the commenters that urged the use of restricted licenses, such as AAA, NCA, Illinois and Michigan, indicated that they supported the agency's proposed 30-day full suspension followed by a 60-day restricted license.

New Jersey supported prohibiting the use of any restricted licenses. It argued that such license restrictions are difficult to enforce and are often abused. In addition, New Jersey said that license suspension will be a serious deterrent only if a driver knows that he or she can not obtain a restricted license. Delaware also commented that it does not permit the use of restricted licenses for the first 90 days of a suspension.

The agency has decided to adopt the definition of suspension that would require a full suspension for 30 days and permit the use of a restricted, provisional or conditional license for the remaining 60 days. (Several States commented that they do not have restricted licenses, but use an equivalent type of conditional or provisional license; the agency's definition will permit the use of those other types of licenses as well.) The agency believes that requiring a full suspension for the first 30 days creates a substantial deterrent to drunk driving. Allowing the use of some type of restricted license during the remaining 60 days will reduce the loss of transportation problems for rural drivers. The agency emphasizes that restricted, provisional or conditional licenses must only be used in exceptional circumstances unique to each offender. To promote Statewide uniformity in the use of such licenses, the agency is also adopting the proposed requirement that each State must publish guidelines governing the use of those licenses.

No commenter opposed the proposed requirement that restricted licenses not be available for persons that refuse to take a chemical test and the agency therefore has adopted that requirement in the final rule. The New York Department of Motor Vehicles requested the agency to permit the limited use of restricted licenses for repeat offenders. New Mexico also commented that it permits the use of restricted licenses for repeat offenders. The agency believes that the Act's provision on mandatory sentences or community service for repeat offenders shows that Congress intended stricter punishment for those offenders. NHTSA is therefore adopting the proposed requirement that repeat offenders not be eligible for restricted or other types of limited licenses.

Repeat Offender

The agency's proposal to define a repeat offender as anyone convicted of driving while intoxicated (DWI) or a similar alcohol-related traffic offense more than once in five years was supported by the commenters and is therefore adopted in the final rule. Michigan said that a person who has refused to submit to a chemical test more than once in five years should be considered a repeat offender. The agency considers a refusal to take a chemical test as an alcohol-related offense and thus such a person would be covered by the definition.

Refusal of Second Test

The agency proposed that mandatory license suspension apply to a refusal by a driver to take more than one chemical test, where a second test is authorized by State law. At least one commenter, Idaho, interpreted the agency's proposal to require States to adopt laws mandating a second test in order to be eligible under this criterion for a basic grant. Mandating the use of a second test in order to be eligible for a basic grant was not the agency's intent. The agency only wanted to specify that where a State currently authorizes the use of a second test, a refusal to take that test would be grounds for mandatory suspension. The agency believes that such a requirement is in line with Congress's intent for this criterion and is therefore adopted.

In the notice, the agency also proposed to adopt as a separate criterion for a supplemental, rather than a basic, grant that States adopt laws permitting an officer to require a second test. As explained elsewhere, the agency is adopting that proposal as one of the criteria that can be met to qualify for a supplemental grant.

Demonstrate Compliance

Several commenters, such as Iowa, Michigan, and South Carolina, expressed concern about possible problems in obtaining data on the average number of days between the offense and the sanctioning action and the average length of suspension. To reduce possible data gathering problems, States can provide those data based on statistically valid samples. No commenter opposed the requirement that States provide the agency with a copy of the license suspension law and the regulations or guidelines governing license suspension and thus those requirements are adopted in the final rule.

Criterion No. 2: Mandatory Sentence

The second criterion established by Congress for basic grant eligibility requires:

> A mandatory sentence, which shall not be subject to suspension or probation, of (i) imprisonment for not less than 48 consecutive hours, or (ii) not less than ten days for community service, of any person convicted of driving while intoxicated more than once in any five-year period.

Commenters uniformly supported the agency's proposed definition of "imprisonment" to include confinement not only in jails or prisons but also in such places as minimum security facilities or in-patient rehabilitation/treatment centers. The definition is therefore adopted in the final rule.

Demonstrate Compliance

No commenter opposed the proposed requirement that States demonstrate compliance by providing copies of existing legislation or regulations on mandatory sentences, and therefore it is adopted in the final rule. The agency also proposed that States provide information on the number of people convicted of an alcohol-related traffic offense more than once in a five year period. Wisconsin expressed concern about obtaining the necessary data on the average sentence imposed on repeat offenders. To lessen any possible data gathering problems, States can provide data on average sentences based on statistically valid samples.

Several commenters, such as Michigan and Pennsylvania, requested that States not be required to provide information of the place of confinement

used for each individual. It was not the agency's intention to require place of confinement information for each individual, States merely have to identify what general types of confinement (i.e., jails, treatment centers) they are using.

Criterion No. 3: Illegal Per Se Laws

The third criterion established by Congress for basic grant eligibility requires States to have a law that:

> Provides that any person with a blood alcohol concentration of 0.10 percent or greater when driving a motor vehicle shall be deemed to be driving while intoxicated.

The agency's proposal to accept a State's *per se* law as evidence of compliance with this criterion was uniformly supported and is therefore adopted in the final rule.

Tennessee noted that its law establishes a blood alcohol concentration (BAC) of 0.10 percent as a presumptive level, rather than as illegal per se. Tennessee requested that the agency accept such a law as an acceptable equivalent if a State can demonstrate it is being effectively enforced. Kentucky also requested the agency to accept a presumptive statute as qualifying with this criterion. Given the narrow language of the statute that a BAC of 0.10 percent *be deemed* a violation, the agency does not have the authority to accept a presumptive statute as complying with this criterion.

Iowa raised the issue of how this criterion applies in a situation where a State has two separate per se laws with two different BAC levels. Under Iowa's administrative license suspension statute, a BAC of 0.10 percent is in itself grounds for license suspension. However, Iowa's criminal statute makes a BAC of 0.13 percent, rather than 0.10 percent, illegal *per se*. The agency believes that the language of the statute was meant to apply to any State law, whether administrative or criminal. Thus, each law must set a BAC of 0.10 percent as an offense in itself in order for a State to qualify under this criterion.

Demonstrate Compliance

No commenter opposed the proposed requirement that States demonstrate compliance by providing a copy of the applicable laws. The requirement is therefore adopted in the final rule

Criterion No. 4: Increased Enforcement/ Public Information Efforts

The fourth and final criterion established by Congress for basic grant eligibility requires:

> Increased efforts or resources dedicated to the enforcement of alcohol-related traffic laws and increased efforts to inform the public of such enforcement.

The commenters uniformly supported the agency's proposal to allow States to determine for themselves which indicators they believe are most appropriate to demonstrate their increased efforts and it is therefore adopted in the final rule. As mentioned in the prior notice, States could use such indicators as: development of supportive administrative policy, increases in arrests and convictions and license suspensions/revocations, increased training for law enforcement officers, prosecutors and judges, increases in rehabilitation referral rates, changes in the public's perception of risk, increases in the number of public service announcements on drunk driving, increased citizen involvement in reporting drunk drivers, and decreases in alcohol-related crashes.

Likewise, the commenters supported the agency's proposal that States demonstrate increases in their levels of effort by comparing fiscal year 1982 (or later years) with the prior preceding year or with the average of the State's enforcement and information efforts over the three years preceding the year in which a State first applies for a grant. That proposal is thus adopted in the final rule.

Supplemental Grant Criteria

Need for Flexibility

The agency's goal in establishing the supplemental grant criteria has been to give full effect to the Congress's intent that States make substantial progress in improving their alcohol safety programs. At the same time, the agency has attempted to provide States with maximum flexibility to design programs that will be effective in their jurisdictions.

In the notice, NHTSA proposed two alternative methods of establishing the criteria that a State must have in place and implement or adopt and implement in order to receive a supplemental grant. States uniformly supported the agency's first alternative that would provide a State with a grant of up to 20 percent of its section 402 apportionment if it implements some, but not all, of the twenty-one proposed criteria. They said that this alternative would give a State the maximum flexibility to choose criteria that are appropriate for and consistent with the goal of improving their alcohol traffic safety program.

The States generally urged the agency not to adopt the second proposed alternative, which would have required them to implement all of those criteria that the Governor of the State has the current authority to implement without requiring the concurrence of another branch of the State government. Several States commented that such a requirement would have widely varying effects because of difference in the authority granted the Governor in different States. The Governor's Highway Safety Representative from Florida, for example, testified that because Florida has a fully elected cabinet, the administrative authority of the Governor is largely limited to issuing executive orders that are not binding on the agencies under cabinet control.

Weighting

Most of the commenters supporting the first alternative, such as Florida, Maryland, Michigan, and New Mexico, also urged that the agency not weigh the alternatives or make some of the criteria mandatory for all States. New Mexico, for example, said that "any weighted scale would not necessarily be reflective of a measure's relative effectiveness from state to state." Georgia and Iowa recommended making all of the criteria of equal weight by making adoption of each criteria qualify a State for one percent of the twenty percent supplemental grant. The NCA recommended a system which would assign a greater weight to the top ranked criteria in the agency's proposed list.

Minimum Number

There were also varying opinions among States favoring the first alternative as to how many of the criteria a State would have to adopt in order to be eligible for a full twenty percent grant. Several States, such as Maine, Maryland and Michigan, recommended requiring a minimum of 8 criteria, while Mississippi and Pennsylvania recommended a minimum of 10. Several States also requested that the agency also set a minimum number for receiving a grant of less than 20 percent. Florida, for example, recommended setting a minimum number of four.

Require Minimum of 8

The agency has decided to adopt the first proposed alternative and require that States adopt a minimum of eight criteria of their choosing in order to be eligible for a full supplemental grant of twenty percent. The agency has also decided that adoption of a minimum of four criteria, of a State's choosing, will qualify a State for a supplemental grant of ten percent. The agency believes that this approach will enable State's to choose those criteria that will most

effectively fit in with its current alcohol traffic safety program.

In order to be eligible for a supplemental grant for a second and third year, States will have to adopt two more criteria each year and demonstrate that they are increasing their performance in the criteria that they adopted in the prior year or years. This will mean that if a State is to be eligible for a full supplemental grant for all three years of the program, it will have had to adopt and implement a total of twelve of the twenty-one criteria by the third year. As a part of its Alcohol Safety Plan, discussed later in this notice, a State will have to explain how the criteria it adopts are related to its current alcohol safety program; this will ensure that States are adopting criteria that will enhance a comprehensive program.

The agency has also decided that States should not be required to adopt more than fifteen of the supplemental criteria. This will mean that a State that has already adopted a comprehensive program that, for example, meets thirteen of the supplemental criteria will not have to spend additional time and funds striving to adopt a total of seventeen criteria (thirteen in place the first year, plus two additional criteria each year for the second and third years) by the end of the three year funding period. States meeting fifteen criteria will have to show that they have increased their performance in the criteria that they have already adopted in order to be eligible for a supplemental grant in subsequent years.

Prior Adoption

In the notice, the agency proposed to recognize prior adoption and implementation of a criteria if it took place either in the legislative session current at the time of enactment of this Act (October 25, 1982) or during the previous legislative session. Since many States have two year legislative sessions, this meant that the agency would recognize actions taken within the past four years.

Many of the commenters such as Delaware, Pennsylvania, Michigan and New Jersey, urged the agency not to set a time limit on when a criteria had to be adopted and implemented. They argued that such a time limit could penalize progressive States that have had alcohol traffic safety programs in effect for a number of years. As the agency has previously noted, it appears to have been the primary intent of the Congress in establishing the incentive grant program to induce future action through new programs. On the other hand, the agency believes that States that have taken a leadership role in establishing new alcohol traffic safety programs should be rewarded for those efforts as long as they have been actively implementing those programs. Therefore, the agency will recognize prior adoption of a criterion as long as a State can demonstrate that it has been actively implementing that criterion during the past four years.

Twenty-One Criteria

The agency has decided to adopt in the final rule the twenty-one criteria proposed in the notice. Each of the criteria is discussed below.

1. Raising the Drinking Age to 21 for All Alcoholic Beverages. All of the commenters addressing this criteria, with one exception, supported increasing the drinking age to 21. That commenter, the Distilled Spirits Council of the United States said that their research has not sufficiently demonstrated the effectiveness of setting the drinking age at 21. The agency strongly disagrees. The research on the effect of increasing the drinking age has been independently reviewed, at different times, by the agency, the Presidential Commission on Drunk Driving and the National Transportation Safety Board. All of those reviews came to the same conclusion, there is statistically valid data to show that increasing the drinking age results in a decrease in alcohol-related crashes among young people. The agency has therefore decided to retain this criterion.

As proposed in the notice, the agency will only recognize adoptions of legislation as qualifying for this criterion if the legislation immediately or over a three year period raises the drinking age to 21. In addition, the 21 age limit must apply to all alcoholic beverages. Thus a law, such as in Oklahoma, that defines 3.2 percent beer as a non-alcoholic beverage would not qualify.

2. Program Coordination. Several commenters, while agreeing with the need for a coordinated effort among the various State agencies involved in alcohol traffic safety programs, urged that the agency not require the designation of a single person as the state coordinator. Michigan, for example, said that a State should have the flexibility to structure the organization of its program without having to establish a specific individual as overall coordinator.

Since a comprehensive program will require the cooperation of numerous State agencies, the agency believes that there should be some mechanism to ensure a coordinated effort. However, to provide States with increased flexibility in designing their own programs, the agency has decided not to require the designation of a single individual as coordinator. Instead, States can meet this criterion by providing an explanation of how they coordinate the work of the different State agencies involved in their alcohol traffic safety programs.

3. Rehabilitation and Treatment. Commenters addressing this criterion supported the agency's proposal on rehabilitation and treatment. Several of the commenters, such as National Association of Alcoholism and Drug Abuse Counselors and NCA, noted the importance of carrying out rehabilitation and treatment programs with qualified professionals in accordance with established guidelines.

The agency is therefore adopting the criterion as proposed, including the requirement that each State set minimum standards for rehabilitation and treatment programs.

Several of the commenters requested the agency to combine the rehabilitation and treatment criterion with the screening criterion. The agency recognizes that the two criteria are complementary and both are needed in a comprehensive program. The agency has decided to retain them as a separate criteria, however, in order to give States flexibility in implementing their programs. For example, a State may want to have its screening program conducted by trained court personnel, or by State or local health agencies or by private sector rehabilitation and treatment groups.

4. State and Local Task Forces. Delaware, while agreeing with the need for task forces, commented that in small States there is no need for local task forces. It said that the concerns of local communities can be adequately represented by involving them in the work of a Statewide task force. The agency agrees and thus, while encouraging States to establish county, city or regional task forces when appropriate, will only require the establishment of a State task force to meet this criterion. However, if local task forces are not used, States must show that the interests of local communities are represented on the State task force.

5. Statewide Driver Record System. Commenters, such as Illinois, Mississippi and New Mexico, supported the proposed requirement that the driver record system be operated so that conviction information is recorded in the system within 30 days of a conviction, license sanction or the completion of the appeals process. The 30 day requirement is therefore adopted.

Several commenters, such as NCA, Michigan and Wisconsin, again raised the issue of possible conflicts between disclosure of portions of a driver's records and State and Federal confidentiality and privacy law requirements. A frequently cited example was the U.S. Department of Health and Human Services confidentiality regulation concerning disclosure that a person has been a participating in an alcoholism treatment program. The commenters agreed, however, that information on drunk driving convictions should be public. The agency is therefore adopting a requirement that the public have access to the portions of a driver's record that are not protected by Federal or State confidentiality or privacy regulations.

Commenters did not object to the agency's proposed requirement that information in the record systems be retained for at least five years and therefore that requirement is adopted as proposed.

6. Locally Coordinated Programs. Several commenters, such as Delaware and Iowa, said that in their experience, effective management of alcohol safety programs can be done on the State or regional level, particularly in States that are geographically small or have their population concentrated in a limited area.

The agency recognizes that the degree of local control will necessarily vary from State of State. However, the need for some level of local coordination remains constant. As stated in the prior notice, the agency believes that the communities themselves should decide on the specific geographic area—city, county or regional—to be involved in a locally coordinated program. Because of the importance of involving the local communities in order to create a long-term successful alcohol traffic safety program, the agency has decided to adopt this criterion. In small States local coordination may be demonstrated by showing that the interests of local communities are recognized and how the overall State and local program is coordinated.

7. Prevention and Education. Commenters, such as AAA, Florida, NCA, and the National Safety Council supported the proposed requirement that States have a prevention and education program designed to change the societal norm relative to drunk driving. The requirement is therefore adopted.

States can demonstrate compliance with this criterion by providing a brief discussion of their prevention and education program and explaining how it relates to changing societal attitudes and norms against drunk driving. As mentioned in the notice, the State program should include a comprehensive kindergarten through twelfth grade education program as well as involvement of private sector groups and parents.

8. Screening. The NAADAC and NCA supported the requirement that courts have the authority to order screening of drunk drivers. They both recommended that the screening be done prior to sentencing. New Mexico and Delaware also supported screening, but urged the agency to allow either pre- or post-sentence screening. Delaware noted the practical problem that a certain percentage of arrested drivers plead guilty at arraignment and thus may not be screened before sentencing. Those drivers would, however, receive postsentence screening.

The agency, while encouraging the use of pre-sentence screening, will permit the use of either pre- or post-sentence screening to comply with this criterion. States can demonstrate compliance by submitting a copy of the law authorizing screening and providing a brief description of the screening process.

Idaho requested the agency to define what level of screening is required to meet this criterion. As discussed in the agency's advance notice, the screening should, at a minimum, be based on BAC level at time of arrest, prior alcohol-related convictions and a self-administered questionnaire.

9. Evaluation Systems. The commenters supported the need for evaluation systems to determine the effectiveness of individual program countermeasures and the effectiveness of the program as a whole. Several States noted that they are currently carrying out such evaluations as a part of their highway safety programs.

The agency has decided, therefore, to adopt this criterion as proposed. States can demonstrate compliance by showing that they have an adequate State-wide data reporting and collection system and that the data is used in an evaluation process.

10. Self-Sufficiency. Several commenters, such as Georgia and Maine, expressed concern about possible abuses arising from the requirement that local programs become self-sufficient. They said that the need to generate revenue from fine monies could create a "bounty system."

The agency recognizes that there is the possibility of limited abuses. However, that problem can be resolved by having a system to identify and correct abuses, if they occur. The agency notes that several States, such as New York and Virginia, have already established programs moving toward self-sufficiency without creating abuses. In addition, fine revenue is only one mechanism of making a program self-sufficient. There are other ways for having the DWI offender pay for the system, such as treatment fees and court costs. The important consideration is that the people who create the DWI problem pay for its solution.

As mentioned in the agency's prior notices, the purpose of the section 408 incentive grant program was to provide States "seed money" to attack the problem of drunk driving. If a mechanism is not created to make such programs self-sufficient, there is a real danger that the programs may be reduced or eliminated when the Federal funds are gone. The agency has, therefore, decided to retain self-sufficiency as a criterion.

States can demonstrate compliance by providing a plan showing how they intend to make their programs self-sufficient. Specific progress toward implementation of the plan must be shown in order to meet this criterion in future years.

11. Use of Roadside Sobriety Checks. As in the responses to the agency's prior notice, there was a sharp difference of opinion among commenters on the use of roadside checks to detect drunk drivers. The California Highway Patrol again questioned its use of constitutional grounds. Other commenters, such as Delaware, Idaho and Maryland, said that roadside checks have been successfully used in their States and are particularly effective in increasing the public's perception of the risk of being caught for drunk driving.

Since States have the flexibility of choosing which of the supplemental criteria they wish to implement, the agency has decided to retain roadside sobriety checks as one of the criteria. Thus, those States which have legal questions about the use of the checks are not compelled to use them, while those States that have successfully used them in the past can continue to do so and receive credit. States can demonstrate compliance by providing information showing that they are systematically using roadside sobriety checks. States must also provide a copy of the regulation, law or policy authorizing the use of roadside sobriety checks.

12. Citizen Reporting. Several commenters, such as Delaware, Maryland, and New Jersey said that they have successfully used citizen reporting program in their States. Pennsylvania, however, raised the issue of whether these programs could be potentially abused by citizens making

false reports. Since the States actually implementing these programs have not reported problems with abuses and have reported strong citizen support, the agency is adopting the criterion as proposed.

Virginia expressed concern about a possible administrative problem in gathering citizen reporting information from each police dispatcher so that States can report the total number of reports and resulting arrests. To reduce possible data collection problems, States can demonstrate compliance with this criterion by providing information on the degree of participation, e.g., number of citizen reports and number of resulting arrests, based on statistically valid samples.

13. Enactment of a BAC of 0.08 Percent as Presumptive Evidence. Because of an inadvertent typographical error in the preamble to the agency's notice, several commenters thought that the agency was proposing to retain the criterion that States enact laws making a BAC of 0.05 percent as presumptive evidence of driving while under the influence. They urged the agency to set the level at 0.08 percent. Their recommendations coincide with the text of the proposed final rule which contained the correct version of the agency's proposal. The agency is therefore adopting the 0.08 percent BAC requirement in the final rule.

States can demonstrate compliance by providing a copy of the applicable law.

14. Uniform Licensing Procedures. Commenters addressing this criterion supported the agency's proposal that States fully participate in the National Driver Register and the Driver's License Compact and use a one-license/one-record policy. The agency is therefore, adopting this criterion in the final rule.

States can demonstrate compliance by providing a copy of the executive order, regulation or law setting up a one-license/one-record system. In addition, States must show that they have signed the Driver's License Compact and are using the National Driver Register.

15. Preliminary Breath Tests. Several commenters, such as Iowa and Michigan, supported adoption of this criterion. The California Highway Patrol again commented that preliminary breath tests (PBT's) are unnecessary and may lessen the importance of other investigative techniques.

As noted in the agency's prior notice, NHTSA believes that the use of PBT's should complement, not supplant, an officer's observations in identifying drunk drivers. Research has shown that PBT's can increase the effectiveness of alcohol safety program by increasing arrests and the agency is therefore adopting this criterion in the final rule. States can demonstrate compliance by providing a copy of the law or regulation authorizing the use of PBT's.

The Illinois State Police requested the agency to substitute use of the Horizontal Gaze Nystagmus test in place of the PBT's. The agency is currently field testing the Horizontal Gaze Nystagmus test along with other psychomotor skill tests to determine their effectiveness. Until that testing is completed, the agency cannot make a determination of whether the Horizontal Gaze Nystagmus test is an acceptable substitute for a preliminary breath test.

16. Plea-bargaining. Commenters, such as Delaware, Idaho, International Association of Chiefs of Police, and New Mexico, addressing this criterion supported its adoption. Oklahoma said that plea-bargaining was necessary to promote judicial efficiency, but agreed that there should be some mechanism to ensure that if there is plea-bargaining, the record system should indicate that an alcohol-related traffic offense was involved. New York State Senator Smith also agreed with need to prevent alcohol-related offenses from being bargained down to non-alcohol-related offenses. He said, however, that the agency's proposal would unnecessarily limit prosecutors in reducing alcohol-related offenses to lesser included alcohol-related offenses.

The agency recognizes that plea-bargaining may promote the efficiency of the judical system, however, it is essential to ensure that the alcohol-related nature of the original offense is retained on the driver's record. The agency has, therefore, decided to adopt a requirement that no alcohol-related charge be reduced to a non-alcohol-related offense or probation without judgment be entered without a written declaration of why the action is in the interest of justice. The law must also provide that if a charge is reduced, that the defendant's driving record must reflect that the reduced charge is alcohol-related. States can demonstrate compliance by providing a copy of the applicable law.

17. Victim Assistance, Compensation and Impact Statements. Commenters addressing this criterion generally supported its adoption. They expressed agreement with the Presidential Commission statement that such programs are needed to help the "forgotten victims of the legal system," those injured by drunk drivers. The agency is therefore adopting this criterion as proposed.

States can demonstrate compliance by providing a description of their victim assistance programs, their use of victim impact statements and victim restitution.

18. Impoundment. There was a sharp difference of opinion on the proposed criterion on impoundment. Texas has supported the use of impoundment at the expense of the owner as a "significant sanction." Other commenters, such as Florida, Maine, New Mexico, and Pennsylvania, questioned its potential effectiveness and urged that it not be adopted as a mandatory criterion.

As with the criterion on roadside checks, the agency believes that States that have found impoundment to be an effective part of their alcohol traffic safety program should be encouraged to continue to use it. Since the States have the flexibility to determine which criteria to adopt, the agency has decided to retain impoundment of the vehicle or confiscation of the vehicle's tags as one of the final criteria.

General Motors Acceptance Corporation (GMAC) urged the agency to modify the impoundment criterion to recognize that rights of secured parties and lessors that had no knowledge of the suspension or revocation. GMAC said that otherwise there could be long delays when those parties attempt to recover possession of the vehicle. The agency has decided to adopt GMAC's suggestion.

States can demonstrate compliance with this criterion by providing the agency with a copy of the law or regulation authorizing impoundment of the vehicle or confiscation of the license plates or registration.

19. *Choice of Test.* Commenters, such as the Maryland State Police and the National Safety Council, supported the agency's proposal that States authorize the arresting officer to specify the type of chemical test to use. Maryland said that allowing the officer the choice of test is "an extremely valuable asset in reducing time required to process violators." The agency is, therefore, adopting this criterion.

The agency also proposed that States enact laws authorizing an officer to require a second chemical test under appropriate conditions. The California Highway Patrol said that a second test may be justified if and only if an officer has a reasonable belief that a suspect is impaired because of the use of drugs or drugs and alcohol. Before administering either the first or second test the officers must have sufficient grounds to show that the suspect was impaired.

The agency has decided to adopt this criterion as proposed. To ensure that a suspect will submit to a second test, the agency is adopting the requirement that

refusal to submit to more than one test results in a license suspension. States can demonstrate compliance by providing a copy of the applicable laws.

20. Dram Shop Laws. Several commenters, such as Florida, the Distilled Spirits Council of the United States and the National Licensed Beverage Association, recommended that the agency not adopt the proposed criterion on dram shop laws. They said that there is no evidence that dram shop laws have reduced alcohol traffic safety problems. The National Safety Council, on the other hand, recommended the adoption of a dram shop criterion. The Presidential Commission on Drunk Driving has also recommended adoption of such laws.

The agency recognizes that the vast majority of licensed beverage retailers carries out their business in a responsible manner. Dram shop laws are only aimed at persons who serve visibly impaired customers and thus increase the risk of alcohol-related crashes. The agency has, therefore, decided to adopt this criterion in the final rule.

Maine asked the agency to specify whether the dram shop law must be civil or criminal to comply with this criterion. The agency believes either a civil or criminal statute would be effective and thus will accept either one. New Mexico recommended that States be allowed to demonstrate compliance by showing that dram shop liability has been established by court decision rather than statutory law. The agency agrees, and will accept a showing that common law dram shop liability has been upheld by a State's highest court.

21. Innovative Programs. No commenter opposed the agency's proposal to encourage States to develop new, unique and innovative alcohol traffic safety programs. The agency recognizes that there are potential countermeasures that have not been developed that may be as effective as any of the other programs contained in the agency's other twenty criteria and thus wants to reward States for experimenting with new programs. The agency, therefore, adopts this criterion as proposed.

States can demonstrate compliance by providing a description of their innovative program and an evaluation showing why the program is as potentially effect as any of the other specified criteria.

General Requirements

The Act requires a State to maintain its aggregate level of funding from non-section 408 funds for existing alcohol traffic safety programs "at or above the average level of such expenditures in its two fiscal years preceding the date of enactment *,* *." in order to be eligible for a basic grant. No commenter opposed the proposal to permit States to select either Federal or State fiscal year in determining the level of expenditures that must be maintained. The agency is therefore adopting that requirement in the final rule.

Several commenters, such as Illinois and Oklahoma, recommended that a State should only be required to maintain its aggregate level of section 402 alcohol program expenditures, rather than its expenditures from all possible sources, as proposed by the agency. They said that it would be difficult to determine the precise level of expenditures, particularly at the county and local levels of government. Since section 402 funds may not represent a substantial percentage of a State's alcohol traffic safety expenditures, the agency has decided to retain the requirement that a State consider all non-section 408 funds in determining its prior level of expenditures. The agency recognizes the State does not control, in many instances, the expenditures of funds by the counties, cities, and towns. The agency also recognizes that a full audit of the prior level of expenditures would be time-consuming and expense. Thus States should require from these local agencies that receive section 408 grant funds certification that the existing level of local expenditure will be maintained. The agency will accept a States certification based on existing State budget documents, that the required level of State expenditures will be maintained.

Certification and Award Procedure

The commenters generally supported NHTSA's proposed alternative procedures for awarding grants. Oklahoma suggest another alternative awards procedures which, in essence, would be based on NHTSA regional officials conducting compliance hearings in each State. The agency plans to involve heavily its regional offices in the administration of the 408 program. At least in the first year of the program, the agency believes that the program should be coordinated by the agency's Office of Alcohol Countermeasures to provide consistency in implementing the program. The agency is, therefore, adopting its proposed alternative procedures in the final rule. These procedures establish the following three-step process:

1. The State provides information to document and verify its eligibility for the basic and supplemental grant criteria.

2. Upon review by NHTSA, the State would be notified that it is or is not eligible for the grant award based upon the documentation submitted. If eligible for grant award, the State would also be advised of the amount of the grant to be awarded subject to receipt and NHTSA formal approval of the State's Alcohol Highway Safety Plan. The agency has decided to adopt the recommendation of several commenters to allow the Alcohol Safety Plan to be submitted as a portion of a State's section 402 Highway Safety Plan. The Plan must be submitted within 120 days of notification to retain award eligibility.

3. Upon receipt and subsequent approval of the Plan, the grant will be awarded by execution of a Federal-Aid Agreement.

The commenters also supported the agency's proposal to use a "soft" match in determining which State expenditures are reimbursable under section 408, and thus the agency will use a "soft" match in administering the program.

New Mexico recommended that a non-profit organization be eligible for section 408 grants. Unlike section 402, the statutory language of section 408 does not limit a State to only make grants to political subdivisions of a State. As long as a State can show that a non-profit organization is an integral part of a local alcohol safety program and is working under the control of a State or local agency, the agency believes that a State can make a grant to such an organization.

Paperwork Reduction

Pursuant to the Paperwork Reduction Act, the agency has requested Office of Management and Budget approval for the recordkeeping requirements adopted in the final rule.

Regulatory Evaluation

The agency has determined that this rulemaking should be classified as significant under the Department's regulatory policies and procedures. The agency has prepared a final regulatory evaluation and placed it in the public docket for this rulemaking. The agency has determined that since this rule will not have an annual impact of $100 million on the economy, it is not a major rule within the meaning of Executive Order 12291.

To develop the benefit estimates, the agency determined the degree to which proposals in the notice are presently being implemented. Estimates of safety benefits were then based on satisfying the criteria in those States that presently are not doing so. The impact of the criteria in one or more of four areas was

determined where applicable: (1) drunk drivers on the road, (2) alcohol-related crashes, (3) DWI arrests, and (4) DWI convictions. The agency quantified benefits in terms of reduced number of fatalities, injuries, or accidents where possible. Lack of data, or the nature of the criteria themselves at times, precluded quantifying benefits in every criteria; however, in such cases where quantification of benefits is not possible, the general magnitude of the impact is assessed to the degree possible. In some instances, benefits are estimated for specified levels of safety measure effectiveness in order to gauge the potential of the measure for improving highway safety.

Regulatory Flexibility Act

I hereby certify that the requirements that will be established by this rulemaking action will not have a significant economic impact on a substantial number of small entities because the States will be the recipients of any funds awarded under the regulation and, therefore, preparation of an Initial Flexibility Analysis is not necessary.

List of Subjects in 23 CFR Part 1209

Alcohol, Grant programs—transportation, Highway safety.

In consideration of the foregoing, a new Part 1209 is added to Title 23 of the Code of Federal Regulations to read as follows:

PART 1209—INCENTIVE GRANT CRITERIA FOR ALCOHOL TRAFFIC SAFETY PROGRAMS

Sec.

1209.1 Scope.
1209.2 Purpose.
1209.3 Definitions.
1209.4 General requirements.
1209.5 Requirements for a basic grant.
1209.6 Requirements for a supplemental grant.
1209.7 Award procedures.

Authority: 23 U.S.C. 408.

§ 1209.1 Scope.

This part establishes criteria, in accordance with 23 U.S.C. 408, for awarding incentive grants to States that implement effective programs to reduce drunk driving.

§ 1209.2 Purpose.

The purpose of this part is to encourage States who have adopted or do adopt and implement alcohol traffic safety programs by legislation or regulations which will significantly reduce crashes resulting from persons driving while under the influence of alcohol. The criteria established are intended to ensure that the State alcohol traffic safety programs for which incentive grants are awarded meet or exceed minimum levels designed to reduce drunk driving.

§ 1209.3 Definitions.

(a) "Imprisonment" means confinement in a jail, minimum security facility or in-patient rehabilitation or treatment center.

(b) "Prompt" means that the overall average time from arrest to suspension of a driver's license either cannot exceed an average of 45 days or cannot exceed an average of 90 days and a State submits a plan showing how it intends to achieve a 45 day average.

(c) "Repeat offender" means any person convicted of an alcohol-related traffic offense more than once in five years.

(d) "Suspension" means:

(1) for first offenses, the temporary debarring of all driving privileges for a minimum of 30 days and then the use for a minimum 60 days of a restricted, provisional or conditional license permitting a person to drive only for the purposes of going from a residence to or from a place of employment or to and from a mandated alcohol education or treatment program. A restricted, provisional or conditional license can only be issued in accordance with Statewide published guidelines and in exceptional circumstances specific to the offender.

(2) For refusal to take a chemical test, first offense, the temporary debaring of all driving privileges for 90 days.

(3) For second and subsequent offenses, including the refusal to take a chemical test, the temporary debarring of all driving privileges for one year or longer.

§ 1209.4 General requirements.

(a) *Certification Requirements.* To qualify for a grant under 23 U.S.C. 408, a State must, for each year it seeks to qualify:

(1) Meet the requirements of § 1209.5 and, if applicable, the requirements of § 1209.6;

(2) Submit a certification to the Director, Office of Alcohol Countermeasures, NHTSA, 400 Seventh Street, S.W., Washington, D.C. 20590 that: (i) It has an alcohol traffic safety program that meets those requirements. If the certification is based upon prior adoption of a criterion, a State must provide information showing that it has been actively implementing that criterion during the four years prior to application for a grant, (ii) it will use the funds awarded under 23 U.S.C. 408 only for the implementation and enforcement of alcohol traffic safety programs, and (iii) it will maintain its aggregate expenditures from all other sources for its existing alcohol traffic safety programs at or above the average level of such expenditures in fiscal years 1981 and 1982 (either State or Federal fiscal year 1981 and 1982 can be used); and

(3) After being informed by NHTSA that it is eligible for a grant, submit to the agency an alcohol safety plan for one, two or three years, as applicable, that describes the programs the State is and will be implementing in order to be eligible for the grants and provides the necessary information, identified in §§ 1209.5 and 1209.6, to demonstrate that the programs comply with the applicable criteria. The plan must also describe how the specific supplemental criteria adopted by a State are related to the State's overall alchohol traffic safety program.

(b) *Limitations on Grants.* A State may receive a grant for up to three fiscal years subject to the following limitations:

(1) The amount received as a basic grant shall not exceed 30 percent of a State's 23 U.S.C. 402 apportionment for fiscal year 1983.

(2) The amount received as a supplemental grant shall not exceed 20 percent of a State's 23 U.S.C. 402 apportionment for fiscal year 1983.

(3) In the first fiscal year the State receives a grant, it shall be reimbursed for up to 75 percent of the cost of its alcohol traffic safety program adopted pursuant to 23 U.S.C. 408;

(4) In the second fiscal year the State receives a grant, it shall be reimbursed for up to 50 percent of the cost of its alcohol traffic safety program adopted pursuant to 23 U.S.C. 408; and

(5) In the third fiscal year the State receives a grant, it shall be reimbursed for up to 25 percent of the cost of its alcohol traffic safety program adopted pursuant to 23 U.S.C. 408.

§ 1209.5 Requirements for a basic grant.

To qualify for a basic incentive grant of 30 percent of its 23 U.S.C. 402 apportionment for fiscal year 1983, a State must have in place and implement or adopt and implement the following requirements:

(a)(1) The prompt suspension, for a period not less than 90 days in the case of a first offender and not less than one year in the case of a repeat offender, of the driver's license of any individual who a law enforcement officer has probable cause under State law to believe has committed an alcohol-related offense, and: (i) To whom is administered one or more chemical tests

to determine whether the individual was intoxicated while operating the motor vehicle and who is determined, as a result of such tests, to be intoxicated, or (ii) who refuses to submit to such a test as proposed by the officer.

(2) To demonstrate compliance, a State shall submit a copy of the law or regulation implementing the mandatory license suspension, information on the number of licenses suspended, the length of the suspension for first-time and repeat offenders and for refusals to take chemical tests and the average number of days it took to suspend the licenses from date of arrest. A State can provide the necessary data based on a statistically valid sample.

(b)(1) A mandatory sentence, which is not subject to suspension or probation, of imprisonment for not less than 48 consecutive hours or community service for not less than 10 days, for any person convicted of driving while intoxicated more than once in a five year period.

(2) To demonstrate compliance a State shall submit a copy of its law adopting this requirement and data on the number of people convicted of DWI more than once in any five years, what general types of confinement are being used, and the sentences for those persons. A State can provide the necessary data based on a statistically valid sample.

(c)(1) Establishment of 0.10 percent blood alcohol concentration (BAC) as sufficient evidence for finding that a person driving a motor vehicle is intoxicated.

(2) To demonstrate compliance, a State shall submit a copy of its law adopting this requirement.

(d)(1) Increased efforts or resources dedicated to the enforcement of alcohol-related traffic laws and increased efforts to inform the public of such enforcement.

(2) To demonstrate compliance, a State shall submit data showing that it has increased its enforcement and public information efforts.

§ 1209.6 Requirements for a supplemental grant.

(a) to qualify for a supplemental grant of 20 percent of its 23 U.S.C. 402 apportionment for fiscal year 1983, a State must have in place and implement or adopt and implement a license suspension system in which the average time from date of arrest to suspension of a license does not exceed an average of 45 days, and

(b) have in place and implement or adopt and implement eight of the following twenty-one requirements:

(1) Establishment of 21 years of age as the minimum age for drinking any alcoholic beverages. To demonstrate compliance, a State shall submit a copy of its law adopting this requirement.

(2) Coordination of State alcohol highway safety programs. To demonstrate compliance, a State shall submit information explaining how the work of the different State agencies involved in alcohol traffic safety programs is coordinated.

(3) Rehabilitation and treatment programs for persons arrested and convicted of alcohol-related traffic offenses. To demonstrate compliance, a State shall submit a copy of its law or regulation adopting this requirement, and a copy of the minimum standards set for rehabilitation and treatment programs by the State.

(4) Establishment of State Task Forces of governmental and non-governmental leaders to increase awareness of the problem, to apply more effectively drunk driving laws and to involve governmental and private sector leaders in programs attacking the drunk driving problem. To demonstrate compliance a State shall submit a copy of the executive order, regulation, or law setting up the task force and a description of how the interests of local communities are represented on the task force.

(5) A Statewide driver record system readily accessible to the courts and the public which can identify drivers repeatedly convicted of drunk driving. The public shall have access to those portions of a driver's record that are not protected by Federal or State confidentiality or privacy regulations. To demonstrate compliance, a State shall submit a description of its record system discussing its accessibility to prosecutors, the courts and the public and providing data showing the time required to enter alcohol-related convictions into the system is not greater than 30 days.

(6) Establishment in each major political subdivision of a locally coordinated alcohol traffic safety program, which involves enforcement, adjudication, licensing, public information, education, prevention, rehabilitation and treatment and management and program evaluation. In small States, local coordination may be demonstrated by showing that the interests of the local communities are recognized and coordinated by the State program. To demonstrate compliance, a State shall submit a description of the number of programs, type of programs and percentage of the State population covered by such local programs.

(7) Prevention and long-term education programs on drunk driving. To demonstrate compliance, a State shall submit a description of its prevention and education program, discussing how it is related to changing societal attitudes and norms against drunk driving with particular attention to the implementation of a comprehensive youth alcohol traffic safety program, and the involvement of private sector groups and parents.

(8) Authorization for courts to conduct pre- or post-sentence screenings of convicted drunk drivers. To demonstrate compliance, a State shall submit a copy of its law adopting this requirement and a brief description of its screening process.

(9) Development and implementation of State-wide evaluation system to assure program quality and effectiveness. To demonstrate compliance, a State shall provide a copy of the executive order, regulation or law setting up the evaluation program and a copy of the evaluation plan.

(10) Establishment of a plan for achieving self-sufficiency for the State's total alcohol traffic safety program. To demonstrate compliance, a State shall provide a copy of the plan. Specific progress toward achieving financial self-sufficiency must be shown in subsequent years.

(11) Use of roadside sobriety checks as part of a comprehensive alcohol safety enforcement program. To demonstrate compliance, a State shall submit information showing that it is systematically using roadside sobriety checks. In addition, a State shall provide a copy of its regulation or policy authorizing the use of roadside checks.

(12) Establishment of programs to encourage citizen reporting of alcohol-related traffic offenses to the police. To demonstrate compliance, a State shall submit a copy of its citizen reporting guidelines or policy and data on the degree of citizen participation, e.g., number of citizen reports and the number of related arrests. A State can provide the necessary data based on a statistically valid sample.

(13) Establishment of a 0.08 percent blood alcohol concentration as presumptive evidence of driving while under the influence of alcohol. To demonstrate compliance, a State shall submit a copy of its law adopting this requirement.

(14) Adoption of a one-license/one-record policy. In addition, the State shall fully participate in the National Driver Register and the Driver License Compact. To demonstrate compliance, a State shall submit a copy of the order, regulation or law showing the State is a member of the Driver License Compact and has adopted a one-license/one-

record policy, and is participating in the National Driver Register.

(15) Authorization for the use of a preliminary breath test where there is probable cause to suspect a driver is impaired. To demonstrate compliance, a State shall submit a copy of its law adopting this requirement.

(16) Limitations on plea-bargaining in alcohol-related offenses. To demonstrate compliance, a State shall submit a copy of its law or court guidelines requiring that no alcohol-related charge be reduced to a non-alcohol-related charge or probation without judgment be entered without a written declaration of why the action is in the interest of justice. If a charge is reduced, the defendant's driving record must reflect that the reduced charge is alcohol-related.

(17) Provide victim assistance and victim restitution programs and require the use of a victim impact statement prior to sentencing in all cases where death or serious injury results from an alcohol-related traffic offense. To demonstrate compliance, a State shall submit a description of its victim assistance and restitution programs, and its use of victim impact statements.

(18) Mandatory impoundment or confiscation of license plate/tags of any vehicle operated by an individual whose license has been suspended or revoked for an alcohol-related offense. Any such impoundment or confiscation shall be subject to the lien or ownership right of third parties without actual knowledge of the suspension or revocation. To demonstrate compliance a State shall submit a copy of its law adopting this requirement.

(19) Enactment of legislation or regulations authorizing the arresting officer to determine the type of chemical test to be used to measure intoxication and to authorize the arresting officer to require more than one chemical test. To demonstrate compliance, a State shall submit a copy of its law adopting this requirement.

(20) Establishment of liability against any person who serves alcoholic beverages to an individual who is visibly intoxicated. To demonstrate compliance, a State shall submit a copy of the law or court decision of a State's highest court establishing that liability.

(21) Use of innovative programs. To demonstrate compliance a State shall submit a description of its program and an explanation showing that the program will be as effective as any of the programs adopted to comply with the other supplemental criteria.

(c) To qualify for a supplemental grant of 10 percent of its 23 U.S.C. 402 apportionment for fiscal year 1983, a State must: (1) Have in place and implement or adopt and implement a license suspension system in which the average time from date of arrest to suspension of a license does not exceed 45 days; and (2) have in place and implement or adopt and implement four of the twenty-one requirements specified in section (b).

(d) To qualify for a supplemental grant for a second and a third year, a State must:

(1) Show that it has increased its performance for each of the requirements it adopted in the prior year, and

(2) Adopt two more requirements from section (b) for each subsequent year, except that a State does not have to implement more than a total of fifteen criteria.

§ 1209.7 Award procedures.

For each Federal fiscal year, grants under 23 U.S.C. 408 shall be made to eligible States upon submission of the alcohol safety plan and certification required by § 1209.4. Such grants shall be made until all eligible States have received a grant or until there are insufficient funds to award a grant to a State. Time of submission shall be determined by the postmark for certifications delivered through the mail and by stamped receipt for certifications delivered in person.

(Sec. 101, Pub. L. 97-364; 96 Stat. 1738 (23 U.S.C. 408); delegation of authority at 49 CFR 1.50)

Issued on January 31, 1983.

Raymond A. Peck, Jr.,

Administrator.

[FR Doc. 83-3146 Filed 2-2-83; 11:29 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE DEFENSE

Department of the Navy

32 CFR Part 770

Rules Limiting Public Access to Particular Installations; Base Entry Regulations for Naval Submarine Base, New London, Conn.

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is adding Subpart E to 32 CFR Part 770 in order to set forth regulations governing entry upon Naval Submarine Base New London, Groton, Connecticut. It is intended that these regulations will apprise members of the general public of the rules governing access to Naval Submarine Base New London, Groton, Connecticut.

EFFECTIVE DATE: October 4, 1982.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Dale E. Bell, JAGC, U.S. Navy, Box 11, Naval Submarine Base New London, Groton, Connecticut 06340. Telephone: (203) 449-4739.

SUPPLEMENTARY INFORMATION: Pursuant to the authority cited below, the Commanding Officer, Naval Submarine Base New London, Groton, Connecticut, on October 4, 1982, adopted entry regulations entitled "Entry Regulations for Naval Submarine Base New London" (SUBASENLONINST 5510.13A). It is vital to the national defense that the operation of the submarine base continue without undue interruption. Accordingly, these regulations limit entry upon Naval Submarine Base New London to authorized personnel and those persons who have obtained advance consent pursuant to these regulations. It has been determined, in accordance with the public rulemaking provisions of 32 CFR Parts 295 and 701, that publication of these regulations for public comment prior to adoption would be impracticable, unnecessary, and contrary to the public interest since the nature and national importance of Naval Submarine Base New London mandate the immediate and uninterrupted effectiveness of these regulations.

List of Subjects in 32 CFR Part 770

Federal buildings and facilities, National defense, Restricted access areas, Security measures.

Accordingly, 32 CFR Part 770 is amended by adding a new Subpart E as follows:

PART 770—[AMENDED]

Subpart E—Base Entry Regulations for Naval Submarine Base New London, Groton, Connecticut

Sec.

770.41 Purpose.
770.42 Background.
770.43 Responsibility.
770.44 Entry restrictions.
770.45 Entry procedures.
770.46 Violations.

Authority: 50 U.S.C. 797; DoD Directive 5200.8 of July 29, 1980; SECNAVINST 5511.36 of December 20, 1980; OPNAVINST 5510.45 of April 19, 1971; 5 U.S.C. 301; 10 U.S.C. 6011; 32 CFR 700.702; 32 CFR 700.714.

Subpart E—Base Entry Regulations for Naval Submarine Base New London, Groton, Connecticut

§ 770.41 Purpose.

The purpose of this subpart is to promulgate regulations and procedures governing entry upon Naval Submarine Base New London, and to prevent the interruption of the stated functions and operations of Naval Submarine Base New London, by the presence of any unauthorized person within the boundaries of Naval Submarine Base New London.

§ 770.42 Background.

Naval Submarine Base New London maintains and operates facilities to support training and experimental operations of the submarine force including providing support to submarines, submarine rescue vessels, and assigned service and small craft; within capabilities, to provide support to other activities of the Navy and other governmental activities in the area; and to perform such other functions as may be directed by competent authority.

§ 770.43 Responsibility.

The responsibility for proper identification and control of personnel and vehicle movement on the Naval Submarine Base New London is vested with the Security Officer.

§ 770.44 Entry restrictions.

Except for military personnel, their authorized dependents, or guests, and employees of the United States in the performance of their official duties, entry upon Naval Submarine Base New London, or remaining thereon by any person for any purpose without the advance consent of the Commanding Officer, Naval Submarine Base New London, or his authorized representative is prohibited. *See* 18 U.S.C. 1382, the Internal Security Act of 1950 (50 U.S.C. 797); Chief of Naval Operations Instruction 5510.45B of April 19, 1971; and Secretary of the Navy Instruction 5511.36 of December 20, 1980.

§ 770.45 Entry procedures.

(a) Any individual person or group of persons desiring the advance consent of the Commanding Officer, Naval Submarine Base New London, or his authorized representative shall, in writing, submit a request to the Commanding Officer, Naval Submarine Base New London, at the following address: Commanding Officer (Attn: Security Officer), Box 38, Naval Submarine Base New London, Groton, Connecticut 06349.

(b) Each request for entry will be considered on an individual basis weighing the operational, security, and safety requirements of Naval Submarine Base New London with the purpose, size of party, duration of visit, destination, and military resources which would be required by the granting of the request.

§ 770.46 Violations.

(a) Any person entering or remaining on Naval Submarine Base New London, without the consent of the Commanding Officer, Naval Submarine Base New London or his authorized representative, shall be subject to the penalties prescribed in 18 U.S.C. 1382, which provides in pertinent part: "Whoever, within the jurisdiction of the United States, goes upon any military, naval . . . reservation, post, fort, arsenal, yard, station, or installation, for any purpose prohibited by law or lawful regulation . . . shall be fined not more than $500 or imprisoned not more than six months or both."

(b) Moreover, any person who willfully violates this subpart is subject to a fine not to exceed $5000 or imprisonment for not more than one (1) year or both as provided in 50 U.S.C. 797.

Dated: February 1, 1983.

F. N. Ottie,

Lieutenant Commander, JAGC, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 83-3136 Filed 2-4-83; 8:45 am]

BILLING CODE 3810-AE-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 123

[W-4-FRL 2293-4]

Florida Department of Environmental Regulation; Underground Injection Control Program Approval

AGENCY: Environmental Protection Agency.

ACTION: Approval of State Program.

SUMMARY: The State of Florida has submitted an application under Section 1422 of the Safe Drinking Water Act for the approval of an Underground Injection Control (UIC) program governing Classes I, III, IV, and V injection wells. After careful review of the application, the Agency has determined that the State's injection well program for Classes I, III, IV, and V injection wells meet the requirements of Section 1422 of the Act and, therefore, approves it.

EFFECTIVE DATE: This approval is effective February 7, 1983.

FOR FURTHER INFORMATION CONTACT: Curt Fehn, Ground Water Section, Water Supply Branch, Environmental Protection Agency, Region IV, 345 Courtland Street, Atlanta, Georgia 30365, (404) 881-3866.

SUPPLEMENTARY INFORMATION: Part C of the Safe Drinking Water Act (SDWA) provides for an Underground Injection Control (UIC) program. Section 1421 of the SDWA requires the Administrator to promulgate minimum requirements for effective State programs to prevent underground injection which endangers drinking water sources. The Administrator is also to list in the **Federal Register** each State for which in his judgment a State UIC program may be necessary. Each State listed shall submit to the Administrator an application which contains a showing satisfactory to the Administrator that the State: (i) Has adopted after reasonable notice and public hearings, a UIC program which meets the requirements of regulations in effect under Section 1421 of the SDWA; and (ii) will keep such records and make such reports with respect to its activities under its UIC program as the Administrator may require by regulations. After reasonable opportunity for public comment, the Administrator shall by rule approve, disapprove, or approve in part and disapprove in part the State's UIC program.

The State of Florida was listed as needing a UIC program on September 25, 1978 (43 FR 43420). The State of Florida submitted a complete application under Section 1422 on January 15, 1982, for the approval of a UIC program governing Classes I, III, IV, and V injection wells. The program would be administered by the Florida Department of Environmental Regulation (DER). On February 8, 1982, EPA published notice of its receipt of the application, announced the availability of the application for review, requested public comments, and scheduled a public hearing. Neither requests for public hearing nor requests to offer testimony at such hearing were received by EPA. Therefore, pursuant to the provisions of 40 CFR 123.54(c), the public hearing was cancelled on March 17, 1982 because of expressed lack of sufficient public interest. After careful review of the application, I have determined that the Florida UIC program submitted by the DER meets the requirements established by Federal

regulations pursuant to Section 1422 of the SDWA, and hereby approve it.

EPA is publishing this approval effective immediately so that Florida can begin issuing UIC permits for Classes I, III, IV, and V wells under the UIC program.

The terms listed below comprise a complete listing of the thesaurus terms associated with 40 CFR Part 123, which sets forth the requirements for a State requesting the authority to operate its own permit program of which the Underground Injection Control program is a part. These terms may not all apply to this particular notice.

List of Subjects in 40 CFR Part 123

Hazardous materials, Indians—lands, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control, Water supply, Intergovernmental relations, Penalties, Confidential business information.

OMB Review

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

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I certify that approval by EPA under Section 1422 of the Safe Drinking Water Act of the application by the Florida Department of Environmental Engineering will not have a significant economic impact on a substantial number of small entities, since this rule only approves State actions. It imposes no new requirements on small entities.

Dated: January 28, 1983.

Anne M. Gorsuch,

Administrator.

[FR Doc. 83-3197 Filed 2-4-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 228

[WH-FRC 2297-7]

Ocean Dumping; Extension of Interim Site Designations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Interim final rule.

SUMMARY: EPA today amends § 228.12 of the Ocean Dumping Regulations and Criteria to extend the interim designation of some dredged material ocean dumping sites pending completion of Environmental Impact Statements (EIS's) and formal rulemaking procedures. This action is necessary to assure that maintenance dredging of harbors and essential disposal of dredged material into the oceans is continued until the necessary site designation studies are done.

DATE: This action will become effective on February 1, 1983. Comments must be received on or before March 9, 1983.

ADDRESSES: Send comments to: Mr. T. A. Wastler, Chief, Marine Protection Branch (WH-585), EPA, Washington, DC 20460.

The record supporting this rulemaking is available for public inspection at the following location: EPA Public Information Reference Unit (PIRU), Room 2404 (rear), 401 M Street Southwest, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. T. A. Wastler, 202/755-0356.

SUPPLEMENTARY INFORMATION: EPA published revised Ocean Dumping Regulations and Criteria in the **Federal Register** on January 11, 1977 (42 FR 2462 et seq.). Section 228.12 contains a list of approved interim ocean dumping sites and states, in part:

> The following sites are approved for dumping the indicated materials on an interim basis pending completion of baseline or trend assessment surveys and designation for continuing use or termination of use.

The 1977 designations were effective for a maximum of three years. On January 16, 1980, and December 9, 1980, EPA extended the interim designations of these sites according to schedules published in those documents. 45 FR 3053 et seq. and 45 FR 81042 et seq. As EPA explained in January 1980, an extensive program of dumpsite surveys and Environmental Impact Statement preparation has been underway since 1977 pursuant to Contract No. 68-01-4610 ("the Contract"). This program covers most of the significant interim-designated dumpsites, including all of the sites needed after January 1980 for ocean disposal of sewage sludge or industrial wastes and those dredged material disposal sites which service existing navigation projects and which either routinely receive large quantities of dredged material or receive dredged material which may be contaminated.

In the program of site designation as originally planned, those sites were selected for priority study which received large volumes of material or which received municipal wastes, industrial wastes, or dredged material from areas known to receive polluted materials. The sites selected for priority study included all sites at which municipal and industrial wastes were being dumped and dredged material ocean disposal sites which receive over 90 percent of all dredged material ocean dumped from the United States.

In its December 9, 1980, **Federal Register** notice, EPA published a schedule by which it intended to publish EIS's and designate ocean disposal sites. Of the sites listed in the schedule, EPA has completed rulemakings designating the acid waste site and five sites off Hawaii for continuing use. Final EIS's have been completed for seven additional sites and draft EIS's for six other sites. However, because of contractual problems, the need for additional information on certain of the disposal sites, and unanticipated analytical and scientific review requirements, we have not completed many of the permanent site designations on the schedule we adopted, a schedule that would have made interim designations unnecessary beyond February 1, 1983. Therefore, to assure that maintenance dredging of harbors and essential disposal of dredged material at ocean disposal sites can be continued until the site designation studies are completed and final designation actions are taken, it is necessary to extend some of the interim dredged material ocean disposal site designations. Each of the sites whose interim designation is extended is important to the continued maintenance of a major federal navigation project, and continuation of each of these projects is of regional and frequently national economic importance. These interim extensions will ensure that no delay in dredging activities will result from the unavailability of an EPA-designated site, with consequent impediments to interstate and foreign commerce.

The action taken today extends the interim designations of some ocean disposal sites on a schedule commensurate with the time needed to complete the required actions. The sites for which such extension of interim designation is given fall into three broad categories.

1. *Those sites for which all studies have been completed and EIS's have been published, but for which rulemaking has not been completed.* Each site designation is published first as proposed rulemaking for public comment, and then as final rulemaking. Ample time is allowed for public comment and, if necessary, one or more public hearings may be held. The minimum time for the rulemaking process is six months, and 12 months is a realistic length of time for this type of rulemaking. The sites in this category are:

(i) San Francisco Channel Bar, CA.

(ii) New York Mud Dump, NY.
(iii) Jacksonville, FL.
(iv) Galveston, TX.

These sites were all included within the scope of the Contract and are now in various stages of the rulemaking procedure. An extension of one year to complete this process is required to allow for adequate public participation.

2. *Those sites for which all studies have been completed and the EIS's are in the process of being written.* These are sites for which field studies were required under the Contract and which have been delayed because of the need for additional information on the sites, more extensive data evaluation than was originally anticipated, or more extensive review of draft documents than anticipated. Some of these were backlogged by similar problems with other EIS's which preceded them in the Contract schedule. At the present time the data analyses on all of the EIS's are complete and they are in various stages of drafting. The sites in this category are:

(i) Portland, ME.
(ii) San Juan, PR.
(iii) Charleston/Savannah/Wilmington (3 sites). Wilmington Harbor, NC; Charleston Harbor, SC; and Savannah River, GA.
(iv) Sabine-Neches, TX.
(v) Mouth of Columbia River, OR (5 sites).

Considering the length of time necessary for rulemaking after the draft EIS on each site is complete, an extension of the interim designation of each for 18 months is required.

3. *Those sites for which field studies have been planned and initiated, but either the studies or the data analysis is not yet complete, and drafting of the EIS has not yet begun.* These are sites which were included in the scope of work of the Contract but for which additional studies beyond those originally planned have been found to be necessary. In each case detailed study plans have been developed, and studies will be completed in early 1983. After the studies are completed, the data will have to be analyzed, the EIS's prepared and published, and the procedures for rulemaking followed. It is therefore necessary to extend the interim designations on these sites for 24 months. The sites in this category are:

(i) Morehead City, NC.
(ii) Georgetown, SC.
(iii) Pascagoula, MS.
(iv) Humboldt Bay, CA.
(v) Long Beach, CA.
(vi) San Diego, CA (2 sites).
(vii) New Jersey/Long Island Sites (8 sites). Absecon Inlet, NJ; Cold Spring Inlet, NJ; Manasquan Inlet, NJ; East Rockaway, NY; Jones Inlet, NY; Fire Island, NY; Shark River, NJ; and Rockaway Inlet, NY.
(viii) Gulfport/Mobile/Pensacola (4 sites). Mobile, AL; Gulfport, MS (2 sites); and Pensacola, FL.
(ix) Coos Bay, OR.

The interim designation of the Farallon Islands site is not being extended. This site was found to be unsuitable for dredge material disposal because of its close association with a marine sanctuary designated by the National Oceanic and Atmospheric Administration under Title III of the Marine Protection, Research, and Sancturies Act.

Under the Regulatory Flexibility Act, EPA is required to perform a Regulatory Flexibility Analysis for all rules which may have a significant impact on a substantial number of small entities. EPA has determined that this action will not have a significant impact on small entities since the extension will only have the effect of retaining a disposal option for dredged material. Consequently, this action does not necessitate preparation of a Regulatory Flexibility Analysis.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This action will not result in an annual effect on the economy of $100 million or more or cause any of the other effects which would result in its being classified by the Executive Order as a "major" rule. Consequently, this action does not necessitate preparation of a Regulatory Impact Analysis.

Continued designation of the interim dredged material disposal sites is necessary to assure the uninterrupted availability of harbors to interstate and foreign commerce. In the absence of an extension, the site designations at issue would expire February 1, 1983. Accordingly, pursuant to the Administrative Procedure Act, 5 U.S.C. 553(b)(3)(B), the Agency has determined that notice and public procedure on the interim designations, prior to their extension, is impracticable and contrary to the public interest. However, the Agency solicits public comment on the interim designations and will address any comments received in a final rulemaking. For the same reasons, EPA has determined, pursuant to the Administrative Procedure Act, 5 U.S.C. 8553(d)(3), that there is good cause to make this regulation effective on February 1, 1983.

This interim final rule was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

List of Subjects in 40 CFR Part 228

Water pollution control.

(33 U.S.C. 1412 and 1418)

Dated: January 28, 1983.

Frederic A. Eidsness, Jr.,

Assistant Administrator for Water.

PART 228—[AMENDED]

§ 228.12 [Amended]

In consideration of the foregoing, Part 228 of Subchapter H of Chapter I of Title 40 is amended by removing that part of the last sentence of the introductory text through the colon § 228.12(a) and removing paragraphs (1) through (3) of § 228.12(a). Paragraphs (4)–(6) of §228.12(a) are redesignated as (1)–(3). Newly redesignated paragraph (a)(1) of §228.12 is revised to read as follows:

* * * * *

(a) * * *

(1) The following sites for disposal of dredged material under Corps of Engineers permits under Section 103 of the Act will remain in force according to the following schedule:

(i) Until such time as formal rulemaking is completed or until January 31, 1984, whichever is sooner:
(A) San Francisco Channel Bar, CA.
(B) New York Mud Dump, NY.
(C) Jacksonville, FL.
(D) Galveston, TX.

(ii) Until such time as formal rulemaking is completed or until July 31, 1984, whichever is sooner:
(A) Portland, ME.
(B) San Juan, PR.
(C) Charleston/Savannah/Wilmington (3 sites): Wilmington Harbor, NC; Charleston Harbor, SC; and Savannah River, GA.
(D) Sabine-Neches, TX.
(E) Mouth of Columbia River, OR (5 sites).

(iii) Until such time as formal rulemaking is completed or until January 31, 1985, whichever is sooner:
(A) Morehead City, NC.
(B) Georgetown, SC.
(C) Pascagoula, MS.
(D) Humboldt Bay, CA.
(E) Long Beach, CA.
(F) San Diego, CA (2 sites).
(G) New Jersey/Long Island Sites (8 sites): Absecon Inlet, NJ; Cold Spring Inlet, NJ; Manasquan Inlet, NJ; East Rockaway, NY; Jones Inlet, NY; Fire Island, NY; Shark River, NJ; and Rockaway Inlet, NY.
(H) Gulfport/Mobile/Pensacola (4 sites): Mobile, AL; Gulfport, MS (2 sites), and Pensacola, FL.
(I) Coos Bay, OR.

[FR Doc. 83-3055 Filed 2-4-83; 8:45 am]
BILLING CODE 6560-50-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Part 387

[BMCS Docket No. MC-94-1; Amendment No. 81-8]

Minimum Levels of Financial Responsibility for Motor Carriers

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: This emergency regulation revises the existing minimum levels of financial responsibility requirements for motor carriers to implement provisions required by section 406 of the Surface Transportation Assistance Act of 1982 (STAA of 1982). Section 406 amends section 30 of the Motor Carrier Act of 1980 by: (1) Expanding the authority of the Secretary of Transportation to require minimum levels of financial responsibility for motor vehicles transporting hazardous materials, hazardous substances, or hazardous wastes by foreign carriers in the United States engaged in foreign commerce, (2) requiring motor carriers domiciled in any contiguous foreign country to carry on board each vehicle it operates in the United States evidence of financial responsibility, and (3) expanding the applicability of the minimum levels of financial responsibility requirements to include motor vehicles having a gross vehicle weight rating (GVWR) of less than 10,000 pounds when transporting certain hazardous materials.

EFFECTIVE DATE: This emergency regulation is effective January 6, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Neill L. Thomas, Bureau of Motor Carrier Safety, (202) 426-9767; or Mrs. Kathleen S. Markman, Office of the Chief Counsel, (202) 426-0346, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. e.t., Monday through Friday.

SUPPLEMENTARY INFORMATION: On January 6, 1983, the President signed into law the Surface Transportation Assistance Act of 1982 (Pub. L. 97-424, 96 Stat. 2097). Section 406 sets forth minimum levels of financial responsibility requirements which supersede the previous requirements contained in section 30 of the Motor Carrier Act of 1980 (Pub. L. 96-296, 94 Stat. 820). Since the former minimum levels of financial responsibility requirements for motor carriers as implemented in 49 CFR Part 387 are in conflict with the provisions of the STAA of 1982, immediate revision of this regulation is required. A summary of the revisions to the existing provisions in 49 CFR, Part 387 follows.

Section 406 of the STAA of 1982 amended section 30 of the Motor Carrier Act of 1980 by expanding the authority of the Secretary to require minimum levels of financial responsibility for motor vehicles transporting hazardous materials, oil, hazardous substances, or hazardous wastes by foreign carriers in the United States while engaged in foreign commerce. Previous provisions applied to motor vehicles transporting hazardous materials, substances or wastes only in interstate or intrastate commerce.

Another change resulting from the enactment of the STAA of 1982 is the requirement that motor carriers domiciled in any contiguous foreign country carry evidence of financial responsibility on board each vehicle operated in the United States. Previous provisions did not include this requirement. A photocopy of the currently required forms MCS-90 or MCS-82 will be accepted as evidence of financial responsibility. Pursuant to section 406, the Secretary of Transportation and the Secretary of Treasury shall deny entry into the United States of any vehicle which does not have the required evidence of financial responsibility in the vehicle.

Section 406 of the STAA of 1982 also requires a limitation to the exemption from section 30's applicability provided for transportation involving motor vehicles with a GVWR of less than 10,000 pounds. Previously, all transportation conducted with vehicles having a GVWR of less than 10,000 pounds was exempt from the provisions of section 30. However, section 406 of the STAA of 1982 requires the transportation of any quantity of Class A or B explosives, any quantity of poison gas, or large quantity radioactive materials in interstate or foreign commerce by vehicles having a GVWR of less than 10,000 pounds to be subject to the requirements of section 30 of the Motor Carrier Act of 1980.

For these reasons, it has been determined that circumstances warrant the issuance of an emergency regulation to immediately implement the new minimum levels of financial responsibility requirements.

In addition, section 406 of the STAA of 1982 amended section 30 of the Motor Carrier Act of 1980 by increasing from 2 years to 3½ years the period during which the Secretary may reduce the minimum levels of financial responsibility. This provision will be addressed in a subsequent rulemaking action.

The Federal Highway Administrator has determined that this document responds to an emergency situation and for the reasons stated, it is impracticable for the agency to follow the procedures of Executive Order 12291, the regulatory policies and procedures of the Department of Transportation, and the Regulatory Flexibility Act. Therefore, good cause exists for publication as a final rule without notice and opportunity for comment and without a 30-day delay in effective date.

The FHWA will prepare, as soon as practical, a regulatory evaluation/regulatory flexibility analysis. When available, copies may be obtained by contacting Mr. Neill L. Thomas at the address provided above under the heading "For Further Information Contact."

List of Subjects in 49 CFR Part 387

Hazardous materials transportation, Insurance, Motor carriers, Surety bonds.

In consideration of the foregoing, the FHWA is amending Part 387 of title 49, Code of Federal Regulations, to read as set forth below.

PART 387—[AMENDED]

1. In § 387.3, paragraphs (b) and (c)(1) are revised to read as follows:

§ 387.3 Applicability.

* * * * *

(b) This part applies to motor carriers operating motor vehicles transporting hazardous materials, hazardous substances, or hazardous wastes in interstate, foreign, or intrastate commerce.

(c) *Exception.* (1) The rules in this part do not apply to a motor vehicle that has a gross vehicle weight rating (GVWR) of less than 10,000 pounds. This exception does not apply if the vehicle is used to transport any quantity of Class A or Class B explosives, any quantity of poison gas, or large quantity of radioactive materials in interstate or foreign commerce.

* * * * *

2. In §387.7, paragraphs (f) and (g) are added to read as follows:

§ 387.7 Financial responsibility required.

* * * * *

(f) All vehicles operated within the United States by motor carriers domiciled in a contiguous foreign country, shall have on board the vehicle a legible copy, in English, of the proof of the required financial responsibility (Forms MCS-90 or MCS-82) used by the motor carrier to comply with paragraph (d) of this section.

(g) Any motor vehicle in which there is no evidence of financial responsibility required by paragraph (f) of this section shall be denied entry into the United States.

* * * * *

3. Section 387.9 is revised to read as follows:

§ 387.9 Financial responsibility minimum levels.

The minimum levels of financial responsibility referred to in § 387.7 of this part are hereby prescribed as follows:

SCHEDULE OF LIMITS

Public Liability

Type of carriage [1]	Commodity transported	July 1, 1981	July 1, 1983
(1) For-hire (in interstate or foreign commerce).	Property (nonhazardous)	$500,000	$750,000
(2) For-hire and Private (in interstate, foreign, or intrastate commerce).	Hazardous substances, as defined in 49 CFR 171.8, liquefied compressed gas, or compressed gas transported in cargo tanks, portable tanks, or hopper-type vehicles with capacities in excess of 3,500 water gallons.	1,000,000	5,000,000
(3) For-hire and Private (in interstate or foreign commerce; in any quantity) or (in intrastate commerce; in bulk only).	Oil listed in 49 CFR 172.101; hazardous waste, hazardous materials and hazardous substances defined in 49 CFR 171.8 and listed in 49 CFR 172.101, but not mentioned in (2) above or (4) below.	500,000	1,000,000
(4) For-hire and Private (in interstate or foreign commerce).	Any quantity of Class A or B explosives; any quantity of poison gas; or large quantity radioactive materials as defined in 49 CFR 173.389.	1,000,000	5,000,000

[1] NOTE.—The type of carriage listed under numbers (1), (2), and (3) apply to vehicle with a gross vehicle weight rating of 10,000 pounds or more. The type of carriage listed under number (4) applies to all vehicles, regardless of gross vehicle weight rating.

* * * * * * *

4. The definition of "motor vehicle" as it appears in Illustration I of § 387.15 is revised to read as follows:

§ 387.15 Forms.

* * * * *

Motor Vehicle means a land vehicle, machine, truck, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used on a highway for transporting property, or any combination thereof.

* * * * *

5. The Schedule of Limits table in Illustration I of § 387.15 is revised to read as follows:

§ 387.15 Forms.

* * * * *

SCHEDULE OF LIMITS

Public Liability

Type of carriage [1]	Commodity transported	July 1, 1981	July 1, 1983
(1) For-hire (in interstate or foreign commerce).	Property (nonhazardous)	$500,000	$750,000
(2) For-hire and Private (in interstate, foreign, or intrastate commerce).	Hazardous substances, as defined in 49 CFR 171.8, liquefied compressed gas, or compressed gas transported in cargo tanks, portable tanks, or hopper-type vehicles with capacities in excess of 3,500 water gallons.	1,000,000	5,000,000
(3) For-hire and Private (in interstate or foreign commerce; in any quantity) or (in intrastate commerce; in bulk only).	Oil listed in 49 CFR 172.101; hazardous waste, hazardous materials and hazardous substances defined in 49 CFR 171.8 and listed in 49 CFR 172.101, but not mentioned in (2) above or (4) below.	500,000	1,000,000
(4) For-hire and Private (in interstate or foreign commerce).	Any quantity of Class A or B explosives; any quantity of poison gas; or large quantity radioactive materials as defined in 49 CFR 173.389.	1,000,000	5,000,000

[1] NOTE.—This type of carriage listed under numbers (1), (2), and (3) apply to vehicles with a gross vehicle weight rating of 10,000 pounds or more. The type of carriage listed under number (4) applies to all vehicles, regardless of gross vehicle weight rating.

NOTE.—This table showing the schedule of limits may appear at the bottom or on the reverse side of Form MCS-90.

* * * * * * * *

(Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety)

(Sec. 406, Pub. L. 97-424, 96 Stat. 2097, and 49 CFR 1.48)

Issued on: January 31, 1983.

Kenneth L. Pierson,

Director, Bureau of Motor Carrier Safety, Federal Highway Administration.

[FR Doc. 83-3191 Filed 2-4-83; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 681

[Docket No. 21209-245]

Western Pacific Spiny Lobster Fisheries

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: This final rule implements the Fishery Management Plan for the Spiny Lobster Fisheries of the Western Pacific Region. There have been no substantial changes from the proposed rule published in the Federal Register on June 30, 1982 (47 FR 28433), but minor revisions have been made in response to public comments and for clarification. These regulations provide for the orderly growth of the fishery for spiny lobsters.

DATE: Effective March 9, 1983.

FOR FURTHER INFORMATION CONTACT: Alan W. Ford, Regional Director, Southwest Region, 213-548-2575; Doyle E. Gates, Administrator, Western Pacific Program Office, Southwest Region, 808-955-8831.

SUPPLEMENTARY INFORMATION:

Background

The Fishery Management Plan for the Spiny Lobster Fisheries of the Western Pacific Region (FMP) in the fishery conservation zone (FCZ) off the coasts of American Samoa, Guam, and Hawaii was prepared by the Western Pacific Fishery Management Council (Council). The final rule implements the management measures in the FMP that: (1) Establish two management areas for the spiny lobster fisheries, (2) require a permit to fish for spiny lobster in the FCZ, (3) establish size restrictions for lobsters caught in Permit Area 1 (Northwestern Hawaiian Islands), (4) establish closed areas in Permit Area 1, (5) prohibit retention of berried females in Permit Area 1, and (6) establish certain recordkeeping and reporting requirements.

The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), approved the FMP on April 12, 1982; proposed regulations and request for comment were published in the Federal Register on June 30, 1982 (47 FR 28433). The comment period ended on August 16, 1982. The issues mentioned in the preamble to the

proposed regulations have not changed, nor has the management strategy. The preamble treated problems of potential overfishing, economic instability, vulnerability of the Hawaiian monk seal, and the lack of systematic collection of information. This final rule is essentially identical in its major points to the proposed rule, with some minor revisions for clarity and to respond to public comments. The comments received, and NOAA's responses, are discussed below.

Responses to Public Comments

The University of Hawaii at Manoa, the United States Coast Guard, and the Hawaii Department of Planning and Economic Development submitted written comments.

Comment: The Environmental Center at the University of Hawaii recognized that a precise maximum sustainable yield (MSY) could not be specified and suggested, as a conservative measure, that a moderate harvest level be established. Also mentioned was the possibility that the 7.7-cm minimum carapace length was too small, and the suggestion that "rot-out" panels and escape ports should be required for all lobster traps.

Response: The Council considered quotas; however, a quota for the entire Northwestern Hawaiian Islands would not protect specific areas from local depletion and area-specific quotas would entail extensive monitoring and enforcement costs. Also, it is not possible to establish reasonable quotas for any area from the information now available.

The Council reviewed all available information on the reproductive potential of spiny lobsters at various sizes, including recent information that revealed that small female lobsters make a greater contribution to the reproductive stocks than was formerly thought. Following its review, the Council established the minimum carapace length of 7.7 cm, between the 7.5—8.5 cm range which the Council's Scientific and Statistical Committee determined to be adequate.

The Council questioned the utility of rot-out panels and escape ports because of the expense and because of evidence that lobsters will escape through the entrance of a trap when the bait is exhausted. Based upon this information, the Council decided not to require escape ports at this time.

Any of the above suggestions could eventually be implemented as management measures. The final regulations implement a comprehensive logbook and monitoring system, provide for the placement of scientific observers on fishing vessels, and establish protective measures for the Hawaiian monk seal. Although the Council believes that these regulations provide full protection for the resources affected by the fishery, changes in management measures could occur as information is obtained from the developing fishery.

Comment: The U.S. Coast Guard had the following suggestions: (1) that logbooks be completed within 24 hours after conclusion of the fishing day, (2) that the language in § 681.8(b) on signals be modified and that a new signal be added, (3) that language in § 681.8 (c)(1) and (c)(2) be combined because a ladder will most likely not be necessary, and (4) that the point of contact for required reporting in § 681.25 be changed from "Authorized Officer" to "the Coast Guard at specific locations".

Response: All the above changes were made.

Comments: The U.S. Coast Guard also pointed out that the 15 percent incidental take allowed in § 681.21 can only be enforced when a vessel lands its catch, and that the prohibition against fishing inside the ten-fathom depth curve in § 681.23 cannot be enforced from the air.

Response: The intent of the regulations was to enforce the incidental-take provision on a per-trip basis; therefore, the language of the proposed regulations has been changed to clarify the intent.

The Council recognizes that enforcement by aircraft is essential over the distances involved and that closure of waters within the ten-fathom depth curve cannot be enforced by this method. Nevertheless, the Council decided that the closure was necessary and there are no equivalent alternatives.

Comment: The Hawaii Department of Planning and Economic Development believes that the FMP and proposed regulations are not consistent to the maximum extent practicable with Hawaii's Coastal Zone Management Program, as required by the Coastal Zone Management Act.

Response: Since publication of the proposed regulations, NOAA has conducted a thorough review of the consistency issue. NOAA has concluded that there is no consistency problem in regard to the FMP or proposed regulations. While in some instances the Federal regulations for the FCZ are not exactly identical with State regulations for State waters, they are not inconsistent and do not impair the State's ability to implement its management regime. While some of the State's concerns may still be resolved by working with the Western Pacific Fishery Management Council, it would be imprudent to delay implementation of the FMP and allow the fishery to continue unmanaged.

Clarifications

Section 681.10 of the proposed regulations requires that vessels carry an observer when the Regional Director requests. This requirement is maintained in the final regulations; however, an added requirement in the final regulations is that each vessel must notify the Regional Director 48 hours before leaving port to fish for spiny lobsters. This measure will facilitate the placement of an observer.

Note that the tail-width requirement in § 681.21(b) is 5 cm. The FMP was approved with the 5 cm requirement and the proposed regulations indicated 5 cm; however, the plan mailed to the public indicated 4.9 cm. Reviewers should correct the tail-size requirement in their copy of the plan.

Classification

The Assistant Administrator has determined that the FMP and the implementing regulations comply with the national standards, other provisions of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*), and other applicable law.

A Regulatory Impact Review was prepared by the National Marine Fisheries Service. The agency determined from that review that these regulations will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act and that they do not constitute a major rule under Executive Order 12291.

The Council prepared a draft environmental impact statement (EIS), which was filed with the Environmental Protection Agency on November 17, 1980 (45 FR 75749). A notice of availability of the final EIS/FMP was published in the **Federal Register** on June 18, 1982 (47 FR 26450).

Permits to fish for spiny lobsters, logbooks, and processor reports are required by these regulations. Because there are fewer than ten respondents anticipated for each type of information requested, clearance provisions of the Paperwork Reduction Act do not apply to any of these requests. Information collection required for the vessel permit application was approved under OMB 0648–0097.

List of Subjects in 50 CFR Part 681

Fish, Fisheries, Reporting requirements.

Dated: February 1, 1983.

Carmen J. Blondin,

Acting Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

For the reasons set out in the preamble, a new Part 681 to Title 50 of the CFR is added as follows:

PART 681—WESTERN PACIFIC SPINY LOBSTER FISHERIES

Subpart A—General Provisions

Sec.
681.1 Purpose and scope.
681.2 Definitions.
681.3 Relation to State law.
681.4 Permits.
681.5 Recordkeeping and reporting.
681.6 Vessel identification.
681.7 Prohibitions.
681.8 Enforcement.
681.9 Penalties.
681.10 Observers.

Subpart B—Management Measures for Permit Area 1 (the Northwestern Hawaiian Islands)

681.20 General.
681.21 Size restrictions.
681.22 Reproductive condition restrictions.
681.23 Closed areas (refugia).
681.24 Gear restrictions.
681.25 Landing requirements.
681.26 Experimental fishing.
681.27 Monk seal protective measures.
681.28 Monk seal emergency protective measures.

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

Subpart A—General Provisions

§ 681.1 Purpose and scope.

(a) The purpose of this part is to implement the Fishery Management Plan for the Spiny Lobster Fisheries of the Western Pacific (FMP) developed by the Western Pacific Fishery Management Council under the Magnuson Fishery Conservation and Management Act (Magnuson Act).

(b) These regulations govern commercial fishing for spiny lobsters by fishing vessels of the United States within the U.S. fishery conservation zone (FCZ) seaward of American Samoa, Guam, and Hawaii. The management measures specified in Subpart B apply only in the FCZ seaward of the Northwestern Hawaiian Islands (Permit Area 1).

§ 681.2 Definitions.

In addition to the definitions in the Magnuson Act, and unless the context requires otherwise, the terms used in this part have the following meanings:

Administrator means the Administrator of the National Oceanic and Atmospheric Administration (NOAA), or a designee.

Authorized Officer means:

(a) Any commissioned, warrant, or petty officer of the Coast Guard;

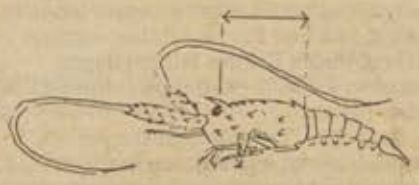
(b) Any certified enforcement officer or special agent of the National Marine Fisheries Service;

(c) Any officer designated by the head of any Federal, State, or Territorial agency which has entered into an agreement with the Secretary and the Secretary of Transportation to enforce the provisions of the Magnuson Act; and

(d) Any Coast Guard personnel accompanying, and acting under the direction of, any person described in paragraph (a) of this definition.

Carapace length means a measurement in a straight line from the ridge between the two largest spines above the eyes, back to the rear edge of the carapace (see figure 1).

FIGURE 1. METHOD OF MEASURING CARAPACE LENGTH



Closed area means an area of the FCZ, that is closed to the harvest of spiny lobster.

Commercial fishing means fishing with the intent to sell all or part of the catch of spiny lobsters. All spiny lobster fishing in the Northwestern Hawaiian Islands (Permit Area 1) is considered commercial fishing.

Fishery conservation zone (FCZ) means that area adjacent to the United States which, except where modified to accommodate international boundaries, encompasses all waters from the seaward boundary of each of the coastal States to a line each point of which is 200 nautical miles from the baseline from which the territorial sea of the United States is measured.

Fishing means:

(a) The catching, taking, or harvesting of fish;

(b) The attempted catching, taking, or harvesting of fish;

(c) Any other activity which can reasonably be expected to result in the catching, taking, or harvesting of fish;

(d) Any operations at sea in support of or in preparation for any activity described in paragraphs (a) through (c) of this definition.

Fishing vessel means any vessel, boat, ship, or other craft which is used for, equipped to be used for, or of a type which is normally used for fishing or for assisting or supporting a vessel engaged in fishing.

Interested parties means the State of Hawaii Department of Land and Natural Resources, the Western Pacific Fishery Management Council, holders of permits issued under this Part, and any person who has notified the Regional Director of his or her interest in the procedures and decisions described in §§ 681.27 and 681.28 and who has specifically requested to be considered an "interested party".

Kona crab means a crustacean of the species *Ranina ranina.*

Land or Landing means bringing fish to shore or off-loading fish from a fishing vessel.

Magnuson Act means the Magnuson Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.*

Management Area means the FCZ of the United States seaward of the Territory of American Samoa, the Territory of Guam, and the State of Hawaii.

NMFS means the National Marine Fisheries Service.

Official number means the documentation number issued by the Coast Guard or the number issued by a State or the Coast Guard for undocumented vessels.

Operator, with respect to any vessel, means the master or other individual on board and in charge of that vessel.

Owner, with respect to any vessel, means:

(a) Any person who owns that vessel in whole or in part;

(b) Any charterer of the vessel, whether bareboat, time, or voyage;

(c) Any person who acts in the capacity of a charterer, including but not limited to parties to a management agreement, operating agreement, or any similar agreement that bestows control over the destination, function, or operation of the vessel; or

(d) Any agent designated as such by a person described in paragraph (a), (b), or (c) of this definition.

Permit Area 1 means the FCZ of the Hawaiian Islands Archipelago lying to the west of 161°0'W. longitude, commonly known as the Northwestern Hawaiian Islands.

Permit Area 2 means the FCZ of the Hawaiian Islands Archipelago lying to the east of 161°00'W. longitude, commonly known as the Main Hawaiian Islands; the FCZ of the Territory of Guam; and the FCZ of the Territory of American Samoa.

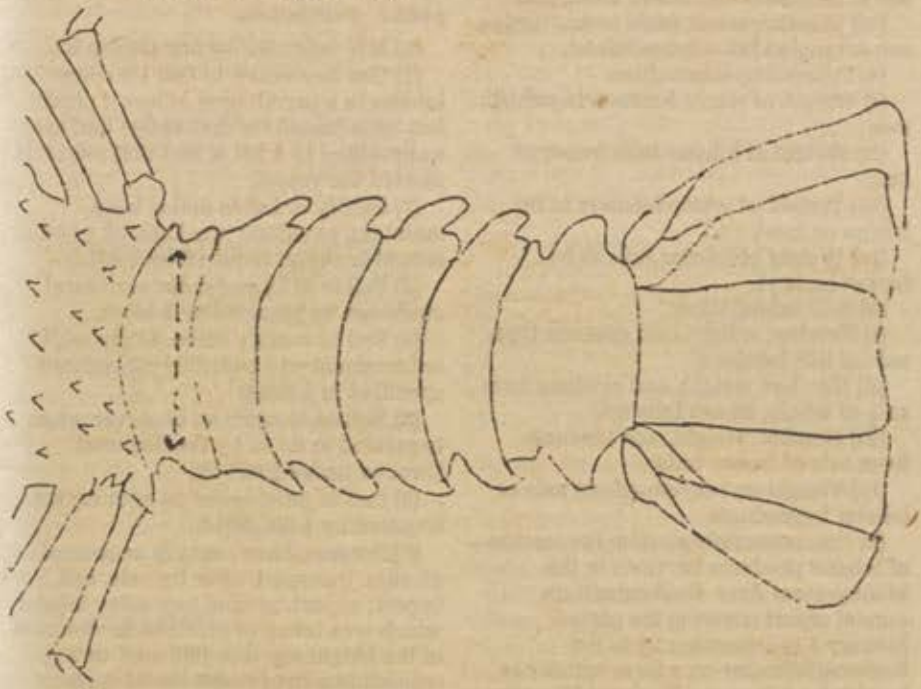
Person means any indivudual (whether or not a citizen or national of

the United States), corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government.

Processing means changing the form of a product through such methods as freezing, cleaning, or removing tails. It does not include the boxing or packaging of a product.

Regional Director means Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731, or a designee.

FIGURE 2. TAIL WIDTH



Trap means a box-like device used for catching and holding lobsters.

U.S.-harvested spiny lobster means spiny lobster caught, taken, or harvested by vessels of the United States within the Management Area.

Vessel of the United States, means:

(a) Any vessel documented or numbered by the Coast Guard under U.S. law; or

(b) Any vessel under five net tons registered under the laws of any State.

§ 681.3 Relation to State law.

Any State law which applies to vessels registered under the laws of that State and which is consistent with this part (including any State landing law) continues in effect with respect to fishing activities covered by this part.

Secretary means the Secretary of Commerce or a designee.

Slipper lobster means any crustacean of the genus *Scyllaridae*.

Spiny lobster means either of the following two species of crustaceans:

Panulirus marginatus or *Panulirus penicillatus*.

State means the State of Hawaii, the Territory of American Samoa, and the Territory of Guam.

Tail width means the straight line distance between the lateral notches on the first tail segment (see Figure 2).

§ 681.4 Permits.

(a) *General.* (1) Any vessel of the United States engaged in commercial fishing for spiny lobsters in the Management Area must have a permit issued under this section.

(2) Each permit is valid for fishing only in the area specified in the permit. Permit areas are defined in § 681.3.

(3) Only one permit issued under this part is valid for one vessel at any one time.

(4) The holder of a permit allowing a vessel to fish one area may obtain a permit for that vessel to fish another area upon surrendering to the Regional Director any current permit issued for that vessel under this part.

(b) *Applications.* (1) An application for a permit under this section must be submitted to the Regional Director by the vessel owner or operator at least 15 days before the date on which the applicant desires to have the permit made effective.

(2) Each application must be submitted on an appropriate form which may be obtained from the Regional Director. Each application must be signed by the vessel owner or operator and contain the following information:

(i) The applicant's name;

(ii) The owner's name, mailing address, and telephone number;

(iii) The operator's name, mailing address, and telephone number;

(iv) The name of the vessel;

(v) The vessel's official number;

(vi) The radio call sign of the vessel;

(vii) The home port of the vessel;

(viii) The engine horsepower of the vessel;

(ix) The type and quantity of lobster fishing gear used by the vessel;

(x) The processing capacity of the vessel;

(xi) The type and quantity of lobster fishing gear used by the vessel;

(xii) The permit area in which the applicant proposes to fish;

(xiii) Whether the application is for a new permit or a renewal; and

(xiv) The number and expiration date of any prior permit for the vessel issued under this part.

(c) *Fees.* No fee is required for a permit under this section.

(d) *Change in application information.* Any change in the information specified in paragraph (b) of this section must be reported to the Regional Director ten days before the effective date of the change.

(e) *Issuance.* (1) Within 15 days after receipt of a properly completed application, the Regional Director will determine whether to issue a permit.

(2) If an incomplete or improperly completed permit application is filed, the Regional Director will notify the applicant in writing of the deficiency in the application. If the applicant fails to correct the deficiency within 30 days following the date of notification, the application will be considered abandoned.

(f) *Expiration.* Permits issued under this section expire on the June 30 following the effective date of the permit.

(g) *Renewal.* An application for renewal of a permit must be submitted to the Regional Director in the same manner as described in paragraph (b) of this section.

(h) *Alteration.* Any permit that has been substantially altered, erased, or mutilated is invalid.

(i) *Replacement.* Permits may be issued to replace lost or mutilated

permits. An application for a replacement permit is not considered a new application.

(j) *Transfer.* Permits issued under this section are not transferable or assignable to other persons. A permit is valid only for the vessel for which it is issued.

(k) *Display.* Any permit issued under this section must be on board the vessel at all times while the vessel is fishing for spiny lobster in the FCZ. Any permit issued under this section must be displayed for inspection upon request of any Authorized Officer.

(l) *Sanctions.* 50 CFR 621.51—621.56 govern the imposition of sanctions against a permit issued under this part. As specified in those regulations, a permit may be revoked, modified, or suspended if the vessel for which the permit is issued is used in the commission of an offense prohibited by the Magnuson Act or this part; or if a civil penalty or criminal fine imposed under the Magnuson Act, and pertaining to such a vessel, is not paid.

§ 681.5 Recordkeeping and reporting.

(a) *Logbook.* The operator of any vessel engaged in commercial fishing for spiny lobster subject to this part shall:

(1) Maintain on board the fishing vessel, while fishing for spiny lobster, an accurate and complete NMS spiny lobster fishing logbook, recording all information specified in paragraph (b) (1), (2), and (3) of this section within 24 hours after the completion of the fishing day.

(2) Make the fishing logbook available for inspection by an Authorized Officer or any employee of NMFS designated by the Regional Director to make such an inspection; and

(3) Within 72 hours of each landing of spiny lobster, submit to the Regional Director a copy of the log sheet(s) for that fishing trip.

(b) *Fishing information.* Fishing logbooks must contain the following information for all spiny lobster taken under this part:

(1) Vessel information:

(i) Name of vessel;

(ii) Call sign of vessel;

(iii) Permit number of vessel;

(iv) Size of crew; and

(v) Number of traps.

(2) Fishing information:

(i) Location of lobster catch by statistical area as depicted in the NMFS spiny lobster fishing logbook;

(ii) Date and time of trap deployment, and number of traps deployed;

(iii) Date and time of trap retrieval and number of traps retrieved;

(iv) Number and species of legal spiny lobster per trap deployment;

(v) Number and species of sublegal lobsters per trap deployment;

(vi) Number and species of berried female spiny lobsters per trap deployment; and

(vii) Number of slipper lobsters and Kona crabs per trap deployment.

(3) Endangered species information:

(i) Whether monk seals or sea turtles are observed in the fishing area;

(ii) Whether monk seals or sea turtles are observed in the vicinity of the fishing gear;

(iii) Whether monk seals or sea turtles interfere with fishing operations;

(iv) Whether monk seals or sea turtles prey on released lobsters;

(v) Whether monk seals or sea turtles are entangled but released alive; and

(vi) Whether monk seals or sea turtles are entangled but released dead.

(4) Processing information:

(i) Weight of whole lobsters frozen at sea;

(ii) Weight of lobster tails frozen at sea;

(iii) Weight of whole lobsters to be frozen on land; and

(iv) Weight of lobster tails to be frozen on land.

(5) Sale information:

(i) Number, weight, and revenue from sale of live lobsters;

(ii) Number, weight, and revenue from sale of whole, frozen lobsters;

(iii) Number, weight, and revenue from sale of frozen tails;

(iv) Weight and revenue from sale of lobster byproducts.

(c) *Processor information.* Processors of lobster products harvests in the Management Area shall submit an annual report covering the period January 1 to December 31 to the Regional Director on a form which can be obtained from the Regional Director. This report is due by April 1 of the following year and must specify the following:

(1) Source (by FCZ surrounding each State) of lobsters processed;

(2) Poundage of lobsters processed by species;

(3) Number of individual lobsters processed by species;

(4) Method of processing;

(5) Form of final product; and

(6) Current actual lobster-processing capacity.

§ 681.6 Vessel identification.

(a) *Official number.* Each fishing vessel subject to this part must display its official number on the port and starboard sides of the deckhouse or hull, and on an appropriate weather deck so as to be visible from enforcement vessels and aircraft.

(b) *Numbers.* The official number must be affixed to each vessel subject to this part in block Arabic numerals at least 18 inches in height for fishing vessels of 65 feet in length or longer, and at least 10 inches in height for all other vessels. Markings must be legible and of a color that contrasts with the background.

(c) *Duties of operator.* The operator of each fishing vessel subject to this part shall:

(1) Keep the displayed official number clearly legible and in good repair; and

(2) Ensure that no part of the vessel, its rigging, or its fishing gear obstructs the view of the official number from an enforcement vessel or aircraft.

§ 681.7 Prohibitions.

(a) It is unlawful for any person to:

(1) Use any vessel to fish for spiny lobster in a permit area unless a permit has been issued for that vessel and area as specified in § 681.4, and that permit is aboard the vessel;

(2) Falsify or fail to make, keep, maintain, or submit any logbook or other record or report required by § 681.5;

(3) Fail to affix and maintain vessel markings, as required by § 681.6;

(4) Fail to comply immediately with enforcement and boarding procedures specified in § 681.8;

(5) Refuse to carry an observer when requested to do so by the Regional Director under § 681.10;

(6) Fail to provide the 48-hour notice required by § 681.10(b);

(7) Possess, have custody or control of, ship, transport, offer for sale, sell, import, export, or land any spiny lobster which was taken or retained in violation of the Magnuson Act, this part, or any regulation issued under the Magnuson Act;

(8) Refuse to allow an Authorized Officer to board a fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of the Magnuson Act, this part, or any other regulation or permit issued under the Magnuson Act;

(9) Forcibly assault, resist, oppose, impede, intimidate, or interfere with an Authorized Officer in the conduct of any search or inspection described in paragraph (a)(8) of this section;

(10) Resist a lawful arrest for any act prohibited by this part;

(11) Interfere with, delay, or prevent, by any means, the apprehension or arrest of another person by an Authorized Officer, knowing that such other person has committed any act prohibited by this part;

(12) Transfer directly or indirectly, or attempt to transfer, any U.S.-harvested spiny lobster to any foreign fishing vessel, while such foreign vessel is within the FCZ, unless the foreign fishing vessel has been issued a permit under Section 204 of the Magnuson Act which authorizes the receipt by such vessel of U.S.-harvested spiny lobster; or

(13) Violate any other provision of this part, the Magnuson Act, or any regulation or permit issued under the Magnuson Act.

(b) In Permit Area 1, in addition to the prohibitions in paragraph (a) of this section, It is unlawful for any person to:

(1) Fish for, take, or retain spiny lobsters:

(i) By methods other than lobster traps or by hand, as specified in § 681.24, or

(ii) From closed areas specified in § 681.23;

(2) Retain or possess on a fishing vessel any spiny lobster or tail which is less than the minimum size specified in § 681.21, except for the tail-width allowance of § 681.21(b);

(3) Possess on a fishing vessel any spiny lobster taken in Permit Area 1 in a condition such that neither its carapace length nor its tail width can be determined;

(4) Retain or possess on a fishing vessel, or remove the eggs from, any egg-bearing spiny lobster, as specified in § 681.22;

(5) Fail to report before landing, as specified in § 681.25; or

(6) Fail to comply with any protective measures promulgated under § 681.26 or § 681.27.

§ 681.8 Enforcement.

(a) *General.* The owner or operator of any fishing vessel subject to this part shall immediately comply with instructions issued by an Authorized Officer to facilitate safe boarding and inspection of the vessel, its gear, equipment, logbook, permit, and catch, for purposes of enforcing the Magnuson Act and this part.

(b) *Signals.* Upon being approached by a Coast Guard cutter or aircraft, or other vessel or aircraft authorized to enforce the Magnuson Act, the operator of a fishing vessel shall be alert for signals conveying enforcement instructions. The VHF–FM radiotelephone is the normal method of communicating between vessels. However, visual methods or laudhailer may be used if the radio does not work. The following signals, extracted from U.S. Hydrographic Office publication H.O. 102 International Code of Signals, may be communicated by flashing light or signal flags:

(1) "L" means "You should stop your vessel instantly;"

(2) "SQ3" means "You should stop or heave to; I am going to board you;"

(3) "AA AA AA etc." is the call to an unknown station or general call. The operator should respond by identifying his vessel by radio, visual signals, or by lighting his official number; and

(4) "RY–CY" means "You should proceed at slow speed. A boat is coming to you."

(c) *Boarding.* The operator of a vessel signaled to stop or heave to, for boarding shall:

(1) Stop the vessel immediately and lay to or maneuver in such a way as to allow the Authorized Officer and the boarding party to come aboard;

(2) Provide a ladder, illumination, and a safety line when necessary or requested by an Authorized Officer to facilitate boarding and inspection; and

(3) Take such other action as required to ensure the safety of the Authorized Officer and the boarding party and to facilitate the boarding.

§ 681.9 Penalties.

Any person or fishing vessel found to be in violation of this part is subject to the civil and criminal penalty provisions, permit sanctions, and forfeiture provisions of the Magnuson Act, and to 50 CFR Parts 620 and 621, 15 CFR Part 904, and other applicable law.

§ 681.10 Observers.

(a) All fishing vessels subject to this part must carry an observer when requested to do so by the Regional Director.

(b) The operator of a fishing vessel subject to this part shall notify the Regional Director of his departure 48 hours before leaving port to fish for spiny lobster in the Management Area. The operator shall provide this notice by contacting NMFS, Western Pacific Program Office, telephone (808) 955–8831, 2570 Dole Street, Honolulu, Hawaii.

Subpart B—Management Measures for Permit Area 1 (the Northwestern Hawaiian Islands)

§ 681.20 General.

The management measures specified in this subpart govern fishing for spiny lobster in the FCZ seaward of the Northwestern Hawaiian Islands (Permit Area 1).

§ 681.21 Size restrictions.

(a) *Whole lobsters.* Only spiny lobsters with a carapace length of 7.7 cm or greater may be retained.

(b) *Lobster tails.* If the carapace length cannot be determined, only lobsters with tails at least 5.0 cm wide may be retained, except for an allowance of up to 15 percent by number of the total catch per trip, which may have tail widths greater than or equal to 4.5 and less than 5.0 cm.

§ 681.22 Reproductive condition restrictions.

A female spiny lobster of any size may not be retained if it is carrying eggs externally. Eggs may not be removed from female spiny lobsters.

§ 681.23 Closed areas (refugia).

(a) Spiny lobster fishing is not allowed within 20 nautical miles of Laysan Island.

(b) Spiny lobster fishing is not allowed within the FCZ landward of the 10 fathom curve as depicted on National Ocean Survey Charts, Numbers 19022, 19019, and 19016.

§ 681.24 Gear restrictions.

(a) Spiny lobsters may be taken only with lobster traps or by hand. Lobsters may not be taken by means of poisons, drugs, other chemicals, spears, nets, hook, or explosives.

(b) An entryway in a spiny lobster trap may measure no greater than 10½ inches in its greatest diagonal or diameter at the larger end, and no greater than 6½ inches in its greatest diagonal or diameter at the smaller end.

§ 681.25 Landing requirements.

The operator of a fishing vessel that has taken spiny lobsters in the FCZ off the Northwestern Hawaiian Islands shall contact the U.S. Coast Guard, by radio or otherwise, at the 14th District, Honolulu, Hawaii (Telex: 392401); Pacific Area, San Francisco, California (Telex: 330427); or 17th District, Juneau, Alaska (Telex: 45305), at least 24 Hours before landings, and report the port, the approximate date, and time at which the lobsters will be landed.

§ 681.26 Experimental fishing.

(a) *General.* The Secretary may authorize experimental fishing for spiny lobster which would otherwise be prohibited by this part. No experimental fishing may be conducted unless an NMFS scientific observer is aboard the vessel.

(b) *Council review.* Before authorizing experimental fishing, the Secretary will submit to the Western Pacific Fishery Management Council a Copy of the Plan under which the experimental fishing will be conducted, and request the Council's comments.

(c) *Implementation.* After authorization by the Secretary, as demonstrated by the placement of an

NMFS scientific observer on a vessel, the vessel may fish in accordance with the plan described in paragraph (b) of this section

§ 681.27 Monk seal protective measures.

(a) *General.* This section establishes a procedure which will be followed if the Regional Director receives a report of a monk seal death that appears to be related to the spiny lobster fishery in Permit Area 1.

(b) *Notification.* Upon receipt of a report of a monk seal death that appears to be related to the spiny lobster fishery, the Regional Director will notify all interested parties of the facts known about the incident. He will also notify them that an investigation is in progress, and that, if the investigation reveals a threat of harm to the monk seal population, protective measures may be implemented.

(c) *Investigation.* The Regional Director will investigate the incident reported and will attempt:

(1) To verify that the incident occurred;

(2) To determine the extent of the harm to the monk seal population;

(3) To determine the probability of a similar incident recurring;

(4) To determine details of the incident such as:

(i) The number of animals involved,

(ii) The cause of the mortality,

(iii) The age and sex of the dead animals,

(iv) The relationship of the incident to the reproductive cycle, for example, breeding season (March-September), non-breeding season (October-February),

(v) The population estimates or counts of animals at the island where the incident occurred, and

(vi) Any other relevant information;

(5) To discover and evaluate any extenuating circumstances; and

(6) To evaluate any other relevant factors.

The Regional Director will make the results of his investigation available to the interested parties and request their advice and comments.

(d) *Determination of relationship.* The Regional Director will review and evaluate the results of the investigation and any comments received from interested parties. If there is substantial evidence that the death of the monk seal was related to the spiny lobster fishery, the Regional Director will:

(1) Advise the interested parties of his conclusion and the facts upon which it is based; and

(2) Request from the interested parties their advice on the necessity of protective measures and suggestions of appropriate protective measures.

(e) *Determination of response.* The Regional Director will consider all relevant information discovered during the investigation or submitted by interested parties in deciding on the appropriate response. Protective measures may include, but are not limited to, changes in trap design, changes in gear, closures of specific areas, or closures for specific periods of time.

(f) *Action by the Regional Director.* If the Regional Director decides that protective measures are necessary and appropriate, the Regional Director will:

(1) Prepare a document which describes the incident, the protective measures proposed, and the reasons for the protective measures;

(2) Provide it to the interested parties; and

(3) Request their comments.

(g) *Implementation.* (1) If, after completing the steps described in paragraph (f) of this section, the Regional Director still thinks that protective measures are necessary and appropriate, he will recommend the protective measures to the Administrator and provide notice of this recommendation to the Chairman of the Western Pacific Fishery Management Council and the Director of the Division of Aquatic Resources, Department of Land and Natural Resources, State of Hawaii.

(2) If the Administrator concurs with the Regional Director's recommendation, a notice will be published in the **Federal Register** which includes:

(i) The protective measures;

(ii) The reasons for the protective measures; and

(iii) A description of the incident that triggered the procedure described in this section.

(h) *Notification of "no action".* If at any point in the process described in this section, the Regional Director or Administrator decides that no further action is required, the interested parties will be notified of this decision.

(i) *Effective dates.* (1) The protective measures will take effect 10 days after the date of publication in the **Federal Register.**

(2) The protective measures will remain in effect for the shortest of the following time periods:

(i) Until the FMP and this section are amended to respond to the problem;

(ii) Until other action that will respond to the problem is taken under the Endangered Species Act;

(iii) Until the Administrator, following the procedures set forth in paragraph (j) of this section, decides that the protective measures are no longer required and repeals the measures; or

(iv) For the period of time set forth in the **Federal Register** notice, not to exceed three months. The measures may be renewed for three months after again following procedures in paragraphs (b) through (g) of this section.

(j) *Repeal.* (1) If the Administrator decides that protective measures may no longer be necessary for the protection of the monk seals, the interested parties will be notified of this preliminary decision and the facts upon which it is based. The Administrator will request advice on the proposed repeal of the protective measures.

(2) The Administrator will consider all relevant information obtained by the Regional Director or submitted by interested parties in deciding whether to repeal the protective measures.

(3) If the Administrator decides to repeal the protective measures:

(i) Interested parties will be notified of the decision, and

(ii) The notice of repeal and the reasons for the repeal will be published in the **Federal Register.**

§ 681.28 Monk seal emergency protective measures.

(a) *Determination of emergency.* If at any time during the process described in § 681.27 the Regional Director determines that an emergency exists involving monk seal mortality related to the spiny lobster fishery and that measures are needed immediately to protect the monk seal population, he will:

(1) Notify the interested parties of this determination and request their immediate advice and comments; and

(2) Forward a recommendation for emergency action and any advice and comments received from interested parties to the Administrator.

(b) *Implementation of emergency provisions.* If the Administrator agrees with the recommendation for emergency action:

(1) He will determine the appropriate emergency protective measures;

(2) A notice of the emergency protective measures will be published in the **Federal Register;** and

(3) He will notify the interested parties of the emergency protective measures. Holders of permits to fish in Permit Area I will be notified by certified mail. Permit holders that the Regional Director knows are on the fishing grounds also will be notified by radio.

(c) *Effective dates.* (1) Emergency protective measures are effective against a fisherman at 12:01 a.m. local

time of the day following the day the fisherman receives actual notice of the measures.

(2) Emergency protective measures are effective for 10 days from the day following the day the first permit holder is notified of the protective measures.

(3) Emergency protective measures may be extended for an additional 10 days if necessary to allow the completion of the procedures set out in § 681.27.

[FR Doc. 83-3216 Filed 2-4-83; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 48, No. 26
Monday, February 7, 1983

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.

FEDERAL SERVICE IMPASSES PANEL

5 CFR Parts 2470 and 2471

Procedures of the Panel

AGENCY: Federal Service Impasses Panel.

ACTION: Proposed rule.

SUMMARY: The Federal Service Impasses Panel (Panel) is proposing amendments to Parts 2470 and 2471 of Title 5 of the Code of Federal Regulations, §§ 2470.2, 2471.5, 2471.8, 2471.10, and 2471.11. The proposed amendments are designed to (1) clarify requirements concerning copies of documents to be submitted to the Panel and service of such documents, (2) delete current unnecessary provisions concerning transcripts of hearings and compliance with Panel decisions, and (3) redefine the term "quorum."

DATES: Written comments will be considered if received by March 10, 1983.

ADDRESS: Comments should be mailed to Howard W. Solomon, Executive Director, Federal Service Impasses Panel, 500 C Street, SW., Washington, D.C. 20424.

FOR FURTHER INFORMATION CONTACT: Linda A. Lafferty, Deputy Executive Director, Federal Service Impasses Panel, 500 C Street, SW., Washington, D.C. 20424, (202) 382-0981.

SUPPLEMENTARY INFORMATION: In response to numerous problems which have arisen with respect to both the submission of the requisite number of copies of documents to the Panel and the service of those documents, the Panel is proposing to amend its regulations to require: (1) The submission of an original (or clean copy capable of further reproduction) and one copy of all requests, responses, and other documents filed with the Panel; and (2) service of such documents on all appropriate parties and persons. Moreover, all documents must be accompanied by a signed and dated statement of service which includes: (1) The names of the parties and persons served, (2) the addresses of such parties and persons, (3) the date of service and nature of the document served, and (4) the manner in which such service was made. With respect to the latter point, the proposed amendment specifies that the date of service shall be the day when the document is deposited in the U.S. mail or its delivered in person. Consistent with recommendations made by the Judicial Conference's Court Administration Committee, the proposed amendment specifies that all documents shall be submitted on 8½ x 11 inch paper. The Panel's current regulations concerning copies and service are found in Part 2471 of Title 5 of the Code of Federal Regulations, §§ 2471.5, 2471.8(a)(4), 2471.10(c), and 2471.11(f). The proposed amendment replaces § 2471.5 in its entirety and deletes the other provisions.

Section 2471.8(c) of the Panel's current regulations provides that an official reporter shall make an official transcript of Panel hearings. In view of the Panel's budgetary constraints and the fact that the transcription of Panel hearings is not required by Title VII of the Civil Service Reform Act of 1978, 5 U.S.C. Chapter 71, the Panel proposes to delete the regulatory requirement. In addition, the Panel proposes to amend § 2471.7(b) to include a provision for notifying the parties to a hearing of the method, if any, by which the hearing shall be recorded.

Section 2471.11(e) of the Panel's current regulations requires parties to submit evidence of compliance with Panel decisions. Inasmuch as the Panel lacks enforcement authority with respect to its decisions, this provision may be misleading. Accordingly, it is proposed to delete the requirement.

Finally, the Panel proposes to amend the definition of "quorum" contained in Part 2470, § 2470.2(h) to clarify that a quorum of the Panel consists of a majority of its members.

List of Subjects in 5 CFR Parts 2470 and 2471

Administrative practice and procedure.

It is proposed to amend Parts 2470 and 2471 as follows:

PART 2470—GENERAL

1. It is proposed to amend § 2470.2 by revising paragraph (h) to read as follows:

§ 2470.2 Definitions.

* * * * *

(h) The term "quorum" means a majority of the members of the Panel.

* * * * *

PART 2471—PROCEDURES OF THE PANEL

2. It is proposed to revise § 2471.5 to read as follows:

§ 2471.5 Copies and service.

(a) Any party submitting a request for Panel consideration of an impasse or a request for approval of a binding arbitration procedure shall file an original and one copy with the Panel and shall serve a copy of such request upon all counsel of record or other designated representative(s) of parties, upon parties not so represented, and upon any mediation service which may have been utilized. When the Panel acts on a request from the Federal Mediation and Conciliation Service or acts on a request from the Executive Director, it will notify the parties to the dispute, their counsel of record or designated representatives, if any, and any mediation service which may have been utilized. A clean copy capable of being used as an original for purposes such as further reproduction may be submitted for the original. Service upon such counsel or representative shall constitute service upon the party, but a copy also shall be transmitted to the party.

(b) Any party submitting a response to or other document in connection with a request for Panel consideration of an impasse or a request for approval of a binding arbitration procedure shall file an original and one copy with the Panel and shall serve a copy of the document upon all counsel of record or other designated representative(s) of parties, or upon parties not so represented. A clean copy capable of being used as an original for purposes such as further reproduction may be submitted for the original. Service upon such counsel or representative shall constitute service

upon the party, but a copy also shall be transmitted to the party.

(c) A signed and dated statement of service shall accompany each document submitted to the Panel. The statement of service shall include the names of the parties and persons served, their addresses, the date of service, the nature of the document served, and the manner in which service was made.

(d) The date of service or date served shall be the day when the matter served is deposited in the U.S. mail or is delivered in person.

(e) Unless otherwise provided by the Panel or its designated representatives, any document or paper filed with the Panel under these rules, together with any enclosure filed therewith, shall be submitted on 8½x11 inch size paper.

3. It is proposed to amend § 2471.7 by revising paragraph (b) to read as follows:

§ 2471.7 Preliminary hearing procedures.

* * * * *

(b) Issue and serve upon each of the parties a notice of hearing and a notice of prehearing conference, if any. The notice will state (1) the names of the parties to the dispute; (2) the date, time, place, type, and purpose of the hearing; (3) the date, time, place, and purpose of the prehearing conference, if any; (4) the name of the designated representatives appointed by the Panel; (5) the issues to be resolved; and (6) the method, if any, by which the hearing shall be recorded.

* * * * *

4. It is proposed to amend § 2471.8 by revising paragraph (a)(4) to read as follows and removing paragraph (c) in its entirety.

§ 2471.8 Conduct of hearing and prehearing conference.

* * * * *

(a) * * *

(4) Designate the date on which posthearing briefs, if any, shall be submitted.

* * * * *

§ 2471.10 [Amended]

5. It is proposed to amend § 2471.10 by removing paragraph (c) in its entirety.

§ 2471.11 [Amended]

6. It is proposed to amend § 2471.11 by removing paragraphs (e) and (f) in their entirety.

Note.—In accordance with section 605(b) of the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Federal Service Impasses Panel has determined that these proposed amendments do not require preparation of a regulatory flexibility analysis.

(5 U.S.C. 7119, 7134)

Dated: February 1, 1983.

Robert G. Howlett,

Chairman, Federal Service Impasses Panel.

[FR Doc. 83-3219 Filed 2-4-83; 8:45 am]

BILLING CODE 6727-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 981

Handling of Almonds Grown in California; Administrative Rules and Regulations Governing Almond Butter and Crediting for Marketing Promotion

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: Notice is hereby given of a proposal to change the almond butter and creditable marketing promotion provisions of the administrative rules and regulations established under the Federal marketing order for California almonds. The change would (1) Liberalize the definition of "almond butter" as it applies to the disposition of reserve almonds, and (2) require handlers who wish to receive credit against their assessment obligations for the distribution of sample packages of almonds to obtain approval from the Almond Board of California prior to such distribution.

DATE: Comments must be received by February 22, 1983.

ADDRESS: Send two copies of comments to the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, where they will be available for public inspection during regular business hours.

FOR FURTHER INFORMATION CONTACT: J. S. Miller, Chief, Specialty Crops Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250 (202) 447-5697.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed under USDA guidelines implementing Executive Order 12291 and Secretary's Memorandum 1512-1 and has been classified a "non-major" rule under criteria contained therein.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it would result in only minimal costs being incurred by the regulated 29 handlers.

J. S. Miller has determined that this proposal should be published with less than a 60-day comment period. The proposed change in the definition of "almond butter" would relax restrictions on handlers, and handlers should have the opportunity to utilize that increased flexibility as soon as possible.

The proposed change in the creditable marketing promotion provisions is designed to prevent handlers from inadvertently distributing sample packages to market segments where credit is not allowed under the present regulations. The Almond Board of California should have the opportunity to implement this safeguard as soon as possible.

This proposal would revise §§ 981.466 and 981.441(d)(1)(i)(D) of Subpart—Administrative Rules and Regulations (7 CFR Part 981.401-981.474; 47 FR 25001; 40783). This subpart is issued under the marketing agreement and Order No. 981 (7 CFR Part 981), both as amended, regulating the handling of almonds grown in California. The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The proposal is based on two unanimous recommendations of the Almond Board of California, hereinafter referred to as the "Board," which works with USDA in administering the order.

Section 981.466 stipulates the specifications for almond butter as used in § 981.66(c) as an outlet for the disposition of reserve almonds. Section 981.466 currently defines "almond butter" as a "comminuted food product prepared by grinding shelled almonds into a homogeneous plastic or semiplastic mass or liquid having very few particles larger than 1/16 inch in any dimension."

Recently, the Board launched a new program to use reserve almonds to expand the almond butter market. The Board hopes to expand almond butter consumption to absorb a large quantity of almonds in the face of anticipated larger crops. To meet this goal, new almond butter products must be developed which can compete with peanut butter. Thus, the Board recommends two additions to the current definition of "almond butter" to encourage the development of such new products.

First, it is proposed to add the words "or blanched" after the word "shelled" to allow for an almond butter made from blanched almonds. Recent research has shown that unflavored, blanched, roasted almond butter is preferred over almond butter made from other almond forms. While "blanched almonds" may be construed to be a type of "shelled almonds," the industry defines

"blanched almonds" and "shelled almonds" as two distinct products. Thus, the additional language should be added for clarification.

Secondly, it is proposed to provide for a chunky style almond butter containing almond chunks or pieces up to a maximum of 25 percent by weight of the finished product. The size of the individual almond pieces used to make this chunky style almond butter could not exceed 5/64 inch in any dimension. While the current definition allows for a chunky style almond butter "having very few particles larger than 5/64 inch in any dimension," the Board believes that this definition is too strict in light of current standards for chunky style peanut butter. The proposed change would encourage the development of chunky style almond butter products which can compete with chunky style peanut butter.

Section 981.441(d)(1)(i) stipulates the conditions under which handlers may receive credit against their pro rata expense assessment obligations for the distribution of sample packages containing one-half ounce or less of almonds to charitable or educational outlets. Section 981.441(d)(1)(i)(D) specifies that credit shall not be granted for sample packages distributed to market segments where almonds are already being sold, and that "handlers should obtain approval from the Board prior to distribution to ensure that this condition is met."

It is proposed to revise § 98.1441(d)(1)(i)(D) by changing "should" to "shall," thereby making Board approval a mandatory requirement. This change is intended to prevent handlers from knowingly distributing sample packages to market segments where almonds are already being sold and which are, therefore, ineligible for credit.

List of Subjects in 7 CFR Part 981

Marketing agreements and orders, Almonds, California

PART 981—[AMENDED]

Therefore, it is proposed to revise §§ 981.466 and 981.441(d)(1)(i)(D) of Subpart—Administrative Rules and Regulations as follows:

1. As revised, § 981.446 should read as follows:

§ 981.466 Almond butter.

Almond butter as used in § 981.66(c) is hereby defined as a comminuted food product prepared by grinding shelled or blanched almonds into a homogeneous plastic or semiplastic mass or liquid having very few particles larger than 5/64 inch in any dimension. To produce chunky style almond butter, almond chunks or pieces may be added up to a maximum of 25 percent by weight of the finished product. The size of the almond pieces used to make chunky style almond butter may not exceed 5/64 inch in any dimension.

2. As revised, § 981.441(d)(1)(i)(D) should read as follows:

§ 981.441 Crediting for marketing promotion including paid advertising.

* * * * *

(d) * * *

(1) * * *

(i) * * *

(D) No credit shall be granted for sample packages distributed to market segments where almonds are already being sold. Handlers shall obtain approval from the Board prior to distribution to ensure that this condition is met.

* * * * *

Dated: February 2, 1983.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 83-3225 Filed 2-4-83; 8:45 am]

BILLING CODE 3410-02-M

FEDERAL RESERVE SYSTEM

12 CFR Part 250

[Docket No. R-0453]

Miscellaneous Interpretations

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rulemaking.

SUMMARY: The Board is proposing to clarify the meaning of the seventh paragraph of section 13 of the Federal Reserve Act as amended by the Bank Export Services Act (Title II of Pub. L. 97-290).

DATE: Comments must be received by March 18, 1983.

ADDRESS: Interested parties are invited to submit written data, views, or arguments concerning the proposed rule to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, D.C. 20551, or such comments may be delivered to room B-2223 between 8:45 a.m. and 5:15 p.m. Comments may be inspected in room B-1122 between 8:45 a.m. and 5:15 p.m., except as provided in section 261.6(a) of the Board's Rules Regarding Availability of Information (12 CFR 261.6(a)).

FOR FURTHER INFORMATION CONTACT: Gilbert T. Schwartz, Associate General Counsel (202/452-3625), or Robert G. Ballen, Attorney (202/452-3265), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: Section 207 of the Bank Export Services Act (Title II of Pub. L. 97-290) ("BESA") provides that a member bank or a Federal or State branch or agency in the United States whose parent foreign bank has, or is controlled by a foreign company or companies that have, more than $1 billion in total worldwide consolidated bank assets, may accept drafts or bills of exchange drawn upon it of the type described in that section in the aggregate up to 150 per cent of its paid up and unimpaired capital stock and surplus and, with the permission of the Board, up to 200 per cent of its paid up and unimpaired capital stock and surplus (12 U.S.C. 372).

The Board is proposing to clarify the meaning of the seventh paragraph of section 13 of the Federal Reserve Act, as amended by the BESA. This clarification would cover the treatment of (1) participations in BAs that are issued by institutions subject to the limitations of the BESA and sold to institutions not subject to such limitations, (2) participations in BAs that are issued by institutions not subject to the limitations of the BESA and sold to institutions subject to such limitations, (3) the limitation on BAs growing out of domestic transactions, and (4) the dollar equivalent of the paid up capital and surplus of the foreign bank parent of U.S. branches and agencies subject to the limitations of the BESA.

The impact of this proposal on small entities has been considered in accordance with section 603 of the Regulatory Flexibility Act (Pub. L. 96-354; 5 U.S.C. § 603). The Board's proposal will assist in assuring that small member banks that are covered by the limitations on the amount of acceptances they may issue will be able to take advantage of the increased limits of the BESA. Further, small nonmember banks should not be affected by the proposal since they typically do not issue bankers' acceptances. No new recordkeeping or reporting requirements will be imposed as a result of this action.

List of Subjects in 12 CFR Part 250

Federal Reserve System.

PART 250—[AMENDED]

Pursuant to its authority under the seventh paragraph of section 13 of the Federal Reserve Act (12 U.S.C. 372), the

Board of Governors proposes to amend 12 CFR Part 250—Miscellaneous Intrepretations, by adding a new § 250.164 to read as follows:

§ 250.164 Bankers' acceptances.

(a) Section 207 of the Bank Export Services Act (Title II of Pub. L. 97–290) ("BESA") raised the limits on the aggregate amount of eligible bankers' acceptances ("BAS") that may be issued by an individual member bank from 50 per cent (or 100 per cent with the permission of the Board) of its paid up and unimpaired capital stock and surplus ("capital") to 150 per cent (or 200 per cent with the permission of the Board) of its capital. This section of the BESA applies the same limits applicable to member banks to U.S. branches and agencies of foreign banks that are subject to reserve requirements under section 7 of the International Banking Act of 1978 (12 U.S.C. 3105). The Board is issuing this rule as to the proper meaning of the seventh paragraph of section 13 of the Federal Reserve Act, as amended by the BESA.

(b)(1) This section of the BESA provides that any portion of an eligible BA that is issued by an institution subject to the BA limitations contained therein ("covered bank") shall not be included in the calculation of the issuer's limits if it is sold through a participation agreement to another covered bank. The participation is to be applied to the limitations applicable to the covered bank purchasing the participation. Although a covered bank that has reached its 150 or 200 per cent limit can continue to create eligible acceptances by selling participations to other covered banks, Congress has in effect imposed an aggregate limit on the eligible acceptances that may be issued by *all* covered banks equal to the sum of 150 or 200 per cent of the capital of all covered banks.

(2) The Board has clarified that under the statute an eligible BA issued by a covered bank that is sold through a participation agreement to an institution that is *not* subject to the limitations of this section of the BESA continues to be included in the limitations applicable to the issuing covered bank. However, given that Edge Corporations, like covered banks, are subject to separate per customer and aggregate BA limits imposed by Federal statute or regulation, a participation in an eligible BA issued by a covered institution that is sold to an Edge Corporation should be included in the limits applicable to the Edge Corporation and not included in the limits applicable to the creating covered bank. This will ensure that the total amount of eligible BAs that may be issued by covered banks does not exceed the 150 or 200 per cent of capital limitations established by Congress. In addition, this ensures that participations in acceptances are not used as a device for the avoidance of reserve requirements.

(3) In addition, a participation purchased by a covered bank from an institution not covered by the limitations of the Act is to be included in the limitations applicable to the purchasing covered bank. Subjecting participations in acceptances issued by institutions not covered by the Act that are purchased by a covered bank to the purchasing covered bank's acceptance limitations is based upon the language of the statute which includes within the institution's limits on eligible bankers' acceptances outstanding, the amount of participations purchased by the institution, This provision reflects Congressional intent that a covered bank not be obligated on eligible bankers' acceptances, and participations therein, for an amount in excess of 150 or 200 per cent of the institution's capital.

(c) The statute also provides that eligible acceptances growing out of domestic transactions are not to exceed 50 per cent of the aggregate of all acceptances authorized for covered banks. The Board has clarified that this 50 per cent limitation is applicable to the maximum permissible amount of eligible BAs (150 or 200 per cent of capital), regardless of the bank's amount of eligible acceptances outstanding. The statutory language prior to the BESA amendment made clear that covered banks could issue eligible acceptances growing out of domestic transactions up to 50 per cent of the amount of the total permissible eligible acceptances the bank could issue. The legislative history of the BESA indicates no intent to change this domestic acceptance limitation.

(d) The statute also provides that for the purpose of the limitations that apply to U.S. branches and agencies of foreign banks, a branch's or agency's capital is to be calculated as the dollar equivalent of the capital stock and surplus of the parent foreign bank as determined by the Board. The Board has clarified that for purposes of calculating the BA limits applicable to U.S. branches and agencies of foreign banks, the identity of the parent foreign bank is the same as for reserve requirement purposes. Accordingly, the parent of a U.S. branch or agency would be the bank entity that owns the branch or agency most directly. The Board has also clarified that the procedures currently used for purposes of reporting to the Board on the Annual Report of Foreign Banking Organizations, Form F.R. Y–7, are also to be used in the calculation of the acceptance limits applicable to U.S. branches and agencies of foreign banks. The F.R. Y–7 generally requires financial statements prepared in accordance with local accounting practices and an explanation of the accounting terminology and the major features of the accounting standard used in the preparation of the finacial statements. Conversions to the dollar equivalent of the worldwide capital of the foreign bank should be made periodically. In this regard, the Board notes the need to be flexible in dealing with the effect of foreign exchange rate fluctuations on the calculation of the worldwide capital of the parent foreign bank. The Board believes that these procedures should minimize reporting and calculation burdens for U.S. branches and agencies of foreign banks that are subject to the limitations of this section of the BESA.

By order of the Board of Governors, February 1, 1983.

William W. Wiles,

Secretary of the Board.

[FR Doc. 83-3211 Filed 2-4-83; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

(Airspace Docket No. 83-ASW-33)

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Proposed Designation of Transition Area and Alteration of Control Zone: Wink, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Aviation Administration proposes to designate a transition area and alter the control zone at Wink, TX. The intended effect of the proposed action is to provide adequate controlled airspace for aircraft executing standard instrument approach procedures (SIAP's) to the Winkler County Airport. This action is necessary since a review of the designated airspace revealed that no 700-foot transition area existed and the control zone is improperly described and inadequate for the protection of aircraft.

DATE: Comments must be received on or before March 7, 1983.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8 a.m. and 4:30 p.m. The FAA Rules Docket is located in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch, ASW-535, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101; telephone: (817) 624-4911, extension 302.

SUPPLEMENTARY INFORMATION:

History

Federal Aviation Regulation Part 71, Subpart G 71.181 and F 71.171 as republished in Advisory Circular AC 70-3A dated January 3, 1983, contains the description of transition areas and control zones designated to provide controlled airspace for the benefit of aircraft conducting instrument flight rules (IFR) activity. Designation of the transition area and alteration of the control zone at Wink, TX, will necessitate an amendment to this subpart. This amendment will be required at Wink, TX, since a review of the designated airspace revealed the required 700-foot transition area was not designated and the current control zone is inadequate for departing the Winkler County Airport.

Comments Invited

Interested persons are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposals. (Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposals.) Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 83-ASW-3." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101, or by calling (817) 624-4911, extension 302. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should contact the office listed above.

List of Subjects in 14 CFR Part 71

Control zones Transition areas, Aviation safety.

PART 71—[AMENDED]

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend §§ 71.181 and 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

§ 71.181 [Amended]

Wink, TX [New]

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Winkler County Airport (latitude 31°46'45"N., longitude 103°12'15"W.)

§ 71.171 [Amended]

Wink, TX [Revised]

Within a 5-mile radius or the Winkler County Airport (latitude 31°46'45"N., longitude 103°12'15"W.). This control zone is effective during the specific dated and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.61(c).)

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

Issued in Fort Worth, TX, on January 24, 1983.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 83-3121 Filed 2-4-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 83-AWA-1]

Proposed Alteration of VOR Federal Airways

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to revoke certain alternate VOR Federal Airways and renumber other alternate airway segments in the southwest part of the U.S. This action would eliminate the assignment of alternate airway segments for the affected airways and support our commitment to the International Civil Aviation Organization (ICAO) to phase out alternate airway descriptions from the National Airspace System.

DATE: Comments must be received on or before March 24, 1983.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Southwest Region, Attention: Manager, Air Traffic Division, Docket No. 83-AWA-1, P.O. Box 1689, Fort Worth, TX 76101.

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

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

FOR FURTHER INFORMATION CONTACT: Bill Hill, Airspace Regulations and Obstructions Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 83–AWA–1." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426–8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to: (1) Revoke V–81W between Amarillo TX, and Dalhart, TX; (2) revoke V–140N between Amarillo, TX, and Sayre, OK; (3) extend V–440 from Sayre, OK, to Amarillo, TX, and (4) revoke V–280S between Amarillo, TX, and Texico, NM. This action will reduce chart clutter by eliminating airway segments that are no longer needed for flight planning or for air traffic control and also support our commitment to ICAO to phase out alternate airway descriptions in the North American Airway System. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70–3A dated January 3, 1983.

List of Subjects in 14 CFR Part 71

Federal airways, Aviation safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.23 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

PART 71—[AMENDED]

§ 71.123 [Amended]

V–81 [Amended]

By deleting the words "including a west alternate via INT Amarillo 301° and Dalhart 157° radials;"

V–140 [Amended]

By deleting the words "via Sayre, OK, including a N alternate via INT Amarillo 072° and Sayre 288° radials;" and substituting for them the words "via Sayre, OK;"

V–440 [Amended]

By deleting the words "From Sayre, OK, via" and substituting for them the words "From Amarillo, TX, via INT Amarillo 072°T(061°M) and Sayre, OK, 288°T(278°M); Sayre;"

V–280 [Amended]

By deleting the words "INT Texico 021° and Amarillo, TX, 252° radials; Amarillo, including a south alternate from Texico to Amarillo via INT Texico 044° and Amarillo 252° radials;" and substituting for them the words "INT Texico 044°T(033°M) and Amarillo, TX, 252°T(241°M) radials; Amarillo;"

(Secs. 307 (a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

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

Issued in Washington, D.C., on January 31, 1983.

B. Keith Potts,

Manager, Airspace and Air Traffic Rules Division.

[FR Doc. 83–3119 Filed 2–4–83; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 83–AWA–2]

Proposed Alteration of the Santa Barbara, CA, and Control 1176 Additional Control Areas

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking

SUMMARY: This notice proposes to lower the floor of a portion of the Santa Barbara, CA, and Control 1176 Additional Control Areas to provide additional controlled airspace needed to improve air traffic control services to offshore helicopter operations. This action would also correct an error in the description of the Santa Barbara, CA, Additional Control Area.

DATES: Comments must be recieved on or before March 24, 1983.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Western-Pacific Region, Attention: Manager, Air Traffic Division, Docket No. 83–AWA–2, Federal Aviation Administration, 15000 Aviation Boulevard, P.O. Box 92007, Worldway Postal Center, Los Angeles, CA 90009.

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

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

FOR FURTHER INFORMATION CONTACT: George Hussey, Airspace Regulations and Obstructions Branch (AAT–230), Airspace and Air Traffic Rules division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone: (202) 426–8777.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis

supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 83–AWA–2." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling (202) 426–8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.163 of part 71 of the Federal Aviation Regulations (14 CFR part 71) to lower the floor of the Santa Barbara, CA, and Control 1176 Additional Control Areas. This action woud designate additional controlled airspace east of the Pacific Coastal Air Defense Identification Zone (ADIZ) from the southern boundary of Control 1155 to the southern Boundary of Control 1176, an area generally west of Vandenburg AFB, CA. Currently, the floor of this airspace is 2,000 feet MSL and this action would designate the floor at 1,200 feet MSL. The floor of a major portion of this airspace was recently lowered from 5,000 feet MSL to 2,000 feet MSL (see Airspace Docket 82–AWP–3 published in the **Federal Register** on December 30, 1982 (47 FR 58234)). Comments received in reference to the previous action indicate a need for the floor of that airspace, plus the additional area described herein, to be established at 1,200 feet MSL to facilitate provision of more efficient and additional air traffic control services to an increasing number of helicopter opertions incidental to offshore oil company activity.

This proposed action would permit the provision of radar air traffic control services at lower altitudes for which the FAA has the capability, but cannot provide under the current airspace configuration. This action would also correct an erroneous geographic position coordinate within the description of the Santa Barbara, CA, Additional Control Area. Section 71.163 of Part 71 of the Federal Aviation regulations was republished in Advisory Circular AC 70–3A dated January 3, 1983.

ICAO Considerations

As part of this proposal relates to navigable airspace outside the United States, this notice is submitted in consonance with the International Civil Aviation Organization (ICAO) International Standards and Recommended Practices. Applicability of International Standards and Recommended Practices by the Air Traffic Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 of, and Annex 11 to, the Convention on International Civil Aviation, which pertains to the establishment of air navigational facilities and sevices necessary to promoting the safe, orderly, and expeditious flow of civil air traffic. Their purpose is to ensure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdictioin of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Prectices in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting state, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator is consulting with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

List of Subjects 14 CFR Part 71

Additional control areas, Aviation safety.

The Proposed Amendment

PART 71—[AMENDED]

§ 71.163 [Amended]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.163 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Santa Barbara, CA [Amended]

By deleting under the Pending Amendment the words "except, that airspace extending upward from 2,000 feet MSL" and substituting in their place the words "and that airspace extending upward from 1,200 feet MSL" and by deleting the words "lat. 34°19'00"N., long. 120°45'00"W.;" and substituting in their place the words "lat. 34°19'36"N., long. 120°45'34"W.;"

Control 1176 [Amended]

By adding the words "and that airspace extending upward from 1,200 feet MSL bounded by a line beginning at lat. 34°24'00"N., long. 120°30'00"W.; to lat. 34°06'45"N., long. 120°30'00"W.; to lat. 34°03'59"N., long. 120°33'09"W.; to lat. 34°19'36"N., long. 120°45'34"W.; to point of beginning."

(Secs. 307(a), 313(a), and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a), and 1510); E.O. 10854 (24 FR 9565); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

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

on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on February 1, 1983.

John W. Baier,

Acting Manager, Airspace and Air Traffic Rules Division.

[FR Doc. 83-3117 Filed 2-4-83; 8:45 am]

BILLING CODE 4910-13-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 467

[OW-FRL 2300-5]

Aluminum Forming Point Source Category; Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of comment period.

SUMMARY: On November 22, 1982, EPA proposed a regulation under the Clean Water Act to limit effluent discharges to waters of the United States and the introduction of pollutants into publicly owned treatment works from facilities engaged in aluminum forming operations (47 FR 52626). EPA is extending the period for comment on the proposed regulation from January 18, 1983 to February 8, 1983. The Agency has been asked by several members of the aluminum forming industry to extend the comment period to allow additional time to submit cost data supporting comments on the potential economic impact of the regulation.

DATE: Comments on the proposed regulation for the aluminum forming category (47 FR 52626) must be submitted to EPA by February 8, 1983.

ADDRESSES: Send comments to Ms. Janet K. Goodwin, Effluent Guidelines Division (WH-552), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. Attention: Docket Clerk, Proposed Aluminum Forming. The supporting information and all comments on this proposal are available for inspection and copying at the EPA Public Information Reference Unit, Room 2404 (Rear) PM-213. The comments will be added to the record as they are received. The EPA Information Regulation (40 CFR Part 2) provides that a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Ernst P. Hall, (202) 382-7126.

SUPPLEMENTARY INFORMATION: On November 22, 1982, EPA proposed a regulation to limit effluent discharges to waters of the United States and the introduction of pollutants into publicly owned treatment works from facilities engaged in aluminum forming operations (47 FR 52626). The November 22, 1982 notice stated that all comments on the proposal were to be submitted on or before January 18, 1983.

The Agency has been asked by several members of the aluminum forming industry to extend the comment period to allow additional time to submit cost data supporting comments on the potential economic impact of the regulation. As industry pointed out, some of the data used by the Agency to assess economic impacts were not available to the public until several weeks after proposal, thus delaying their review of the potential impacts. For this reason, and because the Agency specifically requested comment on the potential economic impact of this regulation, the Agency has determined that it is necessary to extend the comment period until February 8, 1983.

The Agency has already received a substantial number of comments on the proposed regulation. During the extended comment period, the Agency will review and consider these comments. However, members of the public may submit additional comments and supporting data on all aspects of the proposed regulation by February 8, 1983. The Agency will give equal consideration to all material submitted by February 8, 1983.

Dated: January 28, 1983.

Frederic A. Eidsness, Jr.,

Assistant Administrator for Water.

[FR Doc. 83-3050 Filed 2-4-83; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 10 and 157

[CGD 77-084]

Licensing of Pilots; Manning of Vessels—Pilots

Correction

In FR Doc. 83-1876, beginning on page 3912 in the issue of Thursday, January 27, 1983, make the following corrections.

1. On page 3915, first column, twelfth line, "TSCA" should read "TSAC".

2. On page 3917, first column, eleventh line from the top of the page in § 10.07-3(b), "constructions" should read " "constrictions". In the same column, second line from the bottom of § 10.07-5(a)(3), "proceeding" should read "preceding".

3. On page 3917, second column, first line of § 10.07-7(a)(1)(i), "COLREGE" should read "COLREGS".

BILLING CODE 1505-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 656

[Docket No. 30128-19]

Foreign Fishing; Atlantic Mackerel Fishery

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of proposed allocation of reserve.

SUMMARY: NOAA proposes to allocate 5,000 metric tons (mt) of Atlantic mackerel to foreign fishermen from the 6,000 mt reserve. The remaining 1,000 mt will be retained in reserve for domestic harvest. This proposal is made according to procedures established in the Fishery Management Plan for the Atlantic Mackerel Fishery. The intended effect of this 5,000 mt allocation is to achieve optimum yield for this fishery through incentives to foreign fishermen to encourage development of joint ventures off the east coast of the United States.

DATE: Comments must be submitted in writing on or before February 22, 1983.

ADDRESS: Comments should be sent to the National Marine Fisheries Service, Management Division, State Fish Pier, Gloucester, Massachusetts, 01930-3097. Mark "Comments on mackerel allocation" on the outside of the envelope.

FOR FURTHER INFORMATION CONTACT Salvatore A. Testaverde, 617-281-3600.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for the Atlantic Mackerel Fishery, as amended, established a reserve of 6,000 mt (45 FR 45291, July 3, 1980); regulations provide for the allocation of all, part, or none of the reserve to the total allowable level of foreign fishing (TALFF) (45 FR 77446, November 24, 1980). Sections 611.52(a) and 656.22(a) of the regulations direct the Regional Director of the Northeast Region, National Marine Fisheries Service, to project the total domestic harvest for the entire fishing year, April 1 through March 31, and based on this

projection, to allocate from reserve to TALFF.

The reported domestic commercial catch of Atlantic mackerel from April 1 through September 30, 1982, 1,363 mt, was utilized as specified in § 656.22(a) to project the total catch for the entire fishing year. The reported domestic commercial catch from April 1 through December 31, 1982 was 1,556 mt. The Regional Director has estimated that the U.S. landings for the fishing year (including the 1,556 mt and an estimated recreational mackerel catch of 4,000 mt) would total between 6,000 mt and 7,000 mt, which is less than the 20,000 mt for domestic annual harvest provided in the regulations.

NOAA recently approved a joint venture and presently is considering another joint venture application for domestic harvested Atlantic mackerel. These two joint ventures potentially could raise the U.S. harvest to a total of 21,000 mt. The foreign nation involved in the approved joint venture, in addition to receiving the domestically harvested Atlantic mackerel, would be authorized to engage in a directed fishery of 5,000 mt for this species. Both the Mid-Atlantic and New England Fishery Management Councils recommended approval of the joint venture on these terms. NOAA, therefore, proposes to transfer 5,000 mt from reserve to TALFF; the remaining 1,000 mt of the reserve would be available for domestic annual harvest. The amount of Atlantic mackerel that would be available for harvest by domestic vessels within the joint ventures (i.e., JVP), therefore, would be between 14,000 mt and 15,000 mt.

List of Subjects

50 CFR Part 611

Fish, Fisheries, Foreign relations, Reporting requirements.

50 CFR Part 656

Fish, Fisheries, Fishing, Reporting requirements.

(16 U.S.C. 1801 *et seq.*)

Dated: February 1, 1983.

Carmen J. Blondin,

Acting Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 83-3162 Filed 2-4-83; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 48, No. 26
Monday, February 7, 1983

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.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Programmatic Agreement Regarding National Science Foundation Grants for Archeological Research

AGENCY: Advisory Council on Historic Preservation.

ACTION: Notice.

SUMMARY: The Advisory council on Historic Preservation proposes to execute a Programmatic Memorandum of Agreement pursuant to § 800.8 of the regulations for the "Protection of Historic and Cultural Properties" (36 CFR Part 800) with the National Science Foundation and the National Conference of State Historic Preservation Officers. This agreement will establish a system for prospective grantees to provide abstracts of their research proposals to the appropriate State Historic Preservation Officer, and will provide for formal coordination and review of proposals likely to be funded which may result in effects on archeological or other properties eligible for or listed in the National Register of Historic Places. A preliminary draft of the agreement is available for comment.

COMMENTS DUE: March 9, 1983.

ADDRESS: Executive Director, Advisory Council on Historic Preservation 1522 K Street, NW., Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Ronald D. Anzalone, Eastern Division of Project Review, Advisory Council on Historic Preservation, 1522 K Street, NW., Washington DC 20005, 202–254–3974.

Dated: February 1, 1983.

Robert R. Garvey, Jr.,

Executive Director.

[FR Doc. 83-3172 Filed 2-4-83; 8:45 am]

BILLING CODE 4310-10-M

COMMISSION ON CIVIL RIGHTS

Vermont Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a press conference conducted by the Vermont Advisory Committee to the Commission will convene at 11:30 a.m and will end at 12:30 p.m., on March 3, 1983, in Room 11, at the State House, State Street, Montpelier, Vermont, 05602. The purpose of this press conference is to release the Vermont Advisory Committee's report *Civil Rights Developments in Vermont, 1982.*

Persons desiring additional information should contact the Chairperson, Philip H. Hoff, 192 College Street, Hoff, Wilson, and PO, Burlington, Vermont, 05401, (802) 476–3218 or the New England Regional Office, 55 Summer Street, 8th Floor, Boston, Massachusetts, 02110, (617) 223–4671.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., February 1, 1983.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83-975 Filed 2-4-83; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Department of Energy; Decision on Application for Duty-Free Entry of Scientific Instrument

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 2097, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 82–00210. Applicant: U.S. Department of Energy, P.O. Box 550, Richland, Washington 99352. Instrument: HB501 Scanning Transmission Electron Microscope with Field Emission Source and accessories. Manufacturer: Vacuum Generators, United Kingdom. Intended use of instrument: See Notice on page 27390 in the Federal Register of June 24, 1982.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, is being manufactured in the United States.

Reasons: This application is a resubmission of Docket Number 81–00142 which was denied without prejudice to resubmission on February 8, 1982 for informational deficiencies. The foreign instrument has a guaranteed line resolution in the transmission electron microscope mode of 0.2 nanometers in all directions using a large angle, double tilt axis goniometer. The National Bureau of Standards advises in its memorandum dated January 10, 1983 that: (1) The capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 83-3149 Filed 2-4-83; 8:45 am]

BILLING CODE 3510-25-M

Applications for Duty-Free Entry of Scientific Instruments

The following are notices of the receipt of applications for duty-free entry of scientific instruments published pursuant to Section 6(c) of the Educational, Scientific and Cultural

Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the instrument is intended to be used is being manufactured in the United States.

Comments must be filed in accordance with § 301.5(a) (3) and (4) of the regulations. They are to be filed in triplicate with the Director, Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the **Federal Register**.

A copy of each application is on file in the Department of Commerce, and may be examined between 8:30 A.M. and 5:00 P.M., Monday through Friday, Room 1523, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 83–119. Applicant: Texas Tech University Health Sciences Center, 3601 4th Street, Lubbock, TX 79430. Instrument: Pulsating Bubble Surfactometer and Accessories. Manufacturer: Surfactometer International, Canada. Intended use of instrument: The instrument is intended to be used to characterize the dynamic surface properties (surface tension as a function of surface area changes) of human tears and tear fractions obtained by classical biochemical microtechniques such as gel filtration chromatography, high pressure liquid chromatography, and preparative gel electrophoresis. Application received by Commissioner of Customs: January 19, 1983.

Docket No. 83–120. Applicant: Purdue University, Lilly Hall of Life Sciences, West Lafayette, IN 47907. Instrument: Electron Microscope, Model EM 420 and Accessories. Manufacturer: Philips Electronic Instruments NVD, The Netherlands. Intended use of instrument: The instrument is intended to be used in various biology courses to teach the basic concepts of cell ultrastructure. In addition, correct operating procedures for the microscope will be taught. Application received by Commissioner of Customs: January 19, 1983.

Docket No. 83–124. Applicant: University of Maryland at Baltimore, Department of Pathology, 10 S. Pine Street, Room 7–00, M.S.T.F., Baltimore, MD 21201. Instrument: Combined Light Electron Microscope, LEM–2000. Manufacturer: International Scientific Instrument, Inc., Japan. Intended use of instrument: The instrument is intended to be used to study the morphology, including histochemical staining reactions, of tissues and cells at both the LM and TEM levels not only from experimental animal material but also from human surgical and autopsy cases. In addition, the article will be used in the course: PATH 712, Practical Electron Microscopy to introduce students to modern electron microscopy principles and techniques so that they may apply these methods in their work and studies. Application received by Commissioner of Customs: January 25, 1983.

Docket No. 83–125. Applicant: The Johns Hopkins Hospital, Department of Anesthesiology, Baltimore, MD 21205. Instrument: TMR 32/200 Superconductive Magnet System. Manufacturer: Oxford Instruments, United Kingdom. Intended use of instrument: The instrument is intended to be used for studies of creatine phosphate and inorganic phosphate content of human arm and leg together with that of animal models. Application received by Commissioner of Customs: January 25, 1983.

Docket No. 83–126. Applicant: Texas A&M University, College of Medicine, College Station, TX 77843. Instrument: Electron Microscope Model EM 420 and Accessories. Manufacturer: Philips Electronic Instruments, Inc., The Netherlands. Intended use of instrument: The instrument is intended to be used for research in cell and molecular biology, particularly in regards to cell structure, elemental analysis, desease diagnosis and cytochemical characterization. Application received by Commissioner of Customs: January 25, 1983.

Docket No. 83–127. Applicant: University of California, Los Alamos National Laboratory, P.O. Box 990, Los Alamos, NM 87545. Instrument: Electron Microscope, EM 410 with Accessories. Manufacturer: Philips Electronic Instruments, Inc., The Netherlands. Intended use of instrument: The instrument is intended to be used for studies of ultrastructural features of mammalian organs, tissues, cells, and macromolecules. The experiments to be conducted are designed to address questions in two specific domains: (1) Basic research into the structure and function of individual cellular components and (2) changes in either ultrastructural properties or distribution of cellular constituents induced by exposure to harmful agents or associated with the etiology of human disease. The studies will permit evaluation of the role played by specific metabolic processes in normal cell growth, regulation, and differentiated function and will contribute to the understanding of the basic defects associated with abnormal function in human disease states. Application received by Commissioner of Customs: January 25, 1983.

Docket No. 82–00234R. Applicant: Jet Propulsion Laboratory, 4800 Oak Grove Drive, Pasadena, California 91109. Instrument: Carcinotron Power Supply, Model TH20200. Application is a resubmission, notice of which was published in the **Federal Register** of July 14, 1982.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Statutory Import Programs Staff.

[FR Doc. 83-3235 Filed 2-4-83; 8:45 am]

BILLING CODE 3510-25-M

University of Maryland; Decision on Application for Duty-Free Entry of Scientific Instrument

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 AM and 5:00 PM in Room 1523, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket No. 82–00112R. Applicant: University of Maryland, College Park, Maryland 20742. Instrument: Excimer Laser, Model EMG 200 (Instrument previously published as EMG 102 but should have been EMG 200). Manufacturer: Lambda Physik, GmbH, West Germany. Intended use of article: See Notice on page 13395 in the **Federal Register** of March 30, 1982.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, was being manufactured in the United States at the time the foreign instrument was ordered (September 22, 1980).

Reasons: This application is a resubmission of Docket Number 82–00112 which was denied without prejudice to resubmission on July 14, 1982 for informational deficiencies. The foreign instrument provides a power

energy pulse of 750 millijoules at 308 nanometers. The National Bureau of Standards advises in its memorandum dated December 20, 1982 that: (1) The capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use being manufactured at the time the foreign instrument was ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, which was being manufactured in the United States at the time the foreign instrument was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 83-3236 Filed 2-4-83; 8:45 am]

BILLING CODE 3510-25-M

University of Connecticut; Decision on Application for Duty-Free Entry of Scientific Instrument

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 AM and 5:00 PM in Room 2097, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket No. 82-00370. Applicant: University of Connecticut, Department of Chemistry, U-60, Storrs, CT 06268. Instrument: Pulsed Fluorometer System, Model 3000 with a Model 1740 Pulse Light Analysis/Multichannel Scaling Conversion Module for Phosphorescence Decay. Manufacturer: Photochemical Research Associates Inc., Canada. Intended use of instrument: See Notice on page 49057 in the Federal Register of October 29, 1982.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, is being manufactured in the United States. REASONS: The foreign instrument measures the millisecond lifetimes of two or more fluorescent species. The most closely comparable domestic instrument is the Model 4800S spectrofluorometer manufactured by SLM Instruments Inc./American Instrument Company, 810 West Anthony Drive, Urbana, Illinois 61801. The Model 4800S does not measure either millisecond lifetimes or determine the lifetimes of more than two fluorescent species. The National Bureau of Standards advises in its memorandum dated January 14, 1983 that (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or appraratus of equivalent scientific value to the foreign instrument for the applicant's intended use. For these reasons, we find that the Model 4800S is not of equivalent scientific value to the foreign instrument for the applicant's intended purposes.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 83-3158 Filed 2-4-83; 8:45 am]

BILLING CODE 3510-25-M

University of Delaware; Decision on Application for Duty-Free Entry of Scientific Instrument

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 AM and 5:00 PM in Room 2097, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket No. 82-00368. Applicant: University of Delaware, Department of Chemical Engineering, Newark, DE 19711. Instrument: Potentiostat, CTD 400. Manufacturer: Santron, Sweden. Intended use of instrument: See Notice on page 49056 in the Federal Register of October 29, 1982.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument automatically raises solution temperature in preset increments and records the results. The National Bureau of Standards advises in its memorandum dated January 14, 1983 that (1) the capabilities of the foreign instrument described above are pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 83-3152 Filed 2-4-83; 8:45 am]

BILLING CODE 3510-25-M

University of South Alabama, et al.; Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

The following is a consolidated decision on applications for duty-free entry of electron microscopes pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 2097, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket No. 83-1. Applicant: University of South Alabama, Purchasing Department, Administration Bldg. 285, Mobile, AL 36688. Instrument:

Electron Microscope, EM 109. Manufacturer: Carl Zeiss, West Germany. Intended use of instrument: See Notice on page 52488 in the **Federal Register** of November 22, 1982. Instrument ordered: May 26, 1982.

Docket No. 83–4. Applicant: New York University Medical Center, Department of Cell Biology, 550 First Avenue, New York, NY 10016. Instrument: Electron Microscope, JEM–1200EX with Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of instrument: See Notice on page 52489 in the **Federal Register** of November 22, 1982. Instrument ordered: June 28, 1982.

Docket No. 83–11. Applicant: Texas College of Osteopathic Medicine, Camp Bowie at Montgomery, Fort Worth, Texas 76107–2690. Instrument: Electron Microscope Model II–600–3 with Accessories. Manufacturer: Hitachi Scientific Instruments, Japan. Intended use of instrument: See Notice on page 53759 in the **Federal Register** of November 29, 1982. Instrument ordered: July 16, 1982.

Docket No. 83–14. Applicant: State of California, Department of Food and Agriculture, 1220 N Street, Veterinary Laboratory Services, Sacramento, CA 958141. Instrument: Electron Microscope, Model EM 10CA and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of instrument: See Notice on page 53083 in the **Federal Register** of November 24, 1982. Instrument ordered: September 14, 1982.

Docket No. 83–20. Applicant: National Institutes of Health, National Institute of Environmental Health Sciences, P.O. Box 12233, Research Triangle Park, NC 27709. Instrument: Electron Microscope, EM 10CA. Manufacturer: Carl Zeiss, West Germany. Intended use of instrument: See Notice on page 52489 in the **Federal Register** of November 22, 1982. Instrument ordered: August 10, 1982.

Docket No. 83–23. Applicant: United States Department of Agriculture, National Animal Disease Center, Agricultural Research Service, North Central Region, RR.2, Dayton Avenue, Building #1 Room #B8, Ames, Iowa 50010. Instrument: Electron Microscope, EM–410 and Accessories. Manufacturer: N.V. Philips, The Netherlands. Intended use of instrument: See Notice on page 52489 in the **Federal Register** of November 22, 1982. Instrument ordered: September 14, 1982.

Docket No. 82–00322. Applicant: Michigan State University, East Lansing, MI 48824–1116. Instrument: Electron Microscope, HB501. Manufacturer: VG Instruments, Inc., United Kingdom. Intended use of instrument: See Notice on page 52488 in the **Federal Register** of November 22, 1982. Instrument ordered: June 9, 1982.

Comments: No comments have been received with respect to any of the foregoing applications.

Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as these instruments are intended to be used, was being manufactured in the United States at the time the instruments were ordered.

Reasons: Each foreign instrument to which the foregoing applications relate is a conventional transmission electron microscope (CTEM). The description of the intended research and/or educational use of each instrument establishes the fact that a comparable CTEM is pertinent to the purposes for which each is intended to be used. We know of no CTEM which was being manufactured in the United States either at the time of order of each instrument described above or at the time of receipt of application by the U.S. Customs Service.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign instruments to which the foregoing applications relate, for such purposes as these instruments are intended to be used, which was being manufactured in the United States either at the time of order or at the time of receipt of application by the U.S. Customs Service.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa.

Director, Statutory Import Programs Staff.

[FR Doc. 83–3150 Filed 2–4–83; 8:45 am]

BILLING CODE 3510–25–M

University of Southern California; Decision on Application for Duty-Free Entry of Scientific Instrument

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 2097, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket No. 82–00368. Applicant: University of Southern California, Department of Electrical Engineering, University Park, Los Angeles, California 90089. Instrument: Excimer Laser, Model 8619. Manufacturer: Lumonics, Ltd., Canada. Intended use of instrument: See Notice on page 49057 in the **Federal Register** of October 29, 1982.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purpose as this instrument is intended to be used, was being manufactured in the United States at the time the foreign instrument was ordered (February 6, 1981).

Reasons: This application is a resubmission of Docket Number 81–00240 which was denied without prejudice to resubmission on March 26, 1982 for informational deficiencies. The foreign instrument provides a repetition rate of 45 hertz with Argon Fluoride. The National Bureau of Standards advises in its memorandum dated December 22, 1982 that (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use at the time the foreign instrument was ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, which was being manufactured in the United States at the time the foreign article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 83–3154 Filed 2–4–83; 8:45 am]

BILLING CODE 3510–25–M

North Carolina State University; Decision on Application for Duty-Free Entry of Scientific Instrument

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review

between 8:30 a.m. and 5:00 p.m. in Room 2097, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 82-00349. Applicant: North Carolina State University, Purchasing Department, P.O. Box 5935, Raleigh, NC 27650. Instrument: Ion Probe Microanalyzer System, IMS-3F. Manufacturer: CAMECA, France. Intended use of instrument: See Notice on page 49055 in the Federal Register of October 29, 1982.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides a mass resolution of 10,000 in its spectrography mode. The National Bureau of Standards advises in its memorandum dated January 10, 1983 that (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 83-3153 Filed 2-4-83; 8:45 am]

BILLING CODE 3510-25-M

University of Washington; Decision on Application for Duty-Free Entry of Scientific Instrument

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 2097, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket No. 82-00296. Applicant: University of Washington, Department of Chemistry, BG-10, Seattle, WA 98195. Instrument: NMR Spectrometer, Model CXP-200. Manufacturer: Bruker Analytishe Messtechnik, GMGH, West Germany. Intended use of instrument: See Notice on page 39547 in the Federal Register of September 8, 1982.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, was being manufactured in the United States at the time the foreign instrument was ordered (December 2, 1980).

Reasons: This application is a resubmission of Docket Number 81-00225 which was denied without prejudice to resubmission on March 26, 1982 for informational deficiencies. The foreign instrument can perform high-power, broadband experiments. The National Bureau of Standards advises in its memorandum dated January 11, 1983 that (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, which was being manufactured in the United States at the time the foreign article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 83-3151 Filed 2-4-83; 8:45 am]

BILLING CODE 3510-25-M

Yarns of Polypropylene Fibers From Mexico; Suspension of Investigation

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of suspension of investigation.

SUMMARY: The Department of Commerce has decided to suspend the countervailing duty investigation involving yarns of polypropylene fibers from Mexico. The basis for the suspension is an agreement by Industrias Polifil, S.A. de C.V., the only known Mexican manufacturer and exporter of yarns of polypropylene fibers, to renounce all countervailable benefits under the CEPROFI, FORMEX and CEDI programs. Polifil also agrees not to apply for or receive benefits under any other program subsequently determined by the Department in this or any subsequent proceeding to constitute bounties or grants.

EFFECTIVE DATE: February 7, 1983.

FOR FURTHER INFORMATION CONTACT: G. Leon McNeill, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, (202) 377-1273.

SUPPLEMENTARY INFORMATION: On August 26, 1982, we received a petition from Quaker Textile Corporation of Fall River, Massachusetts, on behalf of the U.S. industry producing yarns of polypropylene fibers. The petition alleged that the government of Mexico provides bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act), directly or indirectly to the manufacturers, producers, or exporters of yarns of polypropylene fibers in Mexico through the following programs: tax credits under the Certificates of Fiscal Promotion (CEPROFI) program, preferential financing under the Fund for the Promotion of Exports of Mexican Manufactured Products (FOMEX), and tax rebates for exports under the Certificado de Devolucion de Impuesto (CEDI) program.

We reviewed the petition, and on September 21, 1982 determined that an investigation should be initiated (47 FR 41609).

We presented a questionnaire concerning the allegations to the government of Mexico at its embassy in Washington, D.C. On November 1, 1982, we received a partial response to the questionnaire. On November 18, 1982, one day prior to the date of the preliminary determination, the government of Mexico provided a supplemental response covering the CEPROFI and pre-export financing FOMEX programs. However, we did not receive this information in sufficient time to allow proper evaluation and analysis of the data for inclusion in the preliminary determination. If the Department receives a request to continue this investigation in accordance with section 704(g) of the Act, we will consider the information from the supplemental response in our final determination.

Between January 4 and January 10, 1983, we verified the response by a

review of government documents and company books and records of Industrias Polifil, S.A., de C.V., the only known manufacturer and exporter in Mexico of yarns of polypropylene fibers.

Counsel for Industrias Polifil in a letter dated December 1, 1982, proposed entering into a suspension agreement pursuant to section 704 of the Act.

On November 19, 1982, we preliminarily determined that the government of Mexico is providing bounties or grants to manufacturers, producers and exporters of yarns of polypropylene fibers. The programs preliminarily found to be countervailable were the FOMEX, CEPROFI and CEDI programs.

Notice of the affirmative preliminary countervailing duty determination was published in the **Federal Register** on November 26, 1982 (47 FR 53443). We directed the U.S. Customs Service to suspend liquidation of all entries, or withdrawals from warehouse, for consumption of the subject merchandise on or after November 26, 1982, and to require a cash deposit or bond in the amount of 11.87 percent of the f.o.b. value of the merchandise.

On December 15, 1982, Polifil and the Department of Commerce initialed a proposed suspension agreement, which was based upon Polifil's agreement to eliminate completely all bounties or grants on exports of yarns of polypropylene fibers under the CEPROFI, FOMEX and CEDI programs. We provided copies of the proposed suspension agreement to the petitioner for its consultation and to other parties to the proceeding for their comments. Written comments were received from counsel for Polifil and from the petitioner.

Polifil's Comments

Comment 1

Amend paragraph B(1) to read as follows: (new words italicized) "* * * Industrias Polifil voluntarily agrees not to apply for or receive any countervailable benefits, *for products that are produced in Mexico and exported directly or indirectly to the United States,* from the Mexican government's CEDI, CEPROFI or Fomex programs * * *"

DOC Position

We have inserted the proposed amendment to emphasize that Polifil's renunciation of subsidy benefits applies only with respect to products that are exported, directly or indirectly, to the United States.

Comment 2

Amend the second sentence of paragraph B(1)(c) to read as follows: (new words italicized) "Industrias Polifil will not apply for or receive any countervailable benefits under this program, *with respect to shipments of the subject product entering the United States, or withdrawn from warehouse, for consumption on or after the effective date of this agreement,* if the eligibility is reinstated."

DOC Position

We have no objection to the proposed modification and have inserted this proposed amendment.

Comment 3

Amend paragraph B(1)(d) to read as follows: (new words italicized) "Industrias Polifil will not apply for or receive benefits, *with respect to shipments of the subject product entering the United States, or withdrawn from warehouse, for consumption on or after the effective date of a determination,* under any other program subsequently determined by the Department in this or a subsequent proceeding to constitute bounties or grants under the Act to the subject product."

DOC Position

We have inserted the proposed amendment.

Comment 4

Amend paragraph B(1)(f) to read as follows: (new words italicized) "* * * receiving from the government of Mexico *with respect to shipments of the subject product entering the United States, or withdrawn from warehouse, for consumption on or after the effective date of this agreement.*"

DOC Position

We have no objection to this amendment and have made the recommended change.

Petitioner's Comments

Comment 1

The suspension agreement should be delayed and conditioned upon satisfactory completion of the verification of the response to the Department's countervailing duty questionnaire.

DOC Position

On-site verification of the information contained in the Mexican government's response with respect to the subject merchandise was completed at Polifil's offices in Mexico City on January 10, 1983.

Comment 2

Unless and until a strict on-going monitoring system can be established and enforced, petitioner objects to the proposed suspension agreement becoming effective.

DOC Position

We believe that the provisions of paragraph C of the suspension agreement ensure that this agreement will be monitored effectively pursuant to section 704(d) of the Act. Additionally, the Department will, at least once during each twelve-month period beginning on the anniversary date of publication of the suspension notice, review the current status of, and compliance with the suspension agreement, and will publish the results of these reviews in the **Federal Register** in accordance with administrative reviews conducted under section 751 of the Act.

Comment 3

The possibility exists that both CEDI and CEPROFI certificates applicable to exports of the subject merchandise to the United States were issued but not utilized prior to the Department's preliminary determination of November 26, 1982. Petitioner requests that the suspension agreement be amended to be conditional upon return to the Mexican government of any such certificates with proper documentation representing that, after return, no further certificates will exist for use in Polifil's behalf based upon direct or indirect shipments to the United States prior to November 26, 1982. If any CEDI or CEPROFI certificates were utilized after November 26, 1982, a prorata countervailing duty should apply equivalent to the benefits received.

DOC Position

We agree with petitioner that any such unused and outstanding CEDI or CEPROFI certificates should be returned to the government of Mexico, and have adjusted the suspension agreement to reflect this amendment. As can be expected in the case of any negotiated suspension agreement, some benefits may continue to be received from the time of the preliminary determination to the date the suspension agreement is effective.

Section 704(b)(1) of the Act provides for the phase out of benefits over a period not exceeding six months following suspension of the investigation. Clearly, then, the law recognizes that the mere existence of

benefits following the preliminary determination does not in itself warrant the issuance of a countervailing duty order where a suspension agreement is in place.

The Department has considered the comments submitted with respect to the proposed suspension agreement. We have determined that the agreement eliminates the bounties or grants completely with respect to the subject merchandise exported directly or indirectly to the United States, can be monitored effectively, and is in the public interest. Therefore, we find that the criteria for suspension of an investigation pursuant to section 704 of the Act have been met. The terms and conditions of the agreement are set forth in Annex 1 to this notice.

Pursuant to section 704(f)(2)(A) of the Act, the suspension of liquidation of entries, or withdrawals from warehouse, for consumption of yarns of polypropylene fibers from Mexico effective November 26, 1982, as directed in the Preliminary Affirmative Countervailing Duty Determination, is hereby terminated.

Any cash deposits on entries of yarn of polypropylene fibers from Mexico pursuant to that suspension of liquidation shall be refunded and any bonds or other security shall be released.

The Department intends to conduct an administrative review within 12 months of the publication of this suspension as provided in section 751 of the Act.

Notwithstanding the suspension agreement, the Department will continue the investigation, if we receive such a request in accordance with section 704(g) of the Act within 20 days after the date of publication of this notice.

This notice is published pursuant to section 704(f)(1)(A) of the Act.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

February 1, 1983.

Annex I—Suspension Agreement Yarns of Polypropylene Fibers From Mexico

Suspension Agreement—Yarns of Polypropylene Fibers From Mexico

Pursuant to the provisions of section 704 of the Tariff Act of 1930 (the Act) and § 355.31 of the Commerce Regulations, the United States Department of Commerce (the Department) enters into the following suspension agreement with Industrias Polifil, S.A. de C.V, Bosques de Duraznos No. 55, 11100, Mexico, D.F. On the basis of this agreement, the Department shall suspend its countervailing duty investigation initiated on September 21, 1982, with respect to yarns of polypropylene fibers from Mexico in accordance with the terms and provisions set forth below:

A. *Product Coverage.* The suspension agreement is applicable to all yarns of polypropylene fibers manufactured by Industrias Polifil S.A. de C.V. and directly or indirectly exported to the United States (hereinafter referred to as the subject product). Yarns of polypropylene fibers are used primarily in the manufacture of fabrics, particularly those for upholstery. Yarns of polypropylene fibers are currently provided for in item numbers 310.0214, 310.1114, 310.5015, 310.5051, 310.6029, 310.6038 and 310.8000 of the *Tariff Schedules of the United States Annotated.*

B. *Basis of the Agreement.* 1. Industrias Polifil is the only known manufacturer and exporter of the subject product. Industrias Polifil voluntarily agrees not to apply for or receive any countervailable benefits, for products that are produced in Mexico and exported directly or indirectly to the United States, from the Mexican government's CEDI, CEPROFI or FOMEX programs. Specifically:

(a) Industrias Polifil will not apply for or receive any pre-export or export loans or loan guarantees from the Fund for the Promotion of Exports of Mexican Manufactured Products (FOMEX) with respect to shipments of the subject product entering the United States, or withdrawn from warehouse, for consumption on or after the effective date of this agreement.

(b) Industrias Polifil will not apply for or receive any benefits that the Department has determined or determines to be countervailable from the Certificates of Fiscal Promotion (CEPROFI) program with respect to shipments of the subject product entering the United States, or withdrawn from warehouse, for consumption on or after the effective date of this agreement.

Any unused and outstanding countervailable CEPROFI certificates, issued prior to November 26, 1982, and granted in connection with shipments of the subject product to the United States, will be returned to the government of Mexico.

(c) Effective August 25, 1982, the Certificado de Devolucion de Impuesto (CEDI) program discontinued the eligibility of yarns of polypropylene fibers for CEDI tax rebates. Industrias Polifil will not apply for or receive any countervailable benefits under this program, with respect to shipments of the subject product entering the United States, or withdrawn from warehouse, for consumption on or after the effective date of this agreement, if the eligibility is reinstated. Any unused and outstanding CEDI tax certificates received by Industrias Polifil prior to November 26, 1982, in connection with direct and indirect shipments of the subject product to the United States, will be returned to the government of Mexico.

(d) Industrias Polifil will not apply for or receive benefits, with respect to shipments of the subject product entering the United States, or withdrawn from warehouse, for consumption on or after the effective date of a determination, under any other program subsequently determined by the Department in this or a subsequent proceeding to constitute bounties or grants under the Act to the subject product.

(e) If any additional program is found countervailable in this or a subsequent proceeding, the Department shall officially notify Industrias Polifil.

(f) Industrias Polifil shall notify the Department, within sixty days before taking any action, of any benefits it intends to apply for or of any present or future benefits it is receiving from the government of Mexico with respect to shipments of the subject product entering the United States, or withdrawn from warehouse, for consumption on or after the effective date of this agreement.

(g) Renunciation of the receipt of these benefits does not constitute an admission by Industrias Polifil that such benefits are bounties, grants or subsidies within the meaning of the U.S. countervailing duty law or any other U.S. law.

(h) Industrias Polifil certifies that no new countervailable benefits will be applied for or received for the subject product as a substitute for or supplement to any benefits eliminated by this agreement.

2. In accordance with the provisions of the Act and applicable regulations, this agreement applies to the product described in Paragraph A which is produced in Mexico and exported directly or indirectly to the United States.

3. The effective date of this agreement is the date it is published in the **Federal Register.**

C. Industrias Polifil agrees to supply to the Department such information as the Department deems necessary to demonstrate that it is in full compliance with this agreement. Industrias Polifil will notify the Department if it: (1) Transships the subject product through third countries, (2) alters its position

with respect to any terms of the agreement, (3) applies for or receives directly or indirectly the benefits of the programs described in Paragraph B for the manufacture of the subject products exported to the United States.

Industrias Polifil agrees to permit such verification and data collection as deemed necessary by the Department in order to monitor this agreement. The Department shall request such information and perform such verifications periodically pursuant to administrative reviews conducted under section 751 of the Act.

D. *Violation of the Agreement.* If the Department determines that the agreement is being or has been violated or no longer meets the requirements of section 704 (b) or (d) of the Act, then the provisions of section 704(i) shall apply.

Signed on this 1st day of February 1983.

For Industrias Polifil, S.A. de C.V.

Joseph W. Dorn,

Special Counsel, Industrias Polifil, S.A. de C.V.

I have determined that the provisions of Paragraph B completely eliminate the bounties or grants being provided in Mexico with respect to yarns of polypropylene fibers exported directly or indirectly to the United States and that the provisions of Paragraph C ensure that this agreement can be monitored effectively pursuant to section 704(d) of the Act. Furthermore, I have determined that this agreement meets the requirements of section 704(b) of the Act and is in the public interest as required in section 704(d) of the Act.

Department of Commerce.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

February 1, 1983.

[FR Doc. 83-3147 Filed 2-4-83; 8:45 am]

BILLING CODE 3510-25-M

National Technical Information Service

Intent To Grant; Exclusive Patent License

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to Spectra-Physics, having a place of business at Mountain View, California an exclusive right in the United States to manufacture, use and sell products embodied in the invention, "Frequency Stabilization for Two-Mode Laser," U.S. Patent Application No. 6-300,363 (dated September 8, 1981). The patent rights in this invention have been assigned to the United States of America, as represented by the Secretary of Commerce.

The proposed exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 41 CFR 101–4.1. The proposed license may be granted unless, within sixty days from the date of this Notice, NTIS receives written evidence and argument which establishes that the grant of the proposed license would not serve the public interest.

Inquiries, comments and other materials relating to the proposed license must be submitted to the Office of Government Inventions and Patents, P.O. Box 1423, Springfield, Virginia 22151. NTIS will maintain and make available for public inspection a file containing all inquiries, comments and other written materials received in response to this Notice and a record of all decisions made in this matter.

Dated: February 1, 1983.

George Kudravetz,

Program Manager, Office of Government Inventions, and Patents, National Technical Information Service, Department of Commerce.

[FR Doc. 83-3188 Filed 2-4-83; 8:45 am]

BILLING CODE 3510-04-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Soliciting Public Comment on Bilateral Textile Consultations With the Government of the Republic of the Maldives on Category 445 (Men's and Boys' Wool Sweaters)

February 2, 1983.

On December 26, the United States Government, under Section 204 of the Agricultural Act of 1956, as amended, requested the Government of the Republic of the Maldives to enter into consultations concerning exports to the United States of wool sweaters in Category 445, produced or manufactured in the Maldives.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709).

The purpose of this notice is to advise that, if no solution is agreed upon between the two governments within sixty days of the date of delivery of the aforementioned note, entry and withdrawal from warehouse for consumption of wool textile products in Category 445, produced or manufactuerd in the Maldives and exported to the United States during the twelve-month period which began on December 26, 1982, may be restricted at a level of 12,756 dozen. The United States reserves the right to invoke the import control mechanism during the consultation period to forestall market disruption.

Anyone wishing to comment or provide data or information regarding the treatment of Category 445 is invited to submit such comments or information in ten copies to Mr. Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Since the exact timing of the consultations is not yet certain, it is requested that comments be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230, and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-3148 Filed 2-4-83; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF DEFENSE

Department of the Navy

Government-Owned Inventions; Available for Licensing

The inventions listed below are assigned to the United States Government and are in custody of the Department of the Navy. They are available for domestic and, possibly, foreign licensing.

Copies of patents cited are available from the Commissioner of Patents and Trademarks, Washington, D.C. 20231, for $1.00 each. Requests for copies of patents must include the patent number.

Copies of patent applications cited are available from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, Virginia 22161. Requests for copies of patent applications must include the patent application serial number. Claims are

deleted from patent application copies sold to avoid premature disclosure.

FOR FURTHER INFORMATION CONTACT:
Dr. A. C. Williams, Staff Patent Adviser, Office of Naval Research (Code 305), 800 North Quincy Street, Arlington, Virginia 22217, Telephone No. 202–696–4005.

Patent application 086,859: Electrical Fire Fighting Simulator; filed October 22, 1979
Patent application 138,013: Ellipticized Acoustical Lens Providing Balanced Astigmatism; filed April 7, 1980
Patent application 182,367: Heat Driven Heat Pump Using Paired Ammoniated Salts; filed August 29, 1980
Patent application 210,902: Interferometrically Tuned Laser Resonator; filed November 28, 1980
Patent application 238,334: Thrust Shaft Seal, filed February 26, 1981
Patent application 257,289: Pzt Composite and a Fabrication Method Thereof; filed April 24, 1981
Patent application 258,128: Deepwater Propellant Embedded Anchor Having Emergency Release Mechanism; filed April 27, 1981
Patent application 262,581: Integral/Low Voltage Control for Miniature Impact Tool; filed May 11, 1981
Patent application 263,821: Plated Bridge Step-Over Connection for Monolithic Devices and Method for Making Thereof; filed May 15, 1981
Patent application 267,168: Wide Swath Precision Echo Sounds; filed May 26, 1981
Patent application 271,781: Nonwavelength-Limited Holographic Sound Field Reconstruction; filed June 9, 1981
Patent application 275,547: Monolithic Indium Phosphide Integrated Logic Circuit Technology; filed June 19, 1981
Patent application 276,224: Field Effect Transistor Circuit for Modulator and Demodulator Applications; filed June 22, 1981
Patent application 276,439: Multiplexed Mos Multiaccess Memory System; filed June 22, 1981
Patent application 277,447: Gain-Step Companding Analog to Digital Converter; filed June 25, 1981
Patent application 277,448: Acoustic Degenerate Four-Wave Mixing Phase-Conjugate Reflector; filed June 25, 1981
Patent application 282,357: Programmable Crt Brightness Control; filed July 13, 1981
Patent application 284,848: Method for Forming γ-Boron; filed July 20, 1981
Patent application 285,681: Inductive Intense Deam Source; filed July 21, 1981
Patent application 294,263: Shaft Mountable Fm Transmission Torque Meter; filed August 19, 1981
Patent application 295,175: Hybrid Fuze Triggering Device; filed August 21, 1981
Patent application 295,891: Phthalonitriles Resins and Preparation Thereof; filed August 24, 1981
Patent application 295,915: Phenolic-Cured Phthalonitrile Resins; filed August 24, 1981
Patent application 296,402: System for Recording Waveforms Using Spatial Dispersion; filed August 26, 1981
Patent application 302,346: Output for Laser Resonator; filed September 15, 1981
Patent application 303,339: Amorphous Alloy Toroids; filed September 18, 1981
Patent application 303,758: Ellipticized Rubber Acoustical Lens Providing Balanced Astigmatism; filed September 21, 1981
Patent application 202,802: Protective Cover for Aircraft Having Conical Radomes; filed September 21, 1981
Patent application 307,923: Linear Frequency Sweep Generator for Continuous Transmission Fm Sonar; filed October 2, 1981
Patent application 308,309: Flotation Device; filed October 5, 1981
Patent application 310,193: Method for Bonding Materials to Cured Silicone Rubber Insulation; filed October 9, 1981
Patent application 310,938: Light-Induced Unidirectional Light Amplifier; filed October 13, 1981
Patent application 310,939: Light-Induced Unidirectional Light Switch; filed October 13, 1981
Patent application 314,334: Self-Shoring Adhesive System; filed October 23, 1981
Patent application 314,616: Aircraft Weight and Center of Gravity Cockpit Readout System; filed October 26, 1981
Patent application 315,327: Electrical Poly γ-Phase Nylon 11; filed October 26, 1981
Patent application 322,328: Heat Measuring Device; filed November 16, 1981
Patent application 325,419: Method for Making Radially Compliant Line Array Hose; filed November 27, 1981
Patent application 28,303: Small Diameter, Low Frequency Multimode Hydrophone; filed November 30, 1981
Patent application 326,872: Launch Mechanism; filed December 3, 1981
Patent application 332,701: New Polymers as Carriers for Transition Metals; filed December 21, 1981
Patent application 333,157: Repairable Backshell Adapter for Electrical Connector; filed December 21, 1981
Patent application 333,607: Retainer for a Projectile Rotating Band; filed December 23, 1981
Patent application 334,101: A Tangential Drag Enhancing Yarn; filed December 24, 1981
Patent application 335,903: Undersea, High Pressure Bulkhead Penetrator for Use with Fiber Optic Cables; filed December 30, 1981
Patent application 337,893: Synthesis and Polymerization of Phthalonitrile Monomers Containing Multiple Phenoxy and Sulfone Linkages; filed January 7, 1982
Patent application 338,396: Digital Coherent Detector; filed January 11, 1982
Patent application 339,922: Continuous Poling Technique for Pzt Fibers; filed January 18, 1982
Patent application 339,970: Flicker Free Stretched Grams; filed January 15, 1982
Patent application 340,679: Thermal Insulated Duct Support; filed January 19, 1982
Patent application 340,944: Composition for Removing Metal Oxides from Surfaces; filed January 20, 1982
Patent application 343,682: Articulated Light Guide; filed January 28, 1982
Patent application 343,810: Nitropolyformals; filed January 29, 1982
Patent application 344,098: Broad Bandwidth Composite Transducers; filed January 29, 1982
Patent application 344,417: Low Loss Buoyant Coaxial Cable; filed February 1, 1982
Patent application 344,916: A Four Pivot Linkage to Simulate Head/Neck Kinematics; filed February 2, 1982
Patent application 347,219: A Compact Wideband Transmitting Antenna; filed February 9, 1982
Patent application 347,676: Angle of Arrival Measurements for Two Unresolved Sources; filed February 10, 1982
Patent application 349,134: Synthesis of a New Explosive Compound, Trans-1,4,5,8-Tetranitro-1,4,5,8-Tetraazadecalin; filed February 16, 1981
Patent application 350,919: Isolation Steam Valve with Atmospheric Vent and Relief Capability; filed February 22, 1982
Patent application 350,920: Armament Shorting Arrangement; filed February 22, 1982
Patent application 351,059: Repellent Coatings for Optical Surfaces; filed February 22, 1982
Patent application 351,711: Piperazine Derivatives of Ferrocene: Potential Solid Propellant Burning Rate Modifiers; filed February 24, 1982
Patent application 351,831: A Coaxial Wave-Guide Communtator Feed for a Scanning Circular Phased Array Antenna; filed February 24, 1982
Patent application 352,448: Foam Filled Muzzle Blast Reducing Device; filed February 25, 1982
Patent application 353,295: Additives Which Prevent Gassing of Energetic Binder Containing Propellants; filed March 1, 1982
Patent application 353,682: Target for Optically Activated Seekers and Trackers; filed March 1, 1982.
Patent application 353,787: Composite Round/Rapid Fire Gun; filed March 1, 1982
Patent application 355,400: Simulator Interface System; filed March 8, 1982
Patent application 355,831: Thin Film Microstrip Circuits; filed March 8, 1982
Patent application 355,952: Amplitude Mode Acoustic Sensors; filed March 8, 1982
Patent application 356,552: Hydraulic Aircraft/Stores Cartridge; filed March 9, 1982
Patent application 356,590: Optical Rotation-Sensing Interferometer with (3X3)–(2X2) Directional Coupler; filed March 9, 1982
Patent application 356,863: Method of Preparing and Lasing Laserable Color Centers Crystals; filed March 10, 1982
Patent application 358,940: Fabrication of Schottky Barrier Diodes on $PBCl_xPbs_{1-x}Se_x$ Epitaxial Films; filed March 17, 1982
Patent application 358,941: Sensitized Epitaxial Infrared Detector; filed March 17, 1982
Patent application 360,524: Ground Fault Detector and Shut-Down System; filed March 22, 1982
Patent application 361,330: Electronic Plug-In Module Extractor; filed March 25, 1982
Patent application 361,713: Water Jet Sediment Probe; filed March 25, 1982

Patent application 362,004: Ellipticized Acoustical Liquid Lens Providing Balanced Astigmatism; filed March 25, 1982
Patent application 362,354: Heater for Ultra High Pressure Compressed Gas; filed March 26, 1982
Patent application 362,355: Expander Stroke Delay Mechanism for Split Stirling Cryogenic Cooler; filed March 26, 1982
Patent application 362,829: Field of View Test Apparatus; filed March 29, 1982
Patent application 363,349: Aircraft Loading Adapter for Use with Ordnance Lift Vehicle; filed March 29, 1982
Patent application 364,062: A Pyrolysis-Mass Spectrometry Approach to Organic Marine Chemistry Using Chemcial Ionization; filed March 31, 1982
Patent application 364,098: Calibration Method for Acoustic Scattering Measurements Using a Spherical Target; filed March 31, 1982
Patent application 365,845: A Generalized Drifting Oceanographic Sensor; filed April 5, 1982
Patent application 365,857: A Handprinted Symbol Recognition System; filed April 5, 1982
Patent application 366,954: Method of Recovering a Copolymer; filed April 9, 1982
Patent application 368,933: Controlled Gas Generator System; filed April 16, 1982
Patent application 369,377: Range Clearance by Enhancing Oxidation of Ferrous Ordnance In-Situ; filed April 19, 1982
Patent application 370,309: A Capstan Adaptable "V" Puller; filed April 21, 1982
Patent application 370,310: A Split-Bus Multi-processor System; filed April 21, 1982
Patent application 370,755: Fiber Optic Gyroscope with Alternating Output Signal; filed April 22, 1982
Patent application 371,142: Instantaneous Start and Stop Gas Generator; filed April 23, 1982
Patent application 371,706: Interfering Noise Pulse Eliminator and Its Use; filed April 26, 1982
Patent application 371,869: High Density, Low Viscosity AirBreather Fuel (R.J.-4-I); filed April 26, 1982
Patent application 373,080: Low Viscosity Air Breathing Missile Fuel; filed April 29, 1982
Patent application 373,082: An Arcing Fault Detector; filed April 29, 1982
Patent application 373,305: Tolerancing Device; filed April 29, 1982
Patent application 373,756: Fluorescence Quenching Technique for Scanning Visual Systems; filed April 30, 1982
Patent application 374,207: Conformal Array Compensation Beanformer; filed May 3, 1982
Patent application 374,575: Helmet Mounted Display Projector; filed May 3, 1982
Patent application 374,760: Leak Detector; filed May 3, 1982
Patent application 375,797: Small Arms Firing Effects Simulator; filed May 8, 1982
Patent application 376,474: Digital Compass Having a Ratiometric Bearing Processor; filed May 10, 1982
Patent application 377,106: P1 Polyphase Code Expander-Compressor; filed May 11, 1982
Patent application 377,107: Phase Coded Pulse Expander-Compressor; filed May 11, 1982
Patent application 377,108: P2 Polyphase Code Expander-Compressor; filed May 11, 1982
Patent application 377,119: Synthesis of the Isomaric Aminotetranitrotoluenes; filed May 11, 1982
Patent application 377,240: Isometric Grip Bending Beam Control; filed May 12, 1982
Patent application 378,161: Two Layer Hydraulic Analogy for Testing Supersonic Gas Flows with Shock Waves; filed May 14, 1982
Patent application 378,167: An Improved Synthesis of 3-Hydrooxyoxetane; filed May 14, 1982
Patent application 379,685: Tactical Expendable Device; filed May 19, 1982
Patent application 380,171: Fresnel Lens in an Improved Infinity Image Display System; filed May 20, 1982
Patent application 381,099: Lithium-6 Wire Mesh Neutron Detector; filed May 24, 1982
Patent application 381,829: Four Bar Manifold; filed May 24, 1982
Patent application 382,850: Phase-Lock Fiber Optic Interferometer; filed May 27, 1982
Patent application 383,034: High Speed Sample and Hold Circuit; filed May 28, 1982
Patent application 383,421: An Improved Preparation of Bis (Axidomethyl) Oxetane; filed June 1, 1982
Patent application 383,867: Atmospheric Transmissometer; filed June 1, 1982
Patent application 383,918: Vmos-Fet Impatt Diode Pulse Bias Circuit; filed June 1, 1982
Patent application 385,739: Three-Mirror Active-Passive Semiconductor Laser; filed June 7, 1982
Patent application 386,154: Lightweight Neutron Detector; filed June 7, 1982
Patent application 386,465: Solid State Hydrogen Pumping and Storage Material; filed June 9, 1982
Patent application 386,828: Orthogonalizer for Inphase I and Quadrature Digital Data; filed June 9, 1982
Patent application 386,838: Real-Data Digital-Real-Weight Canceller; filed June 9, 1982
Patent application 388,049: Synthesis and Polymerization of 3-Axidooxetane; filed June 14, 1982
Patent application 388,563: Dual-Band, Low Sidelobe, High Efficiency Mirror Antenna; filed June 15, 1982
Patent application 389,132: Wide-Band Distributed Rf Coupler; filed June 15, 1982
Patent application 389,139: Low Sidelobe, High Efficiency Mirror Antenna; filed June 15, 1982
Patent application 389,521: An Automatic Strobe/Camera Control Unit; filed June 17, 1982
Patent application 390,096: Vector Summation Power Amplifier; filed June 21, 1982
Patent application 391,191: Oxygen Breathing Apparatus Simulator; filed June 23, 1982
Patent application 391,900: Overboarding Fixture; filed June 25, 1982
Patent application 391,901: New Plasticizer for Nitropolymers; filed June 25, 1982
Patent application 391,902: Improved Process for the Preparation of Dimenthylmethylenedinitramine; filed June 25, 1982
Patent application 392,185: Fiber Optics Image Scope (Microendoscope), Ureteroscope; filed June 28, 1982
Patent application 392,813: Method for Measuring Material Characteristics; filed June 28, 1982
Patent application 393,246: Directional Line-Hydrophone Array Calibrator; filed June 29, 1982
Patent application 393,972: Fiber Optic Spectrophone; filed June 30, 1982
Patent application 394,084: Improved Method for the Preparation of Methylnitramine; filed July 1, 1982
Patent application 394,218: Improved Synthesis of Dimethylmethylene Dintramine; filed July 1, 1982
Patent application 394,975: Munroe Effect Breaching Device; filed July 2, 1982
Patent application 395,431: Polarimetric Image Recorder; filed July 6, 1982
Patent application 398,499: Two Headed Magnetic Proximity Sensor; filed July 15, 1982
Patent application 398,827: Fluorine Implantation of Polyactetylene and Graphite; filed July 18, 1982
Patent application 399,512: A Sea Floor Penetraometer; filed July 19, 1982
Patent application 399,519: Dual Sense, Circularly Polarized Helical Antenna; filed July 19, 1982
Patent application 401,277: Ultra-Fast Field Emitter Array Vacuum Integrated Circuit Switching; filed July 23, 1982
Patent application 402,403: High Resolution Defraction Grating; filed July 27, 1982
Patent application 403,837: Fiber Optic Spectrophone for Remote Sensing; filed July 30, 1982
Patent application 403,838: Thermovoltaic Power Source; filed July 30, 1982
Patent application 405,465: The Modified Betatron Accelerator; filed August 5, 1982
Patent application 406,427: Fiber Optic Magnetic Field Sensor; filed August 9, 1982
Patent application 411,777: Single Handed Set-Up Apparatus; filed August 26, 1982
Patent application 417,740: Underwater Splice for Submarine Coaxial Cable; filed September 13, 1982
Patent application 420,451: Panoramic Lens; filed September 20, 1982
Patent 3,382,678: Gas Turbine Cycle Providing a High Pressure Efflux; filed July 12, 1966, patented May 14, 1968
Patent 3,434,551: Buoyant Coring Apparatus; filed June 26, 1967, patented March 25, 1969
Patent 3,993,577: Method for Production of Heat and Hydrogen Gas; filed December 8, 1975, patented November 23, 1976
Patent 4,232,313: Tactical Navigation and Communication System; filed September 22, 1972, patented November 4, 1980
Patent 4,248,854: Production of Antibodies Toward Asbestos and Immunoassay Therewith; filed August 27, 1979, patented February 3, 1981
Patent 4,264,362: Supercorroding Galvanic Cell Alloys for Generation of Heat and Gas; filed August 13, 1979, patented April 28, 1981
Patent 4,279,969: Method of Forming Thin Niobium Carbonitride Superconducting

Films of Exceptional Purity; filed February 20, 1980, patented July 21, 1981

Patent 4,284,617: Solid Compositions for Generating Fluorine and Gaseous Fluorine Compounds; filed November 30, 1979, patented August 18, 1981

Patent 4,284,747: Cis-Trans Fluoropolyol Polyacrylate; filed February 25, 1980, patented August 18, 1981

Patent 4,286,212: Variable Signal Generator for Galvanometer Exhibiting Hysteresis; filed September 8, 1978, patented August 25, 1981

Patent 4,293,339: Underwater Wax Formulation and Method; filed February 28, 1980, patented October 6, 1981

Patent 4,295,604: Automatic Temperature Control System for Diver Heating System; filed April 24, 1980, patented October 20, 1981

Patent 4,295,989: Luminescent Hafnia Composition; filed June 23, 1980, patented October 20, 1981

Patent 4,299,431: Underwater-Mateable Electrical Connector; filed March 3, 1980, patented November 10, 1981

Patent 4,304,613: Mini Base Alloy Shape Memory Enhancement Through Thermal and Mechanical Processing; filed May 12, 1980, patented December 8, 1981

Patent 4,304,870: Ablative-Resistant Dielectric Ceramic Articles; filed February 20, 1980, patented December 8, 1981

Patent 4,304,896: Polyphthalocyanine Resins; filed August 19, 1980, patented December 8, 1981

Patent 4,305,073: Radar Video Compression System; filed January 30, 1980, patented December 3, 1981

Patent 4,305,998: Protective Coating; filed February 4,1980, patented December 15, 1981

Patent 4,306,413: Hydraulic Power and Control System; filed June 30, 1975, patented December 22, 1981

Patent 4,306,512: Homing Torpedo System; filed August 13, 1964, patented December 22, 1981

Patent 4,306,552: Plasticized Poly-ϵ-Caprolactone; filed August 12, 1980, patented December 22, 1981

Patent 4,306,783: Scattered-Light Imaging System; filed February 27, 1980, patented December 22, 1981

Patent 4,307,035: Method of Synthesizing Resin Prepolymers; filed August 5, 1980, patented December 22, 1981

Patent 4,307,507: Method of Manufacturing a Field-Emission Cathode Structure; filed September 10, 1980, patented December 29, 1981

Patent 4,308,603: Ferrofluid Transducer; filed September 4, 1980, patented December 29, 1981

Patent 4,308,753: Low-Power Electromagnetic Flow-Meter; filed December 3, 1979, patented January 5, 1982

Patent 4,309,109: Pulsed Interferometric Remote Gauge; filed May 25, 1972, patented January 5, 1982

Patent 4,309,773: Apparatus and Method for Radio Channel Selection; filed April 18, 1980, patented January 5, 1982

Patent 4,310,843: Electron Beam Controlled Array Antenna; filed March 6, 1970, patented January 12, 1982

Patent 4,311,290: Aircraft Recovery System; filed November 1, 1981, patented January 19, 1982

Patent 4,313,170: Autocorrelation Side Lobe Reduction Device for Phase-Coded Signals; filed June 23, 1980, patented January 26, 1982

Patent 4,314,743: Optical Gain Control Device; filed November 19, 1979, patented February 9, 1982

Patent 4,314,784: Seafloor Attachment Bolts; filed May 22, 1980, patented February 9, 1982

Patent 4,314,873: Method for Depositing Heteroepitaxially InP on GaAs Semi-Insulating Substrates; filed July 5, 1977, patented February 9, 1982

Patent 4,315,093: Fluorinated Polyphthalocyanines; filed November 9, 1979, patented February 9, 1982

Patent 4,315,255: Multiple-Quantum Interference Superconducting Analog-to-Digital Converter; filed October 27, 1980, patented February 9, 1982

Patent 4,315,258: Transmissive and Reflective Liquid Crystal Display; filed February 15, 1980, patented February 9, 1982

Patent 4,315,324: Directly Modulated Sonobuoy Transmitter Using Surface Acoustic Wave Sensor; filed September 11, 1980, patented February 9, 1982

Patent 4,315,609: Target Locating and Missile Guidance System; filed June 16, 1971, patented February 16, 1982

Patent 4,315,651: Coupling for Quick Attachment to Plate-Like Structure; filed April 3, 1980, patented February 16, 1982

Patent 4,316,201: Low-Barrier-Height Epitaxial Ge-GaAs Mixer Diode; filed May 8, 1980, patented February 16, 1982

Patent 4,317,211: Manchester Code Decoding Apparatus; filed June 2, 1980, patented February 23, 1982

Patent 4,317,797: Resin Purger; filed August 25, 1980, patented March 2, 1982

Patent 4,318,099: Clutter Filter Using a Minimum Number of Radar Pulses; filed February 21, 1980, patented March 2, 1982

Patent 4,319,242: Integrated Weapon Control Radar System; filed March 4, 1980, patented March 9, 1982

Patent 4,319,372: Submarine Rescue Cable Reel; filed April 7, 1980, patented March 16, 1982

Patent 4,320,289: Precision Laser Pulse Radiometer; filed May 27, 1980, patented March 16, 1982

Patent 4,320,703: Target Detecting Device; filed May 27, 1966, patented March 23, 1982

Patent 4,321,549: Switching Quadrature Detector; filed May 6, 1980, patented March 23, 1982

Patent 4,321,559: Multiwavelength Self-Pumed Solid State Laser; filed April 3, 1980, patented March 23, 1982

Patent No. 4,321,871: Target Detecting Device; filed April 24, 1968, patented March 30, 1982

Patent 4,323,025: Torpedo Steering Control System; filed March 7, 1961, patented April 6, 1982

Patent 4,323,900: Omnidirectional Microstrip Antenna; filed October 1, 1979, patented April 6, 1982

Patent 4,324,272: Anti-Slosh Baffle Compartment Assembly; filed October 17, 1980, patented April 13, 1982

Patent 4,324,378: High-Torque/Acceleration Stabilized Sensor Platform; filed March 3, 1980, patented April 13, 1982

Patent 4,324,556: Portable Cobb Analyzer; filed March 25, 1980, patented April 13, 1982

Patent 4,325,181: Simplified Fabrication Method for High-Performance Fet; filed December 17, 1980, patented April 20, 1980

Patent 4,325,246: Compass Checker; filed May 29, 1981, patented April 20, 1982

Patent 4,325,744: Method and Composition for Cleaning Metal Surfaces with a Film-Metal Composition; filed July 25, 1980, patented April 20, 1982

Patent 4,327,377: Phase-Slipped Time Delay and Integration Scanning System; filed June 6, 1980, patented April 27, 1982

Patent 4,327,493: Method and Apparatus for Measurement of Distance Between Holes and Parrallel Axes; filed March 4, 1980, patented May 4, 1982

Patent 4,328,496: Delay Control for a Pulse Repeat-Back Jamming System; filed August 27, 1958, patented May 4, 1982

Patent 4,328,498: Phased Array Antenna for Satellite; filed May 21, 1970, patented May 4, 1982

Patent No. 4,328,502: Continuous Slot Antennas; filed June 21, 1965, patented May 4, 1982

Patent 4,328,554: Programmable Frequency Synthesizer; filed July 3, 1980, patented May 4, 1982

Patent 4,328,569: Array Shading for a Broadband Constant Directivity Transducer; filed November 14, 1979, patented May 4, 1982

Patent 4,328,736: Fuseless Explosive Propellant; filed June 2, 1980, patented May 11, 1982

Patent 4,329,540: Bocking Feed-Through for Coaxial Cable; filed April 3, 1980, patented May 11, 1982

Patent 4,329,651: Chirp Filters/Signals; filed April 9, 1980, patented May 11, 1982

Patent 4,329,938: Evaporator Tool with Remote Substrate Reorientation Mechanism; filed October 3, 1980, patented May 18, 1982

Patent 4,330,238: Automatic Actuator for Variable Speed Pump; filed March 4, 1980, patented May 18, 1982

Patent 4,330,343: Refractory Passivated Ion-Implanted GaAs Ohmic Contacts; filed December 10, 1980, patented May 18, 1982

Patent 4,330,570: Selective Photoinduced Condensation Technique for Producing Semiconducting Compounds; filed April 24, 1981, patented May 18, 1982

Patent 4,330,593: Pzt/Polymer Composites and Their Fabrication; filed November 13, 1980, patented May 18, 1982

Patent No. 4,330,632: Lightweight Concrete Using Polymer Filled Aggregate for Ocean Applications; filed December 24, 1980, patented May 18, 1982

Patent 4,330,689: Multirate Digital Voice Communication Processor; filed January 28, 1980, patented May 18, 1982

Patent 4,330,763: Resonantly Pumped Mid-Ir Laser; filed March 19, 1980, patented May 18, 1982

Patent 4,330,768: Dispersion Compensated Acoustic Surface Waveguides Using

Diffused Substrates; filed October 2, 1980, patented May 18, 1982
Patent No 4,330,784: Variable Waveguide Continuous Slot Antenna; filed February 13, 1967, patented May 18, 1982
Patent 4,330,855: Apparatus for Multiplexing Digital Signals; filed March 3, 1980, patented May 18, 1982
Patent 4,330,895: Patent Stabilizer for Reducing Motion of an Object Disposed in a Fluid; filed October 1, 1979, patented May 25, 1982
Patent 4,330,932: Process for Preparing Isolated Junctions in Thin-Film Semi-Conductors Utilizing Shadow-Masked Deposition to Form Graded-Side Means; filed May 14, 1980, patented May 25, 1982
Patent 4,331,374: Coaxial Termination for Cable In-Line Electronic Applications; filed July 24, 1980, patented May 25, 1982
Patent 4,333,079: Doppler Signal Processing Circuit; filed July 21, 1970, patented June 1, 1982
Patent 4,333,169: Flow Noise Suppression System; filed October 4, 1966, patented June 1, 1982
Patent 4,334,048: Olefin Metathesis; filed May 26, 1981, patented June 8, 1982
Patent No. 4,334,229: Leaky Waveguide Continuous Slot Antenna; filed November 12, 1968, patented June 8, 1982
Patent 4,334,177: High-Accuracy Multipliers Using Analog and Digital Components; filed December 11, 1978, patented June 8, 1982
Patent 4,335,520: Survey Spar System for Precision Offshore Seafloor Surveys; filed September 22, 1980, patented June 22, 1982
Patent 4,335,670: Flexible Side Connector for Floating and Elevated Platforms; filed July 14, 1980, patented June 22, 1982
Patent 4,336,047: Method for Fabricating Single-Mode and Multimode Fiber Optic Access Couplers; filed January 2, 1981, patented June 22, 1982
Patent 4,336,362: Acetylene-Terminated Dianil Monomer and the Polymer Thereform; filed March 2, 1982, patented June 22, 1982
Patent 4,336,367: Epoxy Adhesive Composition; filed May 15, 1969, patented June 22, 1982
Patent 4,336,591: Maximum Depth Monitoring Apparatus; filed July 7, 1982, patented June 22, 1982
Patent 4,337,105: Spherical Segment Inner Surface Force Applicator for Laminating Non-Planar Surfaces; filed September 4, 1980, patented June 29, 1982
Patent No. 4,338,466: Prostaglandin Analogs and Process of Preparation Thereof; filed April 2, 1981, patented July 6, 1982
Patent No. 4,338,560: Albedd Radiation Power Converter; filed October 12, 1979, patented July 6, 1982
Patent No. 4,338,603: Self Adaptive Correlation Radar; filed May 25, 1967, patented July 6, 1982
Patent 4,339,683: Electrical Connection; filed February 4, 1980, patented July 13, 1982
Patent 4,339,764: PbS_xSe_{1-x} Semiconductor; filed March 26, 1979, patented July 13, 1982
Patent No. 4,339,930: Control System for Solar-assisted Heat Pump System; filed July 3, 1980, patented July 20, 1982
Patent 4,340,755: Diguanide Diperchlorate and Process for Preparation Thereof; filed October 10, 1980, patented July 20, 1982
Patent 4,341,651: Compositions and Methods for Generation of Gases Containing Hydrogen or Hydrogen Isotopes; filed August 26, 1980, patented July 27, 1982
Patent 4,342,228: Angular Accelerometer; filed November 4, 1980, patented August 3, 1982
Patent No. 4,342,734: Method for Forming γ-Boron; filed July 20, 1981, patented August 3, 1982
Patent 4,346,420: Magnetoplasmadynamic Switch; filed May 28, 1980, patented August 24, 1982
Patent 4,346,420: Alinement Method; filed January 24, 1978, patented August 31, 1982
Patent 4,346,662: Self-Contained Backflush/Start System for Suction LFC Undersea Vehicle; filed May 7, 1980, patented August 31, 1982
Patent 4,350,041: System and Method for Measurement of Dynamic Angular or Linear Displacement; filed October 9, 1980, patented September 21, 1982

Dated: February 1, 1983.

F.N. Ottie,

Lieutenant Commander, JAGC, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 83-3140 Filed 2-4-83; 8:45 am]

BILLING CODE 3810-AE-M

PBI/Gordon Corp.; Limited Exclusive Patent License Granted

Pursuant to the provision of Part 746 of title 32, Code of Federal Regulations (41 FR 55711–55714, December 22, 1976), the Department of the Navy announces that on September 30, 1982, it granted to PBI/Gordon Corporation, a corporation of the State of Missouri, revocable, nonassignable, limited exclusive license for a period of 10 years under Government-owned United States Patent Number 4,012, 321 issued March 15, 1977, entitled "Oxidation of Refractory Organics in Aqueous Waste Streams by Hydrogen Peroxide and Ultraviolet Light," inventor Edward Koubek.

Copies of the patent may be obtained for one dollar ($1.00) from the Commissioner of Patents and Trademarks, Washington, D.C. 20231.

FOR FURTHER INFORMATION CONCERNING THIS NOTICE CONTACT: Dr. A. C. Williams, Staff Patent Adviser, Office of Naval Research (Code 305), 800 North Quincy Street, Arlington, Virginia 22217, Telephone No. 202–696–4005.

Dated: February 1, 1983.

F. N. Ottie,

Lieutenant Commander, JAGC, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 83-3139 Filed 2-4-83; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. QF83-145-000]

Applied Energy Services, Inc., Application for Commission Certification of Qualifying Status of a Cogeneration Facility

February 2, 1983.

On January 14, 1983, Applied Energy Services, Inc., 1925 N. Lynn Street, Suite 1200, Arlington, Virginia 22209 (Attn: Robert F. Hemphill, Jr.), filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules.

The topping cycle cogeneration facility will be located in Pasadena, Texas. The facility will consist of a steam turbine generator. The electric power production capacity of the facility will be 144,500 kilowatts. Steam will be sold for use in an adjacent refinery. The primary energy source to the facility will be petroleum coke. Residual oil will be used as a supplementary fuel and refinery gas will be used as backup fuel. Installation of the facility will begin in August 1983. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Wasnington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3129 Filed 2-4-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-454-000]

Black Hills Power and Light Co.; Refund Report

February 1, 1983.

Take notice that on January 24, 1983, Black Hills Power and Light Company submitted for filing a refund report pursuant to the Commission's order of December 22, 1982.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before February 18, 1983. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3130 Filed 2-4-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-136-000]

Dr. Boyd Addy; Application for Commission Certification of Qualifying Status of a Small Power production Facility

February 2, 1983.

On January 10, 1983, Dr. Boyd Addy, of 3603 Hillside Road, Mandan, North Dakota, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The facility will be a 10 kilowatt wind installation, located in Mandan, North Dakota. Applicant states that no other facility owned by the applicant located within one mile of the site. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3131 Filed 2-4-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6957-000]

City of Portland, Oregon; Exemption From Licensing

February 1, 1983.

A notice of exemption from licensing of a small hydroelectric project known as Mt. Tabor Power Plant, Project No. 6957, was filed on December 27, 1982, by the City of Portland, Oregon. The proposed hydroelectric project would have an installed capacity of 170 kW and would be located at the Mt. Tabor Reservoir in Multnomah County, Oregon.

Pursuant to §§ 4.109(c) and 375.308(ss) of the Commission's regulations, and subject to the terms and conditions set forth in § 4.111 of the Commission's regulations, the Director, Office of Electric Power Regulation, issues this notification that the above project is exempted from licensing as of January 27, 1983.

Lawrence R. Anderson,

Director, Office of Electric Power Regulation.

[FR Doc. 83-3132 Filed 2-4-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-234-000]

Duke Power Co.; Filing

February 1, 1983.

Take notice that Duke Power Company (Duke Power) tendered for filing on January 10, 1983 a supplement to the Company's Electric Power Contract with Union Electric Membership Corporation. Duke Power states that this contract is on file with the Commission and has been designated Duke Power Company Rate Schedule FERC No. 141.

Duke Power further states that the Company's contract supplement, made at the request of the customer and with agreement obtained from the customer, provides for the following increases in designated demand: Delivery Point No. 2 from 4,200 KW to 7,000 KW; Delivery Point No. 4 from 1,1700 KW to 2,400 KW; Delivery Point No. 5 from 20,000 KW to 30,000 KW; Delivery Point No. 6 from 5,300 KW to 8,500 KW; Delivery Point No. 7 from 12,000 KW to 17,000 KW and Delivery Point No. 8 from 14,000 KW to 16,000 KW.

Duke Power indicates that this supplement also includes an estimate of sales and revenue for twelve months immediately preceding and for the twelve months immediately succeeding the effective date. Duke Power requests an effective date of March 21, 1983.

Copies of this filing were mailed to Union Electric Membership Corporation and the North Carolina Utilities Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 14, 1983. 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3133 Filed 2-4-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-135.000]

Leatherwood, Inc.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

February 2, 1983.

On January 7, 1983, Leatherwood Inc., of R.D. 1, Box 399, Bloomsbury, New Jersey, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The facility will be a 10 kilowatt wind installation located at Myler Road, Bloomsbury, New Jersey. Applicant states that no other facilities owned by the applicant located within one mile of the site. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of

Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to invervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3134 Filed 2-4-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP82-117-000]

Midwestern Gas Transmission Co.; Settlement Conference

February 1, 1983.

Take notice that a settlement conference will be convened in the above-captioned docket at 9:00 A.M. on Friday, February 25, 1983, in a room to be designated at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

All interested parties and Staff will be permitted to attend.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3135 Filed 2-4-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-170-000]

New England Power Co.; Order Accepting for Filing and Suspending Rates, Noting Intervention, Granting Waiver of Filing Requirements, and Establishing Hearing Procedures

Issued: January 31, 1983.

On December 1, 1982, New England Power Company (NEP) tendered for filing proposed amendments to its existing contract for the sale of system power-unreserved (SPU) service and associated transmission to the Town of Hudson, Massachusetts (Hudson).[1] The proposed amendments would increase the SPU demand charge from $60.40/kW-yr to $93.56/kW-yr and the transmission charge for this service from $6.00/kW-yr to $8.02/kW-yr. Based on a calendar year 1983 test period, the proposed amendments would increase NEP's revenues by approximately $575,000. The company requests an effective date of February 1, 1983.

In the event that the Commission suspends the instant filing, NEP requests that the suspension period be limited to one day. In addition, the company requests waiver of the Commission's regulations to incorporate by reference in this docket the cost support data (Statements AA through BL) which were previously submitted as part of NEP's W-5 rate filing,[2] except insofar as such statements have also been provided in the instant filing.

Notice of NEP's filing was published in the **Federal Register** [3] with comments due on or before December 23, 1982. Hudson filed a timely protest and motion to intervene in which it requests that NEP's rate increase be suspended for one day. Hudson states that it has reached a settlement in principle with NEP but requests a nominal suspension in order to preserve its rights in the event that the settlement is not ultimately filed and approved by the Commission.[4] Hudson further states that NEP does not object to its motion to intervene or to a one day suspension of the rates. No substantive issues are raised in Hudson's pleading.[5]

Discussion

Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214), the unopposed motion to intervene filed by Hudson serves to make it a party to this proceeding.

Our preliminary review indicates that NEP's rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept the proposed rates for filing and suspend them as ordered below.

We explained the Commission's suspension policy in *West Texas Utilities Company*, Docket No. ER82-23-000, 18 FERC ¶ 61,189 (1982). As noted there, where our preliminary review suggests that proposed rates may be unjust and unreasonable, but may not be substantially excessive as described in *West Texas*, we will ordinarily suspend them for one day. In the instant case, our review indicates that NEP's rates may not produce substantially excessive revenues. Further, we note that the affected customer seeks only a one day suspension and has represented that NEP does not object to this request. Accordingly, we shall suspend NEP's rates for one day, to become effective on February 2, 1983, subject to refund.

Because the affected customer does not object, and because the pertinent data are contained in NEP's rate filings in Docket Nos. ER82-702-000 and ER82-703-000, we find that good cause exists to grant NEP's request to waive the Commission's filing requirements so as to permit the company to incorporate by reference in this docket cost support data previously submitted to the Commission in connection with NEP's W-5 rate filing.

The Commission Orders:

(A) NEP's request for waiver of the outstanding Statement AA through BL filing requirements is hereby granted.

(B) NEP's proposed rates for service to Hudson are hereby accepted for filing and suspended for one day, to become effective on February 2, 1983, subject to refund.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of NEP's rates.

(D) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a prehearing conference in this proceeding to be held within approximately fifteen (15) days from the date of this order in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(E) The Secretary shall promptly publish this order in the **Federal Register.**

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[1] Designated as: *New England Power Company*, Supplement No. 9 to Rate Schedule FERC No. 308.

[2] The company's W-5 rate filing is the subject of proceedings in *New England Power Co.*, Docket Nos. ER82-702-000 and ER82-703-000.

[3] 47 FR 56039 (Dec. 14, 1982).

[4] On January 21, 1983, NEP and Hudson jointly filed the anticipated offer of settlement. Because the period for comment and Commission review will preclude action on the settlement prior to NEP's February 1, 1983 proposed effective date, the Commission must take such action as would otherwise be appropriate with respect to the originally filed rates.

[5] Hudson states that if the settlement in principle is not ultimately approved by the Commission, NEP will support a request by Hudson to file a detailed protest out of time.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3136 Filed 2-4-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-233-000]

Niagara Mohawk Power Corp.; Filing

February 1, 1983.

Take notice that on January 10, 1983, Niagara Mohawk Power Corporation (Niagara) tendered for filing a letter agreement dated August 31, 1982 between Niagara and Northeast Utilities.

Niagara states that the original October 1, 1981 agreement states that Niagara will provide for the transmission service for the delivery of short term power and associated energy. The short term power is that energy as scheduled by Conolidated Edison Company of New York crossing Niagara's transmission facilities and finally delivered to the interconnection with Western Massachusetts Electric Company.

Niagara further states that the original agreement was between Niagara and the Hartford Electric Light Company, The Connecticut Light and Power Company and the Western Massachusetts Electric Company. The August 31, 1982 agreement recognizes the merger of the Hartford Electric Light Company into the Connecticut Light and Power Company. Article 3.2 of the original agreement states that Niagara's annual fixed charge rate used in the derivation of the transmission rates will be updated September 1 of each year for the succeeding twelve month period. The return of equity component and all other components, in effect as of April 1 of each year, shall be used in determination of payments under the contract. The August 31, 1982 agreement increases the transmission rate of $1.679 per megawatt per hour to $1.787 per megawatt per hour. The annual fixed charge rate increased from 24.6 percent to 26.5 percent.

Niagara requests an effective date of September 1, 1982, and therefore requests waiver of the Commission's notice requirements.

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, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 14, 1983. 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3141 Filed 2-4-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-243-000]

Tampa Electric Co., Notice of Filing

February 1, 1983.

Take notice that on January 10, 1983, Tampa Electric Company (Tampa) tendered for filing an Agreement for Interchange Service between Tampa and the City of Tallahassee, Florida (Tallahassee), together with Service Schedules A, B, C, and D thereunder.

Tampa Electric states that Service Schedules A, B, C, and D provide for emergency, scheduled, economy, and firm interchange service, respectively, between Tampa and Tallahassee.

Tampa proposes an effective date of December 15, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing have been served on Tallahassee and the Florida Public Service Commission.

Any person desiring to be heard or protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211, and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 14, 1983. 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3142 Filed 2-4-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RM79-34 and Docket No. ST82-446]

Transportation Certificates for Natural Gas Displacement of Fuel Oil and Louisiana Resources Company; Self-Implementing Transactions

January 31, 1983.

Take notice that the following transactions have been reported to the Commission as being implemented pursuant to Part 284 of the Commission's Regulations and Sections 311 and 312 of the Natural Gas Policy Act of 1978 (NGPA). The "Recipient" column in the following table indicates the entity receiving or purchasing the natural gas in each transaction.

The "Part 284 Subpart" column in the following table indicates the type of transaction. A "B" indicates transportation by an interstate pipeline pursuant to Section 284.102 of the Commission's Regulations.

A "C" indicates transportation by an intrastate pipeline pursuant to § 284.122 of the Commission's Regulations. In those cases where Commission approval of a transportation rate is sought pursuant to § 284.123(b)(2), the table lists the proposed rate and expiration date for the 150-day period for staff action. Any person seeking to participate in the proceeding to approve a rate listed in the table should file a petition to intervene with the Secretary of the Commission.

A "D" indicates a sale by an intrastate pipeline pursuant to § 284.142 of the Commission's Regulations and Section 311(b) of the NGPA. Any interested person may file a complaint concerning such sales pursuant to § 284.147(d) of the Commission's Regulations.

A "E" indicates an assignment by an intrastate pipeline pursuant to § 284.163 of the Commission's Regulations and § 312 of the NGPA.

An "F" indicates a fuel oil displacement transaction implemented pursuant to § 284.202 of the Commission's Regulations. Any interested persons may file a complaint concerning such transaction pursuant to § 284.205(d) of the Commission's Regulations.

A "G" indicates transportation by an interstate pipeline on behalf of another interstate pipeline pursuant to a blanket certificate issued under § 284.221 of the Commission's Regulations.

A "G (HT)" or "G (HS)" indicates transportation, sales or assignments by a Hinshaw Pipeline pursuant to a blanket certificate issued under § 284.222 of the Commission's Regulations.

Kenneth F. Plumb,

Secretary.

BILLING CODE 6717-01-M

DOCKET NO.	TRANSPORTER/SELLER	RECIPIENT	DATE FILED	PART 284 SUBPART	EXPIRATION DATE *	TRANSPORTATION RATE (¢/MMBTU)
ST82-446	LOUISIANA RESOURCES CO.	TEXAS EASTERN TRANSMISSION CORP.	9/01/82	C	-	-
ST82-447	NORTHERN NATURAL GAS CO.	EL PASO NATURAL GAS CO.	9/01/82	G	-	-
ST82-448	CABOT CORP.	CAJUN NATURAL GAS CO.	9/02/82	G(HT)	1/30/83	81.60
ST82-449	NATURAL GAS PIPELINE CO. OF AMERICA	TEXAS GAS TRANSMISSION CORP.	9/03/82	G	-	-
ST82-450	NORTHERN NATURAL GAS CO.	PANHANDLE EASTERN PIPE LINE CO.	9/07/82	G	-	-
ST82-451	NATURAL GAS PIPELINE CO. OF AMERICA	TENNESSEE GAS PIPELINE CO.	9/07/82	G	-	-
ST82-452	TENNESSEE GAS PIPELINE CO.	CAJUN NATURAL GAS CO.	9/07/82	B	-	-
ST82-453	MIDWESTERN GAS TRANSMISSION CO.	CAJUN NATURAL GAS CO.	9/07/82	B	-	-
ST82-454	COLUMBIA GAS TRANSMISSION CORP.	EASTERN SHORE NATURAL GAS CO.	9/08/82	G	-	-
ST82-455	FLORIDA GAS TRANSMISSION CO.	LOUISIANA INTRASTATE GAS CORP.	9/09/82	B	-	-
ST82-456	EL PASO NATURAL GAS CO.	UNITED GAS PIPE LINE CO.	9/10/82	G	-	-
ST82-457	TRANSCONTINENTAL GAS PIPE LINE CORP.	BRIDGELINE GAS DISTRIBUTION CORP.	9/13/82	B	-	-
ST82-458	NORTHERN NATURAL GAS CO.	COLORADO INTERSTATE GAS CO.	9/13/82	G	-	-
ST82-459	CONSUMERS POWER CO.	MICHIGAN WISCONSIN PIPE LINE CO.	9/15/82	G(HT)	2/12/83	17.02
ST82-460	TRUNKLINE GAS CO.	NORTHERN NATURAL GAS CO.	9/14/82	G	-	-
ST82-461	MICHIGAN GAS STORAGE CO.	CONSUMERS POWER CO.	9/15/82	B	-	-
ST82-462	NORTHERN NATURAL GAS CO.	MICHIGAN WISCONSIN PIPE LINE CO.	9/20/82	G	-	-
ST82-463	NORTHERN NATURAL GAS CO.	UNITED GAS PIPE LINE CO.	9/15/82	G	-	-
ST82-464	NORTHWEST PIPELINE CORP.	SOUTHWEST GAS CORP.	9/16/82	G	-	-
ST82-465	LOUISIANA RESOURCES CO.	FAUSTINA PIPE LINE CO.	9/16/82	C	2/13/83	22.25
ST82-466	MICHIGAN CONSOLIDATED GAS CO.	MICHIGAN WISCONSIN PIPE LINE CO.	9/17/82	G	-	-
ST82-467	MICHIGAN CONSOLIDATED GAS CO.(ISP)	MICHIGAN CONSOLIDATED GAS CO.(UD)	9/17/82	F	-	-
ST82-468	VALERO INTERSTATE TRANSMISSION CO.	UNITED GAS PIPE LINE CO.	9/17/82	G	-	-
ST82-469	TENNESSEE GAS PIPELINE CO.	NORTHERN NATURAL GAS CO.	9/17/82	G	-	-
ST82-470	TENNESSEE GAS PIPELINE CO.	NORTHERN NATURAL GAS CO.	9/17/82	G	-	-
ST82-471	TENNESSEE GAS PIPELINE CO.	NORTHERN NATURAL GAS CO.	9/17/82	G	-	-
ST82-472	TENNESSEE GAS PIPELINE CO.	NORTHERN NATURAL GAS CO.	9/17/82	G	-	-
ST82-473	TENNESSEE GAS PIPELINE CO.	NORTHERN NATURAL GAS CO.	9/17/82	G	-	-
ST82-474	TENNESSEE GAS PIPELINE CO.	NORTHERN NATURAL GAS CO.	9/17/82	G	-	-
ST82-475	NORTHERN NATURAL GAS CO.	INTRATEX GAS CO.	9/20/82	B	-	-
ST82-477	TENNESSEE GAS PIPELINE CO.	LOUISIANA INTRASTATE GAS CORP.	9/20/82	B	-	-
ST82-478	OWG RED OAK TRANSMISSION CO.	COLUMBIA GAS TRANSMISSION CORP.	9/21/82	C	-	-
ST82-479	LOUISIANA INTRASTATE GAS CORP.	TENNESSEE GAS PIPELINE CO.	9/21/82	C	2/18/83	20.00
ST82-480	NORTHERN ILLINOIS GAS CO.	EAST TENNESSEE NATURAL GAS CO.	9/22/82	G(HT)	2/19/83	76.30
ST82-481	TRANSCONTINENTAL GAS PIPE LINE CORP.	UNITED GAS PIPE LINE CO.	9/22/82	G	-	-
ST82-482	TENNESSEE GAS PIPELINE CO.	UNITED GAS PIPE LINE CO.	9/23/82	G	-	-
ST82-483	TRANSCONTINENTAL GAS PIPE LINE CORP.	UNITED GAS PIPE LINE CO.	9/23/82	G	-	-
ST82-484	NATURAL GAS PIPELINE CO. OF AMERICA	ENTEX, INC.	9/24/82	B	-	-
ST82-485	TENNESSEE GAS PIPELINE CO.	UNITED GAS PIPE LINE CO.	9/23/82	G	-	-
ST82-486	MIDWESTERN GAS TRANSMISSION CO.	EAST TENNESSEE NATURAL GAS CO.	9/24/82	G	-	-
ST82-487	MISSISSIPPI VALLEY GAS CO.	TEXAS EASTERN TRANSMISSION CORP.	7/02/82	C	11/29/82	21.90
ST82-488	LOUISIANA RESOURCES CO.	UNITED GAS PIPE LINE CO.	9/24/82	C	-	-
ST82-489	SUGAR BOWL GAS CORP.	TENNESSEE GAS PIPELINE CO.	9/24/82	C	-	-
ST82-490	NORTHERN NATURAL GAS CO.	PANHANDLE EASTERN PIPE LINE CO.	9/24/82	G	-	-
ST82-491	UNITED GAS PIPE LINE CO.	ENTEX, INC.	9/27/82	B	-	-
ST82-492	PANHANDLE EASTERN PIPE LINE CO.	UNITED GAS PIPE LINE CO.	9/27/82	G	-	-
ST82-493	TENNESSEE GAS PIPELINE CO.	CONSOLIDATED EDISON CO. OF NY, INC.	9/29/82	F	-	-
ST82-494	LOUISIANA INTRASTATE GAS CORP.	ENTEX, INC.	9/30/82	C	2/27/83	20.00
ST82-495	EL PASO NATURAL GAS CO.	PACIFIC INTERSTATE TRANSMISSION CO.	9/30/82	G	-	-
ST82-496	TENNESSEE GAS PIPELINE CO.	TENNGASCO GAS GATHERING CO.	9/30/82	B	-	-

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* THE INTRASTATE PIPELINE HAS SOUGHT COMMISSION APPROVAL OF ITS TRANSPORTATION RATE PURSUANT TO SECTION 284.123(B)(2) OF THE COMMISSION'S REGULATIONS (18 CFR 284.123(B)(2)). SUCH RATES ARE DEEMED FAIR AND EQUITABLE IF THE COMMISSION DOES NOT TAKE ACTION BY THE DATE INDICATED.

[FR Doc. 83-3021 Filed 2-4-83; 8:45 am]
BILLING CODE 6717-01-C

[Docket No. ST80-118-002]

United Texas Transmission Co.; Extension Reports

January 28, 1983.

The companies listed below have filed extension reports pursuant to Section 311 of the Natural Gas Policy Act of 1978 (NGPA) and Part 284 of the Commission's regulations giving notice of their intention to continue transportation and sales of natural gas for an additional term of up to 2 years. These transactions commenced on a self-implementing basis without case-by-case Commisson authorization. The Commission's regulations provide that the transportation or sales may continue for an additional term if the Commission does not act to disapprove or modify the proposed extension during the 90 days preceding the effective date of the requested extension.

The table below lists the name and address of each company selling or transporting pursuant to Part 284; the party receiving the gas; the date that the extension report was filed; and the effective date of the extension. A letter "B" in the Part 284 column indicates a transportation by an interstate pipeline which is extended under § 284.105. A letter "C" indicates transportation by an intrastate pipeline extended under § 284.125. A "D" indicates a sale by an intrastate pipeline extended under § 284.146. A "G" indicates a transportation by an interstate pipeline pursuant to § 284.221 which is extended uner § 284.105. A "G(HS)" indicates transportation, sales or assignments by a Hinshaw Pipeline pursuant to a blanket certificate issued under § 284.222 of the Commission's Regulations.

Any person desiring to be heard or to make any protest with reference to said extension report should on or before February 18, 1983 file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commissions's Rules of Practice and Procedure (18 CFR 385.211 or 385.214).

All protest filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants party to a proceeding.

Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,
Secretary.

BILLING CODE 6717-01-M

DOCKET NO.	TRANSPORTER/SELLER	RECIPIENT	DATE FILED	PART 284 SUBPART	EFFECTIVE DATE
ST80-118-002	UNITED TEXAS TRANSMISSION CO. P.O. BOX 1478, HOUSTON, TX 77001	TEXAS EASTERN TRANSMISSION CORP.	12/16/82	D	04/01/83
ST80-143-002	UNITED TEXAS TRANSMISSION CO. P.O. BOX 1478, HOUSTON, TX 77001	TRANSWESTERN PIPELINE CO.	12/16/82	D	04/01/83
ST80-185-001	TENNESSEE GAS PIPELINE CO. P.O. BOX 2511, HOUSTON, TX 77001	SOUTHERN NATURAL GAS CO.	12/21/82	G	04/01/83
ST80-197-001	TENNESSEE GAS PIPELINE CO. P.O. BOX 2511, HOUSTON, TX 77001	UNITED GAS PIPE LINE CO.	12/20/82	G	04/01/83
ST81-181-001	TRANSOK PIPE LINE CO. P.O. BOX 3008, TULSA, OK 74101	UNITED GAS PIPE LINE CO.	12/21/82	C	03/15/83
ST81-201-001	TRANSOK PIPE LINE CO. P.O. BOX 3008, TULSA, OK 74101	SOUTHERN NATURAL GAS CO.	12/21/82	C	03/26/83
ST81-207-001	MONTEREY PIPELINE CO. 1700 COMMERCE BUILDING, 821 GRAVIER ST. NEW ORLEANS, LA 70112	SOUTHERN NATURAL GAS CO.	12/16/82	C	03/27/83
ST81-210-001	LOUISIANA INTRASTATE GAS CORP. P.O. BOX 1352, ALEXANDRIA, LA 71301	TEXAS EASTERN TRANSMISSION CORP.	12/23/82	D	03/23/83
ST81-212-001	NATIONAL FUEL GAS SUPPLY CORP. 10 LAFAYETTE SQUARE, BUFFALO, NY 14203	ELIZABETHTOWN GAS CO.	12/17/82	B	03/19/83
ST81-217-001	PANHANDLE EASTERN PIPE LINE CO. P.O. BOX 1642, HOUSTON, TX 77001	PEOPLES NATURAL GAS CO.	12/29/82	B	03/27/83
ST81-230-001	HOUSTON PIPE LINE CO. 1200 TRAVIS, BOX 1188, HOUSTON, TX 77001	TENNESSEE GAS PIPELINE CO.	12/27/82	C	03/31/83
ST81-231-001	OASIS PIPE LINE CO. 1200 TRAVIS, BOX 1188, HOUSTON, TX 77001	TENNESSEE GAS PIPELINE CO.	12/27/82	C	03/31/83
ST81-255-001	MISSISSIPPI RIVER TRANSMISSION CORP. 9900 CLAYTON ROAD, ST. LOUIS, MO 63124	TEXAS EASTERN TRANSMISSION CORP.	12/27/82	G	04/01/83
ST81-375-001	TEXAS EASTERN TRANSMISSION CORP. P.O. BOX 2521, HOUSTON, TX 77001	MISSISSIPPI RIVER TRANSMISSION CORP	12/30/82	G	04/01/83
ST82-322-001	DOW INTRASTATE GAS CO. ROUTE 1, BOX 35, PLAQUEMINE, LA 70764	NATURAL GAS PIPELINE CO. OF AMERICA	12/30/82	C	07/31/83

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*- ST80-185-001 AND ST80-197-001 WERE ORIGINALLY REPORTED TO HAVE COMMENCED ON APRIL 17, 1980 AND APRIL 1,1980, RESPECTIVELY.HOWEVER, TENNESSEE NOW ALLEGES THAT THE SECTION 311 TRANSPORTATIONS DID NOT COMMENCE UNTIL APRIL 1, 1981. THE NOTICING OF TENNESSEE'S FILINGS DOES NOT CONSTITUTE A DETERMINATION OF WHETHER THE FILINGS COMPLY WITH THE COMMISSION'S REGULATIONS.

[FR Doc. 83-2923 Filed 2-4-83; 8:45 am]

BILLING CODE 6717-01-C

[Docket No. QF83-102-000]

University of San Francisco; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

February 2, 1983.

On December 6, 1982, University of San Francisco, of 2299 Golden Gate Avenue, San Francisco, California 94117, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules.

The topping-cycle cogeneration facility will be located at the University of San Francisco. The primary energy source to the facility will be natural gas. The electric power production capacity will be 9390 kilowatts. Steam will be produced in a heat-recovery steam generation operating with exhaust from a gas-turbine generator set. Part of the steam will be extracted from steam turbine stages to satisfy thermal energy demands at USF and nearby St. Mary's Hospital. Installation will begin November, 1983. Applicant states no electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3143 Filed 2-4-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-283-000]

Wisconsin Power and Light Co.; Filing

February 1, 1983.

Take notice that on January 24, 1983, Wisconsin Power and Light Company (WPL) tendered for filing an amendment dated December 30, 1982 to its existing interconnection agreement dated June 7, 1971 between Wisconsin Electric Power Company and WPL. WPL states that this amendment relates to the addition of a new point of interconnection between the two parties designated as the Stony Brook interconnection.

WPL requests an effective date of December 30, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing have been served upon the Wisconsin Electric Power Company and the Public Service Commission of Wisconsin.

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, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 18, 1983. 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3145 Filed 2-4-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER77-347-000]

Wisconsin Power & Light Co.; Refund Report

February 1, 1983.

Take notice that on January 26, 1983, Wisconsin Power & Light Company submitted for filing a refund report pursuant to the Commission's orders dated June 23, 1982 (Opinion No. 141) and December 30, 1982.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before February 18, 1983. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-3144 Filed 2-4-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ST79-35-002]

Houston Pipe Line Co.; Extension of Reports

January 28, 1983.

The companies listed below have filed extension reports pursuant to Section 311 of the Natural Gas Policy Act of 1978 (NGPA) and Part 284 of the Commission's regulations giving notice of their intention to continue transportation and sales of natural gas for an additional term of up to 2 years. These transactions commenced on a self-implementing basis without case-by-case Commission authorization. The Commission's regulations provide that the transportation or sales may continue for an additional term if the Commission does not act to disapprove or modify the proposed extension during the 90 days preceding the effective date of the requested extension.

The table below lists the name and addresses of each company selling or transporting pursuant to Part 284; the party receiving the gas; the date that the extension report was filed; and the effective date of the extension. A letter "B" in the Part 284 column indicates a transportation by an interstate pipeline which is extended under § 284.105. A letter "C" indicates transportation by an intrastate pipeline extended under § 284.125. A "D" indicates a sale by an intrastate pipeline extended under § 284.146. A "G" indicates a transportation by an interstate pipeline pursuant to § 284.221 which is extended under § 284.105. A "G(HS)" indicates transportation sales or assignments by a Hinshaw Pipeline pursuant to a blanket certificate issued under § 284.222 of the Commission's Regulations.

Any person desiring to be heard or to make any protest with reference to said extension report should on or before February 18, 1983 file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214).

All protests filed with the Commission will be considered by it in determining

the appropriate action to be taken but will not serve to make the protestants party to a proceeding.

Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

BILLING CODE 6717-01-M

DOCKET NO.	TRANSPORTER/SELLER	RECIPIENT	DATE FILED	PART 284 SUBPART	EFFECTIVE DATE
ST79-35-002	HOUSTON PIPE LINE CO. P.O. BOX 1188, HOUSTON, TX 77001	TEXAS EASTERN TRANSMISSION CORP.	01/11/83	D	04/11/83
ST81-194-001	NORTHWEST ALABAMA GAS DISTRICT P.O. BOX 128, HAMILTON, AL 35570	SOUTHERN NATURAL GAS CO.	01/10/83	C,D	04/10/83
ST81-238-001	TENNESSEE GAS PIPELINE CO. P.O. BOX 2511, HOUSTON, TX 77001	NATURAL GAS PIPELINE CO. OF AMERICA	01/07/83	G	04/10/83
ST81-246-001	TRANSCONTINENTAL GAS PIPE LINE CORP. P.O. BOX 1396, HOUSTON, TX 77251	VALERO TRANSMISSION CO.	01/03/83	B	04/01/83
ST81-251-001	DELHI GAS PIPELINE CORP. FIDELITY UNION TOWER, DALLAS, TX 75201	NORTHERN NATURAL GAS CO.	01/14/83	C	04/20/83
ST81-277-001	DELHI GAS PIPELINE CORP. FIDELITY UNION TOWER, DALLAS, TX 75201	SOUTHERN NATURAL GAS CO.	01/14/83	C	05/09/83
ST81-294-001	MOUNTAIN FUEL SUPPLY CO. P.O. BOX 11368, SALT LAKE CITY, UT 84139	COLORADO INTERSTATE GAS CO.	01/07/83	G	05/26/83
ST81-414-001	MOUNTAIN FUEL SUPPLY CO. P.O. BOX 11368, SALT LAKE CITY, UT 84139	COLORADO INTERSTATE GAS CO.	01/07/83	G	08/13/83

[FR Doc. 83-2914 Filed 2-4-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. TA83-1-17-005]

Texas Eastern Transmission Corp.; Proposed Changes in FERC Gas Tariff

February 2, 1983.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on January 24, 1983 tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following sheet:

Substitute Revised Substitute Sixty-third Revised Sheet No. 14

This tariff sheet was filed in substitution for that sheet filed with the Federal Energy Regulatory Commission (Commission) on December 1, 1982 and approved by the Commission on December 29, 1982 reflecting a revision to Texas Eastern's SS-II rate pursuant to Section 4.G., Consolidated GSS Adjustments, of the SS-II Rate Schedule and a revision to Texas Eastern's ISS-II rate pursuant to Section 4.F., Consolidated GSS Adjustments, of the ISS-II Rate Schedule.

Consolidated Gas Supply Corporation (Consolidated) filed a major rate increase in Docket No. RP82-115 including a proposed increase in their Rate Schedule GSS rates effective January 1, 1983 after the Commission-ordered five month suspension period. Texas Eastern's December 1, 1982 filing was based on the GSS rates in Consolidated's original filing in Docket No. RP82-115. On December 30, 1982, Consolidated filed its motion to place the suspended rates in effect on January 1, 1983, as modified pursuant to the Commission's order of July 28, 1982, including a slight reduction to the originally filed GSS rates. Pursuant to Section 4.G. of Texas Eastern's Rate Schedule SS-II and Section 4.F. of Rate Schedule ISS-II, the SS-II rates and ISS-II rates, respectively, are automatically adjusted to flow through any changes in Consolidated's GSS rates. The above substitute tariff sheet reflects Consolidated's Motion rates constituting a downward modification in the SS-II rates and ISS-II rates originally filed by Texas Eastern on December 1, 1982.

Texas Eastern also filed Alternate Substitute Revised Substitute Sixty-third Revised Sheet No. 14 to coincide with Consolidated's filing of an alternate sheet to be placed into effect if the Stipulation and Agreement filed on December 29, 1982 is not approved. Consolidated reserved its right to recover the difference between revenues it would have collected under its compliance filing rates and the settlement rates, with interest, through an appropriate surcharge if Consolidated's alternate sheet is placed into effect. Though Texas Eastern believes it is permitted to track such surcharge pursuant to Sections 4.G. and 4.F. of its Rate Schedules SS-II and ISS-II, respectively, Texas Eastern nevertheless reserved the same right as Consolidated if Consolidated is permitted to collect any such surcharge. Texas Eastern requested that the Commission accept the appropriate tariff sheet filed therein based on its decision with respect to Consolidated's rates.

The proposed effective date of the above-mentioned substitute tariff sheet is January 1, 1983.

Copies of the filing were served on Texas Eastern's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 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 8, 1983. 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2922 Filed 2-4-83; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

Alcohol, Drug Abuse, and Mental Health Administration; Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HM, Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA), of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (40 FR 36163-7, August 19, 1975, as amended by 45 FR 71424, October 28, 1980) is amended to reflect the reorganization of the National Institute of Mental Health, ADAMHA, which was necessitated by the legislated program shift to block grants and accompanying budgetary reductions. The reorganization accomplishes the following: (1) Abolishes the Division of Mental Health Service Programs, the Division of Special Mental Health Research, the Division of Clinical and Behavioral Research, and the Division of Biological and Biochemical Research; (2) retitles the Office of Program Development and analysis to be the Office of Policy Development, Planning, and Evaluation; the Division of Manpower and Training Programs to be the Division of Human Resources; the Division of Special Mental Health Programs to be the Division of Prevention and Special Mental Health Programs; the Division of Scientific and Public Information to be the Division of Communications and Education; and the Mental Health Intramural Research Program to be the Division of Intramural Research Programs; (3) establishes the Office of State and Community Liaison, and (4) modifies the functional statements of the entire Institute, with the exception of Saint Elizabeths Hospital.

Section HM-B, Organization and Functions, is amended as follows:

Under *ADAMHA (HM),* delete all functional statements for the *National Institute of Mental Health (HMM),* with the exception of the *Saint Elizabeths Hospital—Division of Clinical and Community Services (HMMS)* and substitute the following:

National Institute of Mental Health (HMM). Provides a national focus for the Federal effort to increase knowledge and advance effective strategies to deal with health problems and issues in the promotion of mental health and the prevention and treatment of mental illness. In carrying out these responsibilities, the Institute: (1) Conducts and supports research and research training on the biological, psychological, behavioral, epidemiological, and social science aspects of mental health and illness; (2) conducts and supports research on the development and improvement of mental health services and prevention programs and on their administration and financing; (3) collaborates with, and provides technical assistance and data to, State and sub-State authorities to assist them in planning, establishing, maintaining, coordinating, and evaluating more effective mental health programs; (4) collaborates with, provides assistance to, and encourages other Federal agencies and national, foreign, State, and local organizations, hospitals, professional associations, and volunteer groups to facilitate and extend programs to promote mental health and prevent mental illness and to provide for the care, treatment, and rehabilitation of mentally ill persons; (5) collects,

analyzes, and disseminates scientific findings and data on the incidence, prevalence, and resources for the treatment of mental illness; (6) carries out administrative and financial management, policy development, planning and evaluation, and public information functions which are required to implement such programs; and (7) exercises administrative and policy oversight for the operation of Saint Elizabeths Hospitals.

Office of the director (HMM1). (1) Provides leadership in the planning, development, and management of Institute goals, priorities, policies, and programs, including equal employment opportunity, and is the focal point for the Department's efforts in mental health and illness; (2) provides overall coordination and oversight for extramural research, prevention, and programs for special populations; (3) conducts and coordinates Institute interagency, intergovernmental, and international activities; and (4) administers committee management and reports clearance activities and provides correspondence control services for the Institute.

Office of Policy Development, Planning, and Evaluation (HMM13). (1) Leads, coordinates, and carries out policy development and program planning, analysis, and evaluation for the Institute; (2) serves as the Institute focal point for the development and analysis of issues relating to the financing if mental health programs and carries our related activities; (3) plans, develops, and implements data systems for collecting or assembling programmatic and national data on research and human resources to determine overall direction of Institute policies and programs; (4) provides liaison with corresponding components of ADAMHA, PHS, and DHHS; (5) develops the Institute's program ("forward") plans and similar materials, and recommends principles on which to base program budget requests, allocations and apportionments, and corresponding rationale; (6) develops and promotes the Intitute's program evaluation plan and, with other components, develops and implements approved projects; (7) plans and carries out intergovernmental liaison between the Institute and States, sub-state jurisdictions, and related public interest groups with respect to Federal mental health policies; (8) serves as the Institute focal point for the analysis of both existing and proposed Federal and State legislation, regulations, and judicial actions and related matters; and (9) serves as the Institute's congressional liaison.

Office of Extramural Project Review (HMM14). (1) Plans, administers, and coordinates peer and objective review of applications for grants and cooperative agreements and contract proposals; (2) develops Institute review policies and procedures, provides orientation and guidance on such policies and procedures, and monitors the review process to insure quality of review and conformance to policy; (3) recommends nominees for review groups and provides logistical support; (4) collects and analyzes data relating to applications and proposals reviewed, and makes recommendations, as necessary, for changes in Institute committee structure and/or referral guidelines; (5) collaborates with other components within the agency to insure adequate exchange of information and assure optimum effectiveness of the review process; and (6) participates in the review of proposed DHHS, PHS, and ADAMHA policies and procedures affecting peer and objective review.

Office of Program Support (HMM15). (1) Supports the Institute in various areas of administrative management such as: (a) Awarding and administering Institute-sponsored grants, cooperative agreements, contracts, and interagency agreements and interpreting related regulations; (b) developing Institute budget proposals and establishing and maintaining controls of Institute funds, facilities, and staff; and (c) providing general administrative services; (2) maintains liaison with management staff of the Office of the Administrator toward implementing management policies prescribed by ADAMHA and higher authorities, advising the Director on policy implications of proposed changes; (3) conducts management studies of Institute policies, programs, and operations; (4) develops, coordinates, and implements appropriate general management policies, procedures, and guidelines for the Institute; and (5) coordinates Institute Privacy Act activities.

Office of State and Community Liaison (HMM16). (1) Responds to requests from States, communities, other Federal agencies, and national organizations to improve the quality of the mental health services delivery system by: (a) providing professional and technical consultation on service delivery and financing issues, (b) assisting with knowledge transfer among service providers, and (c) developing and operating a nonstatistical information network on State program policies, trends, and systems development; (2) conducts quality assurance activities, including Health Care Financing Administration-sponsored Medicare surveys of inpatient mental health facilities.

Division of Extramural Research Programs (HMMA). (1) Plans and administers programs of support for research and research resources focusing on the prevention, etiology, diagnosis, course, and treatment of mental disorders, and on rehabilitation of the mentally ill, including studies in the basic, clinical, and applied areas utilizing biological, behavioral, genetic, pharmacologic, somatic, psychosocial, and cross-cultural approaches; and (2) coordinates Institute programs in schizophrenia, affective disorders, and adolescent and child psychopathology.

Division of Intramural Research Programs (HMMB). (1) Plans and administers a comprehensive long-term intramural research program dealing with the causes, diagnosis, treatment, and prevention of mental disorders, as well as the biological and psychosocial factors that determine human behavior and development; and (2) provides a focus for national attention in the area of mental health intramural research.

Division of Human Resources (HMM3). (1) Plans, administers, and supports programs in the planning, development, training, and utilization of mental health human resources to meet mental health service delivery system and research needs including: (a) Human resource research and demonstration projects; (b) training in the mental health core disciplines and related fields; and (c) technical and related financial assistance to States, local governments, service agencies, and training institutions; and (2) collects and analyzes data and conducts studies related to nationwide perspectives and needs regarding mental health human resource planning, training, development, and utilization.

Division of Prevention and Special Mental Health Programs (HMM5). (1) Plans and administers integrated programs of support for research, research training, and related activities which meet national mental health goals and established national priorities in prevention and disaster assistance and for special populations and other special mental health areas; (2) reviews and assesses the performance of such programs; and (3) coordinates and integrates these programs within the Institute and in ADAMHA, PHS, DHHS, and the other agencies within the Federal Government.

Division of Communications and Education (HMM7). (1) Plans and

directs the acquisition and communication of scientific and technical information, including the operation of a mental health library; (2) develops and presents conferences, symposia, and lectures, as well as curricula for the continuing professional education of service providers, public officials responsible for these services, and agency staff; and (3) develops prevention education materials and provides public information services for the Institute, including responses to public inquiries.

Division of Biometry and Epidemiology (HMM9). (1) Operates a national statistical reporting program to obtain, analyze, and disseminate statistics on the major characteristics of the Nation's mental health service systems, their resources, staffing, utilization patterns, costs, and financing; (2) conducts, develops, and supports programs of research and research training on the national mental health service system; (3) conducts, develops, and supports programs of clinical services research and research training focused on service delivery system sectors; (4) coordinates Institute activities in mental health epidemiology and conducts, develops, and supports programs of research and training on mental health epidemiology; (5) develops methodology for research and data collection in biometry, epidemiology, services research, and demography, and provides statistical and mathematical consultative services to the Institute; and (6) provides professional and technical consultation to State and local mental health service and statistical agencies on statistical and epidemiologic methodology, development of mental health information systems, and the use of statistical, epidemiologic, and demographic data to improve these services and information services.

Dated: January 28, 1983.

Richard S. Schweiker,

Secretary.

[FR Doc. 83-3241 Filed 2-4-83; 8:45 am]

BILLING CODE 4160-20-M

Alcohol, Drug Abuse, and Mental Health Administration; Statement of Organization, Functions and Delegations of Authority

Part H, Chapter HM, Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA), of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (39 FR 1654, January 11, 1974, as amended most recently in part by 45 FR 78229, November 25, 1980) is amended to reflect the complete reorganization of the National Institute on Drug Abuse, ADAMHA, which was necessitated by the legislated program shift to block grants and accompanying budgetary reductions. The reorganization accomplishes the following: (1) Establishes the Office of Science, the Addiction Research Center, the Division of Epidemiology and Statistical Analysis, the Division of Preclinical Research, the Division of Clinical Research, and the Division of Prevention and Communications; (2) abolishes the Office of Special Populations, the Office of Grants and Contracts, the Office of Communications and Public Affairs, the Office of Extramural Policy and Project Review, the Division of Research, the Division of Training, the Division of Prevention and Treatment Development, the Division of Community Assistance, the Division of Medical and Professional Affairs, and the Division of Data and Information Development; (3) retitles the Office of Program Development and Analysis to be the Office of Policy Development and Implementation, and the Office of Management to be the Office of Administration; and (4) modifies the functional statements for the entire Institute.

Section HM-B, Organization and Functions, is amended as follows:

Under *ADAMHA (HM),* delete all functional statements for the National Institute on Drug Abuse (HMH) and substitute the following:

National Institute on Drug Abuse (HMH). Provides a national focus for the Federal effort to increase knowledge and promote effective strategies to deal with health problems and issues associated with drug abuse. In carrying out these responsibilities, the Institute: (1) Conducts and supports research on the biological, psychological, psychosocial, and epidemiological aspects of narcotic and addiction and drug abuse; (2) supports research training of individuals and institutions who are training individuals in the biological and psychological sciences and epidemiological aspects of narcotic addiction and drug abuse to enable them to pursue careers in research; (3) collaborates with and provides technical assistance to State drug abuse authorities, and encourages State and community efforts in planning, establishing maintaining, coordinating and evaluating more effective narcotic addiction and drug abuse programs; (4) collaborates with and encourages other Federal agencies, national, foreign, State and local organizations, hospitals, and volunteer groups to enable them to facilitate and extend programs for the prevention of narcotic addiction and drug abuse, and for the care, treatment, and rehabilitation of drug abusers; and (5) carries out administrative and financial management, policy and program development, planning and evaluation, and public information functions which are required to implement such programs.

Office of the Director (HMH1). (1) Provides leadership, direction, and policy in the development of Institute goals, priorities, policies, and programs; and serves as the focal point for the Department's efforts on drug abuse; (2) conducts and coordinates Institute interagency and international activities; (3) provides support to the Institute in equal employment opportunity; (4) conducts Institute activities associated with the scheduling of psychoactive drugs, their medical and nonmedical use, and their diversion from legitimate medical channels; and (5) collaborates with other Federal agencies to establish standards for drug prescribing practices.

Office of Science (HMH12). (1) Provides advice and guidance to the Director regarding the Institute's research programs and other scientific activities; (2) provides a continuing assessment of current Institute research activities in relation to broad research goals and objectives, and recommends changes to basic drug abuse research policy where needed; (3) administers the peer and objective review of grant applications and contract proposals; (4) coordinates and assures the development of, and adherence to, program policies and rules relating to Institute extramural activities; (5) administers the committee management function; and (6) coordinates Institute activities under the Privacy Act and for reports clearance.

Office of Policy Development and Implementation (HMH13). (1) Develops and coordinates the implementation of program plans and policies and monitors progress toward established objectives; (2) analyzes program policy and activities and develops recommendations for significant program changes; (3) develops Institute program evaluation policy and plans in conjunction with the development of the Institute's annual budget; (4) develops data requirements pertinent to planning and evaluating program activities; and (5) provides advice and guidance on legislation, statutes, and regulations related to all aspects of drug abuse research and prevention, and provides liaison to the Congress on matters related to those areas.

Office of Administration (HMH15). (1) Provides or coordinates the provision of administrative management support to the Institute in such areas as (a) financial management, including budget and accounting, (b) administrative services, (c) personnel management, and (d) grants and contracts management; (2) develops administrative management policies, procedures and guidelines, and conducts management studies of Institute programs and operations; (3) maintains liaison with the management staff of the Office of the Administrator and implements within the Institute general management policies prescribed by ADAMHA and higher authorities; and (4) provides correspondence control services for the Institute.

Addiction Research Center (HMHA). (1) Plans, develops, and conducts intramural preclinical and clinical research on the causes, hazards, treatment, and prevention of drug abuse and addiction, the nature of the addiction process, and the addiction liability of new drugs drawing on the biomedical, neuroscience, psychological, and behavioral sciences; (2) provides inhouse research scientist training in a variety of disciplines for work in drug abuse-related research; and (3) develops preclinical and clinical research studies and procedures for protection of human subjects from research risks and monitors the provision of medical care to these subjects.

Division of Preclinical Research (HMHB). (1) Plans, develops, and administers an extramural program of biomedical preclinical research which seeks to develop new knowledge concerning the mechanisms underlying drug abuse and its etiology and hazards; (2) supports studies to develop new methodologies for testing the abuse potential of new compounds; (3) supports studies designed to determine the neurological and biochemical effects of a newly developed pharmacological agents; (4) supports research training to increase the skills, quantity, quality, and utilization of research investigators in the biomedical and preclinical disciplines in the drug abuse field; and (5) develops and supports research into the quota levels for new substances, synthesis of new drugs and metabolites, new methods development, and pharmaceutical formulations; and manages the distribution of controlled substances, research drugs, and chemicals.

Division of Clinical Research (HMHC). (1) Plans, stimulates, develops, and supports a broad extramural program of basic and applied research focusing on drug abuse treatment and prevention; (2) supports studies designed to describe and understand drug abusing behavior and to ascertain the effects of drugs on performance; (3) supports clinical and other applied research designed to assess the efficiacy of new and existing prevention and treatment intervention techniques to meet the needs of both active and prospective drug abuse treatment clients; and (4) supports research training to increase the skills, quantity, quality, and utilization of research investigators in the clinical, psychological, and behavioral science disciplines in the field of drug abuse.

Division of Epidemiology and Statistical Analysis (HMHD). (1) Plans, conducts, and supports epidemiological studies and surveys on the nature and extent of drug abuse, and monitors emerging trends in drug abuse; (2) designs, develops, operates, and maintains Institute drug abuse information systems; (3) conducts ongoing surveys and develops analytic methodologies where information gaps exist in undertaking special population drug abuse problems; (4) works cooperatively with States and private organizations to encourage sharing of drug abuse epidemiology and treatment information; and (5) provides consultation and technical assistance, upon request, to States concerned with developing and refining drug abuse information systems.

Division of Prevention and Communications (HMH6). (1) Conducts prevention and public education activities, through drug abuse media campaigns and the dissemination of publications and drug abuse prevention materials, and provides public information services for the Institute; (2) collects, abstracts, stores, and disseminates program and scientific information on drug abuse through the National Clearinghouse for Drug Abuse Information; (3) collects drug abuse research findings supported or conducted by the Institute, and incorporates such findings into the body of drug abuse-related information available for dissemination; (4) collaborates with Government agencies, professional organizations and associations, business and industry and private philanthropy and provides technical assistance in developing alternative funding sources for treatment; (5) provides consultation and technical assistance on prevention projects, training programs, and a variety of medical/clinical activities in States, local communities, professional associations, business and industry, national organizations, schools and universities, and other external groups; (6) coordinates NIDA activities under the Freedom of Information Act; and (7) operates a resource center of books, periodicals, film, and records relating to drug abuse.

Dated: January 28, 1983.

Richard S. Schweiker,

Secretary.

[FR Doc. 83-3242 Filed 2-4-83; 8:45 am]

BILLING CODE 4160-20-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA-41740]

Alaska Native Claims Selection

On January 6, 1981, Cook Inlet Region, Inc., filed selection application AA-41740, as amended, under the provisions of sections 12(b)(6) of the act of January 2, 1976 (89 Stat. 1151), and I.C. (2) of the Terms and Conditions for Land Consolidation and Management in the Cook Inlet Area, as clarified August 31, 1976, for the surface and subsurface estates of certain lands located near Skwentna, Alaska.

Section 12(b)(6) of the act of January 2, 1976, authorizes conveyance of lands to Cook Inlet Region, Inc., from a selection pool established by the Secretary of the Interior and the General Services Administrator.

The lands are located inside the boundaries of Cook Inlet Region. The lands within selection AA-41740 were placed in the pool of properties available for Cook Inlet Region, Inc., subject to valid existing rights, by notice dated July 13, 1979.

The selection application of Cook Inlet Region, Inc., as to the lands described below, is properly filed and meets the requirements of the act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with Federal laws leading to acquisition of title.

In view of the foregoing, the surface and subsurface estates of the following described lands, containing 1,114.03 acres, are considered proper for acquisition by Cook Inlet Region, Inc., and are hereby approved for conveyance pursuant to section 12(b)(6) of the act of January 2, 1976:

Seward Meridian, Alaska (Surveyed)

U.S. Survey No. 3899, exluding the lands described below:

Commencing at U.S. Land Monument, Land Survey No. 2155, proceeed North 516.12' to Cor. 1-U.S. Survey No. 2155; thence N.

6°55'W., 852.0' to a point; thence Northerly 2,680' along the meanders of the Skwentna River to a point; thence N. 64° W., 5,450± to a point; thence S. 26° W., 1,200' to the true point of beginning; thence S. 64° E., 1,320' to a point; thence S. 26° W., 1,000'± to a point; thence Westerly along the meanders of the Skwentna River 400'± to a point; thence N. 64° W., 1,080'± to a point; thence N. 26° E., 1,320' to the true point of beginning.

Containing approximately 1,114.03 acres.

There are not easements to be reserved to the United States pursuant to section 17(b) of the Alaska Native Claims Settlement Act (ANCSA).

The grant of the above-described lands shall be subject to:

1. Issuance of a patent after approval and filing by the Bureau of Land Management of the official supplemental plat of survey confirming the boundary description and acreage of the lands hereinabove granted; and

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under section 6(g) of the Alaska Statehood Act of July 7, 1958 (48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to section 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)) (ANSCA), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law.

Sec. 12(b)(6) of Public Law (Pub. L.) 94-204 provides that conveyances pursuant to this section shall be made in exchange for lands or rights to select lands outside the boundaries of Cook Inlet Region as described in section 12(b)(5) of this act and on the basis of values determined by appraisal. The lands described above have been appraised at a value of $400,000. Since the lands are valued at less that $500 per acre, the subject property will be exchanged acre for acre pursuant to section I.C.(2)(e)(ii) of the Terms and Conditions. Upon acceptance of title to these lands, Cook Inlet Region, Inc., will relinquish its selection rights to 1,114.03 acres of its out-of-region entitlement.

Conveyance of the remaining entitlement to Cook Inlet Region, Inc., shall be made at a later date.

There are no inland water bodies considered to be navigable within the above described lands.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the Anchorage Daily News.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the attached regulations in Title 43 Code of Federal Regulations (CFR), Part 4, Subpart E as revised. However, pursuant to Public Law 96-487, this decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

If an appeal is taken, the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, Office of the Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of this decision by personal service or certified mail, return receipt requested, shall have thirty days from receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who failed or refused to sign their return receipt and parties who received a copy of this decision by regular mail which is not certified, return receipt requested, shall have until March 9, 1983 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are: Cook Inlet Region, Inc., P.O. Drawer 4-N, Anchorage, Alaska 99509.

Ann Johnson,

Chief, Branch of ANSCA Adjudication.

[FR Doc. 83-3156 Filed 2-4-83; 8:45 am]

BILLING CODE 4310-84-M

Intent To Prepare a Joint Environmental Impact Report/ Environmental Impact Statement (EIR/ EIS) With the County of Tuolumne on the California Gold Project

The Department of Interior, Bureau of Land Management, Bakersfield District, Folsom Resource Area, and the County of Tuolumne will prepare a Joint Environmental Impact Report/ Environmental Impact Statement (EIR/ EIS) for a proposed gold mine, processing facility, and waste disposal site on approximately 700 acres in Tuolumne County, California.

The statement will analyze the anticipated environmental consequences of the project in compliance with the National Environmental Policy Act (NEPA) and California Environmental Quality Act (CEQA). Significant issues identified include: Noise, water quality, rare plants, and proximity to residences. Alternative plans will include variations in the location of components of the project. The draft document is scheduled for completion in April 1983. A Notice of Availability will be published in the **Federal Register** establishing the dates of the comment period following distribution of the draft to the public.

For further information on the California Gold Project EIR/EIS, contact Deane K. Swickard, Folsom Resource Area Manager, Bureau of Land Management, 63 Natoma Street, Folsom, CA 95630, or call (916) 985-4474.

Dated: January 31, 1983.

Ed Hastey,

State Director, Bureau of Land Management.

[FR Doc. 83-3288 Filed 2-4-83; 8:45 am]

BILLING CODE 4310-84-M

Fish and Wildlife Service

Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora; Fourth Regular Meeting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: The Service publishes summaries of its proposed negotiating positions for the fourth regular meeting of the Conference of the Parties of the

Convention on International Trade in Endangered Species of Wild Fauna and Flora and requests information and comments on them. The Service also announces a public meeting with regard to the proposed negotiating positions and with regard to proposals to amend the lists of species in Appendies I and II of the Convention.

ADDRESSES: Information and comments on proposed negotiating positions should be sent to the Associate Director, Federal Assistance, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240. Written information and comments received by WPO will be open to public inspection during normal business hours at the Federal Wildlife Permit Office, Room 620, 1000 N. Glebe Road, Arlington, Virginia.

DATES: A public meeting will be held on February 15, 1983, from 9:30 a.m. to 12:30 p.m. in room 7000 A of the Main Interior Building, 18th and C Streets, NW., Washington, D.C. 20240.

The Service will consider information and comments received by February 22, 1983, concerning proposed negotiating positions.

FOR FURTHER INFORMATION CONTACT: Richard M. Parsons, Chief, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240, Telephone: 703/235–2418.

SUPPLEMENTARY INFORMATION:

Background

The United States is a party to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (hereinafter referred to as CITES or the Convention), an international agreement designed to control trade in certain listed animal and plant species which are or may become threatened with extinction. CITES provides for biennial (regular) meetings of the Conference of the Parties to review its implementation. This notice is the third in a series of notices designed to inform the public of preparations being made for the next regular meeting to be held in Gaborone, Botswana, on April 19–30, 1983. In the first notice published on August 5, 1982 (47 FR 34043), the Service published the provisional agenda for the meeting and an explanation of most of the items of the agenda. The Service invited the public to provide information and comments on the provisional agenda and also announced a public meeting to receive information and comments. This meeting was held on August 13, 1982. A second notice, which made a few corrections to the first notice, was published on September 27, 1982 (47 FR 42465).

Proposed Negotiating Positions

In this notice, the Service is publishing in summary form proposed negotiating positions for the Gaborone meeting. The numbers next to each summary correspond to the numbers used to denote provisional agenda items as found in the first notice as corrected. A summary of any information and comments received at the public meeting and submitted in writing to the Service, and a summary of the basis for the proposed position follow each summary negotiating position. In some instances no negotiating position is stated, but an explanation is given for not developing a proposed negotiating position.

Item XV, Consideration of Proposals for Amendment of Appendices I and II will not be treated in this notice. Item XV has been and will be the subject of separate **Federal Register** notices orignating in the Service's Office of the Scientific Authority.

If necessary, one should consult the notices cited above to understand the issues to which these proposed negotiating positions are directed.

I. Opening Ceremony by the Authorities of Botswana

Proposed Negotiating Position: No position necessary.

Information and Comments: None received.

Basis of Proposed Negotiating Position: Normally, no issues are raised under this agenda item.

II. Welcoming Addresses

Proposed Negotiating Position: No position necessary.

Information and Comments: None received.

Basis of Proposed Negotiating Position: Normally, no issues are raised under this agenda item.

III. Establishment of the Credentials Committee and Other Committees

Proposed Negotiating Position: The United States should seek membership on the Credentials Committee and on the Finance, Screening, and Technical Expert Committees.

Information and Comments: None received.

Basis of Proposed Negotiating Position: Although the Credentials Committee's work is usually not controversial, it could be involved in credentials challenges of a political nature. Such questions may have ramifications beyond the CITES system. The other committees will deal with matters of substance involving issues addressed in proposed negotiating positions set forth below.

IV. Adoption of Agenda and Working Programme

Proposed Negotiating Position: None necessary.

Information and Comments: None received.

Basis of Proposed Negotiating Position: Usually, adoption of the Agenda and Working Programme is pro forma.

V. Report of the Credentials Committee

Proposed Negotiating Position: Support the adoption of the report, provided it does not recommend exclusion of the legitimate representatives of States party to CITES. Representatives whose credentials are not in order should be afforded observer status per Article IX.7(a) of CITES. If credentials have been delayed, representatives should be allowed to participate and vote on a provisional basis.

Information and Comments: None received.

Basis of Proposed Negotiating Position: Adoption of the report is usually pro forma. Exclusion of representatives whose credentials are in order could undermine cooperation among the Parties which is essential to the effective implementation of CITES.

VI. Adoption of Rules of Procedure

Proposed Negotiating Position: Support adoption of the rules, but affirm that proposed changes to Rule 2 and Rule 22 are merely clarifications and in no way change the practice that observers may participate in committee sessions and working groups if such participation is approved.

Information and Comments: None received.

Basis of Proposed Negotiating Position: The seventh meeting of the Standing Committee felt that Rule 2, as currently written, gives the mistaken impression that observers have the right to participate in committee and working group sessions, since it states that they have the "right to participate". Only in Rule 22, as currently written, is it clear that participation by observers in committee and working group sessions is a privilege.

VII. Admission of Observers

Proposed Negotiating Position: The United States supports the admission as observers of all representatives of agencies or bodies technically qualified in protection, conservation or management of wild fauna and flora.

Information and Comments: None received.

Basis of Proposed Negotiating Position: Participation of nongovernmental organizations at meetings of the Conference of the Parties is on the whole beneficial. The Convention makes formal provision for such participation.

VIII. Report and Recommendations of the Standing Committee

1. Report by the Chairman.

Proposed Negotiating Position: None necessary.

Information and Comments: None received.

Basis of Proposed Negotiating Position: Any issues raised in the report will be addressed under other agenda items.

2. Revision of the Membership of the Standing Committee.

Proposed Negotiating Position: Support expansion of committee membership to include the chairmen of all permanent committees (thus far only the Technical Expert Committee). Where appropriate, chairmen of other committees should be invited to participate as observers.

Information and Comments: None received.

Basis of Proposed Negotiating Position: The Standing Committee has assumed the role of coordinator of other committees. At its seventh meeting, it assumed the role of coordinating the use of funds by other committees. Inclusion of committee chairmen in Standing Committee proceedings should help to avoid conflict and duplication of effort and enrich each committee's information base.

3. Payment of Travel Expenses for Standing Committee Members.

Proposed Negotiating Position: Support payment of travel expenses, provided funding external to the regular CITES budget is used.

Information and Comments: None received.

Basis of Proposed Negotiating Position: Payment of travel expenses would assure attendance of representatives from countries with "reduced" budgets. The United States has opposed payment of travel expenses from the regular budget for persons other than Secretariat employees or consultants.

4. Election of the New Members of the Standing Committee.

Proposed Negotiating Position: None necessary.

Information and comments: None received.

Basis of Proposed Negotiating Position: The North American Region will not be subject to election until 1985. Regions usually nominate their own representatives.

IX. Report of the Secretariat

Proposed Negotiating Position: Support a proposal recommending that Parties unable to submit their annual reports to the Secretariat by the prescribed date, furnish the Secretariat by that time with a target date for submission of the report.

Information and Comments: One commenter has noted that most Parties are still failing to issue timely reports. Commenter also requested that the United States urge the Secretariat to highlight enforcement problems in its annual report.

Basis of Proposed Negotiating Position: The Secretariat's 1981 Annual Report indicates that tardiness is on the increase. It is the Service's understanding that the Secretariat will make a "target date" proposal under this agenda item. The Secretariat highlighted enforcement problems in its 1981 report and it is anticipated it will do the same in 1982. The Parties' concerns about enforcement problems are evidenced by several of the agenda items including: the Report of the Technical Expert Committee on National Reports under Article VII, paragraph 7, of the Convention (item XIII.1); Review and harmonization of annual reports (XIII.2); Effects of reservations (XIII.3); Trade in souvenirs (XIII.7); Time validity of export permits and re-export certificates (XIII.9); Exemptions under Article VII of the Convention (XIII.10); Specimens in transit (XIII.11); Animals stressed during transport (XIII.13); Identification Manual Committee (XII.2); and Nomenclature Committee (XII.3).

X. Financing of the Secretariat and of meetings of the Conference of the Parties

Proposed Negotiating Position: Support adoption of the Secretariat's proposed budget for calendar years 1984 and 1985, provided there is no unjustifiable growth over 1982–83.

Information and Comments: None received.

Basis of Proposed Negotiating Position: While the Secretariat intends to increase its small staff to cope with the increase in Party membership and activity which has occurred since it attained its current five member complement, it will attempt to do so without significant real growth in the 1984–85 budget. The United States has not yet received a copy of the final budget proposal.

2. Transfer of responsibilities (for the administration of the Trust Fund for the Convention).

Proposed Negotiating Position: Support continued administration of the Trust fund for the Convention by UNEP, provided UNEP continues to maintain its substantial reduction of charges for administering the fund (program support costs).

Information and Comments: None received.

Basis of Proposed Negotiating Position: It appears that UNEP will agree to continue its effective 50 percent reduction of such charges announced at the seventh Standing Committee meeting.

3. Headquarters Matters.

Proposed Negotiating Position: Support retention of the Secretariat in Switzerland.

Information and Comments: None received.

Basis of Proposed Negotiating Position: Secretariat offices are located in IUCN offices in Gland, Switzerland, rent free. Benefits are derived from IUCN support services. A decision on tax privileges will be made by the Swiss government probably around the end of 1982 year or the beginning of 1983.

XI. Relationship With Other International Agreements and Organizations

Proposed Negotiating Position: None necessary.

Information and Comments: None received.

Basis of Proposed Negotiating Position: Normally the Secretariat makes a report on its contacts with other international organizations.

XII. Committee Reports and Recommendations

1. Technical Expert Committee (Recommendations of the Technical Expert Committee will be addressed under item XIII. This proposed negotiating position will address the organization of the Technical Expert Committee which has not met formally since the third regular meeting of the Conference of the Parties, New Delhi, India, February–March 1981. It also addresses the problem of proving foreign law.)

Proposed Negotiating Position: The membership of the Technical Expert Committee should consist of no more than six Parties. On nominating the members of the Committee, the Conference of the Parties should ensure, to the extent possible, that the following major geographic regions are represented: Africa, Asia, Central and South America, North America, Europe, and Oceania. Parties requesting that other Parties take appropriate action

with regard to their domestic laws should furnish copies of such laws and explanatory information to the Secretariat for circulation to the Parties.

Information and Comments: None received.

Basis of Proposed Negotiating Position: Instead of the open membership currently in effect, Parties would have to volunteer for regional membership. It is more likely that volunteers will feel obligated to attend meetings and perform their obligations than under the current structure. Circulation of foreign laws would facilitate legal action in the United States.

2. Identification Manual Committee.

Proposed Negotiating Position: Support continued development of an identification manual useful to port and border enforcement officials and urge all countries and organizations to do likewise.

Information and Comments: One commenter stated that 10 identification sheets for seven Mexican cacti listed on Appendix I and three Appendix I *Sarracenia* species are being prepared by the Smithsonian Institution in cooperation with the U.S. Department of Agriculture, U.S. Department of Justice, and Linda McMahan at TRAFFIC (U.S.A.) for use in the identification manual.

Basis of Proposed Negotiating Position: Species identification material for port and border enforcement officials is limited. Accurate and expeditious identification of species is essential to the successful enforcement of CITES. The Parties should review those portions of the manual already produced in this light. Voluntary contributions to the development of the manual are greatly appreciated. Interested persons should contact Mr. Richard M. Parsons (see "FOR FURTHER INFORMATION CONTACT", above).

3. Nomenclature Committee.

Proposed Negotiating Position: Support continuation of the work of this committee to develop a standardized nomenclature for use in CITES.

Information and Comments: None received.

Basis of Proposed Negotiating Position: Efforts to control trade in wild animals and plants at the species level are often hindered by the use of synonyms for the scientific names of those species. The naming and systematic classification of organisms is a continual process. However, a relatively fixed list of species names, changed at intervals by the Conference of the Parties, is needed for the purposes of regulating trade.

XIII. Interpretation and Implementation of the Convention.

1. Report of the Technical Expert Committee on national reports under Article VIII, paragraph 7, of the Convention.

Proposed Negotiating Position: Support Technical Expert Committee and Secretariat consideration of the possible applicability of Article XIII procedures or other measures to high volumes of trade in certain species, particularly certain reptiles (*Tupinambis teguixin, Varanus exanthematicus, Varanus niloticus,* and *Varanus salvator*).

Information and Comments: None received.

Basis of Proposed Negotiating Position: Resolution Conf. 3.5 requires the Technical Expert Committee to review annual reports and identify problems of enforcement. Commenting on the mandate of the Technical Expert Committee, the Secretary General has stated that it ". . . would provide further opportunity to develop procedures for compliance control . . ." and related this to the Secretariat's role under Article XIII to communicate information to a Party indicating that a species included in Appendix I or II is being adversely affected by trade or that the provisions of the Convention are not being effectively implemented. The Service has submitted a paper to the Technical Expert Committee and the Secretariat regarding high volumes of trade in specimens of certain species, particularly the ones named above.

2. Review and Harmonization of Annual Reports.

Proposed Negotiating Position: Support efforts of the Secretariat to have annual reports compiled in a harmonized format.

Information and Comments: One commenter suggested that the resolution of the Conference of the Parties dealing with ranching (Conf. 3.15) be supplemented to require ranching facilities to produce an annual report to be submitted to the Secretariat, such report to include the number of specimens taken from the wild, returned to the wild, skins exported and stockpiled, and a description of other programs benefiting the species.

Basis of Proposed Negotiating Position: The Secretariat has circulated a standard format for annual reports. The Service supports and uses this format. The U.S. Annual Report also provides additional information in supplemental tables. Some of the terms used in the Secretariat's format may need further refining. The Service believes that the Secretariat already has sufficent authority under resolution Conf. 3.10 and Conf. 3.15 to request details from reporting Parties concerning the status of the population subject to the ranching operation and the performance of the operation in order to satisfy the Parties that the ranching criteria continue to be met. The Service will forward commenter's suggestions to the Secretariat.

3. Effects of Reservations.

Proposed Negotiating Position: A Party reserving to an "uplisting" of a species from Appendix II to Appendix I should continue to treat the species as listed on Appendix II, except that when trading with a nonreserving Party, the reserving Party shall be treated as a nonparty and provide equivalent Appendix I documentation.

A Party reserving to a species listed for the first time on Appendix I ("on-listing") should continue to treat the species as if it had not been listed except that when trading with a nonreserving Party, the reserving Party shall provide appropriate equivalent Appendix I documentation. Generally, the United States will not take a reservation as to species listings, except in those cases where, absent a reservation, the treaty would conflict with United States law, be impossible to implement or would do substantial harm to United States interests. In general, the United States urges those Parties with reservations to consider the underlying reasons for the taking of those reservations and to consider withdrawing them.

Information and Comments: One commenter suggested that reserving Parties importing Appendix I specimens from nonreserving Parties make sure that they were imported with a valid export permit or re-export certificate. The commenter further suggested that if import is from a nonparty, the reserving party make sure that the specimen was legally obtained from the nonparty. Another commenter suggested the use of the "Pelly Amendment" to discourage reservations by other Parties. Another commenter called for the United States to make as much effort as possible to reduce the number of countries that have reservations and not to encourage reservations.

Basis of Proposed Negotiating Position: The Convention provides that reserving Parties shall be treated as nonparties. Article X of the Convention requires that any trade with nonparties be conducted under "equivalent documentation." Thus when attempting to trade a specimen of a species uplisted from Appendix II to Appendix I with a nonreserving Party, the reserving Party

must provide equivalent Appendix I documents. When trading with a nonparty, however, the provision that the reserving Party be treated as a nonparty is not applicable. In this instance, the reserving Party can view itself as still being obligated to enforce the provisions of the Convention as if uplisting had not occurred. Thus when trading with a nonparty the reserving Party should treat specimens of a species uplisted from Appendix II to Appendix I as if the species remained in Appendix II.

With regard to whether a reserving party should make sure that appropriate CITES documents accompanied a shipment from a *nonreserving Party*, if the Party reserved to an uplisting of a species from Appendix II to Appendix I, it would have to issue an appropriate equivalent nonparty import document as a precondition to the issuance of an export or re-export document issued by the nonreserving Party. Upon arrival of the shipment, the reserving Party would view the specimens as included in one of the CITES appendices and thus be obligated in its own view to check at least for the import permit it had issued. However, if the Party had reserved to an on-listing of an Appendix I species, it would view the species as not controlled by the Convention. It would still have to issue the necessary nonparty document, if it wished to trade with the nonreserving Party, and as such would probably feel obligated to check for that document on arrival of the shipment. (See Conference Resolution 3.8, Acceptance of Comparable Documentation Issued by States not Party to the Convention.)

Similarly, when importing an Appendix I specimen from a *nonparty*, the reserving Party, if it had reserved to an uplisting from Appendix II to Appendix I, would view the specimen as a controlled Appendix II specimen and would thus require an appropriate equivalent document from the nonparty. If however, it had reserved to an on-listing to Appendix I it would view the specimen as not controlled by the Convention. To require that the reserving Party make sure that the specimen was legally obtained from the nonparty would be impractical, since both countries would have no CITES obligations toward such specimen.

4. Parts and derivates from nonrecognizing States.

Proposed Negotiating Position: Oppose any moves which allow Parties that consider a specimen to be readily recognizable to accept nonparty documents from Parties that do not consider the specimen to be readily recognizable.

Information and Comments: In opposing any such moves, one commenter pointed out the inconsistency of a nonrecognizing (nonregulating) Party issuing a nonparty document to help regulate trade and stated that if trade were allowed only with proper Party documentation, there would be a strong incentive for the nonrecognizing Party to become a recognizing Party as to the specimens in question.

Basis of Proposed Negotiating Position: Support for acceptance of nonparty documents for nonrecognized specimens would foster continuation of the practice of some Parties to promulgate lists of specimens which they consider to be readily recognizable. The Service believes that such lists may have the effect of discouraging efforts by those Parties to upgrade their administrative and enforcement programs. The United States has opposed the adoption of a uniform list of readily recognizable parts and derivatives and opposes any resolution which fosters national lists. As currently drafted, the TEC resolution supporting such a move would not call for the nonrecognizing Party to issue documents for trade with nonparties nor would it call for the inclusion of trade statistics in the nonrecognizing Party's annual report. Acceptance of nonparty documents from nonrecognizing Parties would require maintenance of multiple lists of recognized parts at each port of entry. This would be very burdensome. It would be much easier if the nonrecognizing Parties eliminated their lists and issued regular convention documents.

5. Parts and derivatives of plants and Appendix III animals.

Proposed Negotiating Position: Support specification of parts and derivatives of Appendix II and III plants and Appendix III animals in those appendices where necessary for conservation of the species concerned as provided in CITES Article I. Support use of broad specifying language (e.g., "all parts and derivatives" or "all parts and derivatives except seeds") where necessary for the conservation of the species concerned. Oppose the addition of a "watch list" of traded parts and derivatives of such plants and animals.

Information and Comments: One commenter supported carrying out the mandate of resolution Conf. 2.18 by advocating a simple amendment to the Appendices stating that all parts and derivatives are regulated unless specified as exempt.

Basis of Proposed Negotiating Position: The United States has opposed unnecessary controls on wildlife and plants by opposing the listing of species that do not meet the criteria found in Article II and in conf. 1.1 [the so-called Berne Criteria]. The Parties should abide by the terms of the Convention which provide that parts and derivatives of Appendices II and III plants and Appendix III animals should only be controlled if "specified" in such Appendices. As a convenience, where most parts and derivatives of a particular species should be controlled, the words "all readily recognizable parts, except . . ." may be used. A watch list added to already extensive lists of species would be confusing and burdensome both to the public and to administrative and enforcement officials.

6. Trade in African elphant ivory.

Proposed Negotiating Position: All ivory regardless of weight or condition should be considered readily recognizable for purposes of determining whether or not CITES documentation is required. Oppose any move to limit coverage of the Convention as it applies to African elephant ivory.

Information and Comments: One commenter opposed setting a weight limit for African elephant ivory under which such ivory would automatically be considered not readily recognizable. The commenter pointed out that such a limit would in effect be treating the African elephant as if it were listed on Appendix III which allows for specifying which parts and derivatives are to be controlled.

Basis of Proposed Negotiating Position: The United States has consistently opposed designation of parts and derivatives controlled by CITES as being not readily recognizable. (See item XIII.4, above.) As applied to African elephant ivory, the proposal would eliminate statistics showing which countries are "end users" of the ivory, and would eliminate CITES controls at the country of origin.

7. Trade in souvenirs.

Proposed Negotiating Position: The Technical Expert Committee should consider information indicating that trade in specimens of *particular* Appendix I and II species is not in accordance with the provisions of the Convention or that such species are being adversely affected by trade. The Committee should provide guidance to the Secretariat and the Parties on measures that may be taken to remedy these problems. Urge all Parties and national and international transport and travel organizations to inform international travelers of the controls of the Convention and how they affect trade in specimens of animals and

plants listed in Appendices I, II and III used as souvenirs. Support moves to restrict availability of the exemption for personal effects to nonliving specimens.

Information and Comments: One commenter asserted that tourist and commercial trade in sea turtle products was continuing on a large scale and proposed urging adoption of national bans on the sale of these products and the removal of reservations on sea turtle listings by the countries which took them.

Basis of Proposed Negotiating Position: The exemption for personal effects of Appendix I specimens is very limited. Thus, there is no need to eliminate its availability to such specimens. The Parties addressed the problem of high volumes of trade in Appendix II species at the second meeting of the Conference of the Parties. Conf. 2.6 recommended that, where such trade is detrimental to species survival or is in contravention of the laws of any country, consultations occur between the Parties concerned; or if this is not feasible or successful, countries should make use of options provided by Article XIII to call upon assistance of the Secretariat or apply stricter domestic measures provided by Article XIV. The Parties at the third meeting of the Conference of the Parties charged the Technical Expert Committee to identify by continual review of annual reports and other techniques problems with enforcement of the Convention and to guide the Secretariat and the Parties on measures that may be undertaken to remedy these problems (see Conf. 3.5). Commenting on the mandate of TEC, the Secretariat has stated that the mandate would provide further opportunity to develop procedures for compliance control and related this to the Secretariat's role under the terms of Article XIII (see Plen 3.12). At that same meeting, the Parties recommended measures to insure international compliance control.

Thus far, there is little information to indicate that the exemption for personal effects should be totally eliminated with regard to all listed species. The Service is pursuing an examination by TEC of trade in high volumes of particular species. (See proposed negotiating position for item XIII.1, Report of the Technical Expert Committee on national reports under Article VIII, paragraph 7, of the Convention.) Informing the public of the Convention is vital to achieving the goals of the Convention. The background of the Convention supports the view that the exemption for personal effects should not apply to living specimens.

The Service will submit the commenter's information with regard to trade in sea turtle products to the TEC for consideration under item XIII.I of the Agenda.

8. Return of illegally traded specimens.

Proposed Negotiating Position: Support proposal calling for Parties to issue CITES documents to cover trade of confiscated specimens between Management Authorities. Promote discussion on whether confiscated specimens returned to public circulation should be eligible for CITES documents.

Information and Comments: None received.

Basis of Proposed Negotiating Position: Although Articles III and IV do not provide for issuance of re-export certificates for specimens which have been illegally imported, Article VIII provides for return of living confiscated specimens to the country of export under certain circumstances. The use of documents for Management Authority to Management Authority trade would serve to assure smooth passage through all control points and would provide a statistical record of such transactions.

It is not clear whether the drafters of the Convention wanted to prevent purchasers of confiscated items from moving them in international trade.

9. Time validity of export permits and re-export certificates.

Proposed Negotiating Position: Not oppose any move calling for investigation of shipments which take an unreasonably long time to reach their destination. Oppose any attempt to define an unreasonably long time in terms of a specific number of days or months.

Information and Comments: One commenter questioned whether the matter addressed by this item is a problem and if it is found to be a problem perhaps the Parties should agree to a uniform interpretation of the term "used for export" in Article VI.2. Commenter apparently favors a definition which would require importation to occur within the 6-month period during which the export permit is to be "used for export".

Basis of Proposed Negotiating Position: The Service believes that any definition of unreasonably long time between export and import in terms of days or months (including limiting legal import to the expiration date for export) is arbitrary and ignores the wide variety of circumstances associated with international shipments. The Service believes that under normal circumstances, inspecting officials are the best judge of whether or not to initiate an investigation. By not defining what is an unreasonably long period, this discretion would be retained. To define use for export in terms of activities associated with import appears to be difficult to justify given the language of the Convention. Further, some United States export permits have very short expiration dates (much less than 6 months) and would in many instances not arrive at their destination before they expired.

10. Exemptions under Article VII of the Convention.

Proposed Negotiating Position: Support the completion of the Secretariat's study of Article VII implementation.

Submit a resolution concerning the pre-Convention Exemption (Article VII.2) defining "acquired" to mean removal from the wild or production in a controlled environment. The provisions of the Convention should apply to a particular specimen when both of the following events have occurred:

(1) Entry into force of the Convention for the Party making the determination as to whether or not to issue a Pre-Convention Certificate (not applicable to species which spend a substantial part of their life cycle in the marine environment not under the jurisdiction of any state).

(2) Entry into force of the first listing of the species to which the specimen in question belongs (disregarding any subsequent transfer to a different appendix).

The resolution should also limit the availability of the exemption to Party countries.

Information and Comments: One commenter asserted that the applicable date for all species should be the date of entry into force of the first relevant species listing because it would be consistent with the plain language of the Convention.

Basis of Proposed Negotiating Position: If "acquired" were interpreted to mean acquisition of ownership rights in the specimen in question, most standing plants, being subject to the ownership rights of the landowner would qualify for the exemption, a result certainly not intended by the drafters of the Convention. Also use of "ownership rights" test could result in loss of exemption by transfer of ownership after Convention applies to the specimen in question. Such termination would greatly diminish the inducement for nonparties to join CITES associated with this exemption.

Article VII.2 provides this exemption for a specimen if it was acquired before the Convention's provisions "applied to

that specimen." (Emphasis added.) If the question is acquired in a nonparty country, the provisions of the Convention could not be said to apply to it. Thus such specimens would always be eligible for nonparty Pre-Convention certificates, but for the position proposed here that nonparties should not be able to avail themselves of this exemption.

Concerning the exemption for specimens bred in captivity, the TEC Chairman may propose that species with a long period of time between generations not be held to the requirement that parental breeding stock be "capable of reliably producing second-generation offspring." (See Conf. 2.12)

11. Specimens in transit.

Proposed Negotiating Position: Support adoption of any resolution which defines the transit exemption in terms that recognize interruptions of transit for reasons other than those associated with arrangements between consignor and consignee. Not oppose any definition of the word "import" used in the exemption unless it would conflict with relevant United States law.

Information and Comments: None received.

Basis of Proposed Negotiating Position: The problem addressed by the draft TEC resolution (see notice of August 5, 1982) would be better resolved by stricter domestic (national) measures on a case by case basis. Interruptions of transit may occur for such valid reasons (not associated with consignor/consignee arrangements) as transportation delays, health of the specimen in transit, compliance with domestic laws protecting agriculture, human health, etc. Adoption of a uniform definition of import by anything less than a consensus of the Parties could produce disharmony between the Parties. The legal and political implications of a uniform definition apparently prevented its adoption by the Washington Conference.

12. Guidelines for transport.

Proposed Negotiating Position: Support amendments to the Guidelines for Transport which help to clarify them and correct inconsistencies. Support moves to resolve differences between the Guidelines and the International Air Transport Association's (IATA) Live Animal Regulations, provided resolution is compatible with the humane shipment concerns of the Convention.

Information and Comments: One commenter noted that successful guidelines would result in decreased losses of specimens in transit thus eliminating the demand for replacement animals. The commenter noted a conflict between Packer's Guidelines Mm 1 and Mm 6, both of which appear to cover small mammals. The commenter favored compatibility of the Guidelines and the IATA Live Animal Regulations, asserting that the latter's standards were lower than the former. Commenter proposed that the United States should propose an amendment to the Guidelines that would set specific conditions for transporting animals of different species in the same primary enclosure, limit the amount of time prior to departure that a shipment should be accepted, keep crates of animals away from direct exposure to sun, rain, or snow, high or low temperatures or other inclement and unsuitable weather conditions. Commenter favored an amendment that would suggest that animals be observed by shipper or carrier personnel at regular intervals such as every 4 hours, when feasible, to determine their physical condition. Commenter also recommended that consideration be given to developing more specific directions on container ventilation and the adoption of a requirement that animals have sufficient room to make adequate behavioral and postural adjustments, except where restriction of movement is required to prevent harm to the animal or humans.

Basis of Proposed Negotiating Position: At the June 1982 Standing Committee meeting, it was agreed that a dialogue should be established between CITES and IATA to resolve problems between the CITES Guidelines and IATA's Live Animal Regulations. Meetings have recently been held between representatives of both entities, including a meeting between the Chairman of TEC and the Chairman of IATA's Live Animals Board. The meeting produced preliminary agreement that the two entities would seek to work out any substantial differences that exist between the two sets of rules. Such negotiation would subject both sets of rules to substantial review. The review would probably be conducted for CITES under the auspices of TEC. The suggestions of the commenter will be forwarded to the Chairman of TEC for consideration in the context of the negotiation. This negotiation will be discussed at the fourth meeting of the Conference of the Parties. Further action will probably need approval of the Conference.

The Service has submitted to TEC proposals for clarifying amendments to the Guidelines, including resolution of the conflict between Packers Guidelines Mm 1 and Mm 6 noted by the commenter.

13. Animals stressed during transport.

Proposed Negotiating Position: Support the adoption of a suitable short form system for reporting undue stress on live animals shipped under Convention export permits and re-export certificates to the Management Authority of the country of export or re-export. The report should be filled out and signed by a government official concerned with the importation or well-being of the subject specimens. The remaining stub should contain information identifying the reporting official. Other persons should be encouraged to report information of undue stress to such officials. Where appropriate, on receipt of the form, the Management Authority of the country of export or re-export should send a copy of the form to the Management Authority (or competent authority if a nonparty) of any country through which the shipment passed. Under certain circumstances, multiple forms should be attached to the container.

Information and Comments: One commenter felt that even though the system as proposed did not require inspection for undue stress such inspection should be routine. Commenter opposed the filling out and signing of the form by anyone other than an appropriate official.

Another commenter provided a redraft of the TEC draft form published in the August 5 notice and called for a form that is simple, effective and short. The commenter wanted the form to be available for use by both the casual respondent or the person willing and able to provide additional information and for more than one form to be attached to the container to accommodate multiple reports. This commenter suggested that the following elements be added to the draft form: carrier flight information, shipment information, name of consignor and consignee, the number of dead injured or stressed animals, the dimensions of the container, the materials of which the container is constructed, description of damage to container, number and location of ventilation holes, when animals last watered and fed, times of transit, the time and location of the inspection, and printed name of the reporter.

Basis of Proposed Negotiating Position: A reporting system which informs the Management Authority of the country of export or re-export that specimens were subject to undue stress should be sufficient to enable investigation of the causes of such stress, permit remedial action and provide information evaluating the Guidelines and implementation thereof.

Reporting should only be made by officials to enhance the likelihood that the reporter will provide accurate and relevant information on which to base an investigation. Persons not in an official capacity could still bring information concerning undue stress to the attention of such officials. Circulation of the form to the Management Authority of the reporting country would help establish a communication link between that Management Authority and its reporting official and help to protect the integrity of the system. Circulation to all countries through which the shipment passed would alert those countries to the possibility of problems in the shipment of live animals and could serve as an element in a request for information on the particular shipment.

The Service agrees with the comment that the form should be short and simple, yet effective. However, the commenter's redraft adds at least ten requests for information not found in the TEC draft. In addition, it requires more precision on a number of TEC draft elements. For example, the reporter would have to state the number and location of ventilation holes in a container, provide the dimensions of the container, and a description of the materials used in its construction and state when the animal was last watered and fed. Some of the suggested additions to the form may be worthy of adoption. While not ruling out any of the suggestions of the commenter, the Service will be guided by the belief that a short completion time and voluntary use are essential to the acceptance of this form. Commenter's redraft would, if adopted, substantially increase that time. The Service believes that in certain instances several forms should be attached to a container. For example, if a shipment of animals is to be off-loaded in an intermediary country, the chances that the shipment would be subject to official inspection would be increased. Indentification of the reporting official on the remaining stub would indicate to other officials that the form was used for official purposes and not inadvertently or maliciously removed.

14. Control of captive breeding and artificially propagating operations in Appendix I species.

Proposed Negotiating Position: None necessary.

Information and Comments: None received.

Basis of Proposed Negotiating Position: The Service has been informed by the Secretariat that it is proceeding with the development of a list of persons eligible for the exemption in Article VII, paragraph 4 of the Convention which provides that commercial breeders and propagators of Appendix I specimens shall be treated as if trading in Appendix II specimens (instead of being eligible for an exemption certificate available to noncommercial breeders and propagators). The purpose of the list would be to enable inspecting officials to clear such Appendix I specimens with greater assurance that they were not acquired from the wild. The Service has responded to the Secretariat's request for information related to this matter. Presumably this agenda item will be used for the purpose of enabling the Secretariat to report on this activity.

XIV. Consideration of proposals relating to the Appendices

1. Ten Year Review of Appendices.

Proposed Negotiating Position: Support cooperative efforts among the Parties to assess the proper listing of species in the appendices. This should be an ongoing process, not one that ends in Botswana.

Information and Comments: None received.

Basis of Proposed Negotiating Position: The ever-changing status of wildlife and plant populations requires more frequent evaluation. The regional committees of the Ten Year Review have facilitated exchange of status information among Parties in which any given species occurs. They would likewise be helpful for evaluating new proposals to amend the appendices.

2. Reverse listing concept for appendices.

Proposed Negotiating Position: Oppose any move to reverse list CITES Appendices I and II.

Information and Comments: None received.

Basis of Proposed Negotiating Position: A species which is controlled without sufficient biological information cannot be rationally managed. Without such information, trade under "rubber stamp" permits or a trade ban extended to the thousands of species not currently listed would damage support for this Convention around the world. Reverse listing would substantially increase administrative burdens better directed at species known to need protection.

XV. Consideration of Proposals for Amendment of Appendices I and II

This item is not a substantive subject of this notice. The Service has published separate **Federal Register** notices concerning preparation of United States positions on proposals to amend Appendices I and II. One of the most recent such notices addressing Ten Year Review proposals was published on Wednesday, November 17, 1982 (47 FR 51772). Another, dealing with other United States proposals was published on Monday, December 27, 1982 (47 FR 57524). (See Public Meeting below in which the Service announces a public meeting which will include receipt of information and comments on species proposals.)

XVI. Conclusion of the Meeting

1. Determination of the time and venue of the next regular meeting of the Conference of the Parties.

Proposed Negotiating Position: Support holding the next meeting in the Pacific area or South America (provided no significant incremental charge on the CITES budget is entailed and all Parties will be admitted to the country without political difficulties).

Information and Comments: None received.

Basis of Proposed Negotiating Position: By 1983, these meetings will have been held in Berne (Switzerland 1976), San Jose (Costa Rica 1979), New Delhi (India 1981) and Gaborone (Botswana 1983). Experience has shown that they stimulate regional interest in the goals and work of CITES.

2. Closing remarks.

Proposed Negotiating Position: None necessary.

Information and Comments: None received.

Basis of Proposed Negotiating Position: Normally, this agenda item consists of expressions of appreciation directed at the host government.

Additional Issues

The Service recently received information from the Secretariat indicating that the meeting will also be considering the following issues:

1. Regulation of trade in Appendix II wildlife. At the third meeting, Australia proposed establishment of an expert committee to identify Appendix II wildlife that is traded extensively, consider the adequacy of management programs and advise on development thereof to enable safe commercial use of such species. Australia offered to coordinate preparation of guidelines for consideration by the Parties at the fourth regular meeting. No such guidelines have been received by the Service.

2. Interpretation of "prepared and shipped," "living specimen" and "cruel treatment." A Gambian proposal seeks to explore the meaning of these terms which are part of the provisions designed to assure safe shipment of living specimens. (See Article III, IV and V.)

3. Regulation of zoos and similar institutions. A revival of a proposal made in the third meeting to have the Secretariat list and rank zoos and public and private animal parks in collaboration with IUCN and international zoological associations.

4. Identification of Mammal hairs. A party will offer information indicating how mammalia species can be identified by microscopic examination of their hair.

5. Procedure for proposal of amendments. A proposal will be made recommending that if a Party wishes to be assured that a species proposal will be considered by the meeting and not withdrawn by the proponent Party, it should submit its own proposal.

6. A call has been made for an extraordinary meeting to consider amending CITES to allow "regional economic integration organizations constituted by foreign states" to accede to CITES. The United States has requested the Secretariat that such a meeting be held without committing itself on the substance of this item. One-third of the Parties must make such a request. This issue was raised by the European Community.

Request for Information and Comments

The Service invites information and comments on the proposed negotiating positions and the additional issues summarized above. Address written information and comments as set forth in "Addresses" above.

Announcement of Public Meeting

The Service announces that it will hold a public meeting on Tuesday, February 15, 1983, from 9:30 a.m. to 12:30 p.m. in Room 7000 A of the Main Interior Building of the Department of the Interior, 18th and C Streets, NW., Washington, D.C. for purposes of receiving information and comments with regard to the proposed negotiating positions summarized above, and with regard to proposals to amend the list of species in Appendices I and II of CITES. Written statements may be submitted to the Service before or at the meeting. Appointments to speak may be made with the Fish and Wildlife Service, Federal Wildlife Permit Office, Washington, D.C. 20240 (703/235-2418). Participants without prior appointments will be given an opportunity to speak to the extent time allows following speakers with appointments.

Observers and Draft Provisional Working Program

For information concerning how to become an official observer at the fourth regular meeting of the Conference of the Parties, see the Service's notice published in the **Federal Register** of August 5, 1982 (47 FR 34043). United States' nationals do not require a Botswana visa provided they are in possession of a valid United States passport. Each person who will be an observer must submit a Registration Form to the CITES Secretariat, c/o IUCN, Avenue du Mont-Blanc, CH-1196, Gland, Switzerland. The Secretariat will make arrangements for room accommodations upon receipt of the Registration Form. Observers will be notified of the arrangements made by the Secretariat. The Secretariat has notified the Service that the quantity of accommodations available in Gaborone will probably be extremely limited. Only one room in Gaborone will be available for each nongovernmental organization. Other accommodations outside of Gaborone may be available. We therefore strongly encourage that the number of observers from any such organization be limited to two persons. The number of observers from any one such organization who may attend a plenary session will probably be limited to two. We also urge those wishing to attend the meeting as observers to take the steps necessary to become an observer (as outlined in the August 5 **Federal Register** notice) as soon as possible. It should be noted that all observer organizations other than the United Nations and its specialized agencies will be required to pay a standard participation charge of United States $50.00. (See Conf. 3,2)

So that observers may better schedule their attandance at the meeting, the draft provisional working programme is here reproduced:

Convention on International Trade in Endangered Species of Wild Fauna and Flora

Fourth Meeting of the Conference of the Parties

Gaborone (Botswana), 19 to 30 April 1983

Working Programme (provisional)

18 April 1983

Morning: 10h00–12h00 and afternoon: 14h00–17h00
Registration of the participants at the Holiday Inn Conference Centre

19 April 1983

Morning: 8h00–10h00, 10h00–12h00
Registration (continued)
Opening by the Authorities of Botswana
Welcoming addresses
Appointment of the Credentials Committee
Adoption of the Agenda and Working Programme
Afternoon: 10h00–17h00
Report of the Credentials Committee
Adoption of the Rules of Procedure
Admission of Observers
Matters related to the Standing Committee
1. Report of the Secretariat

20–23 April 1983

Morning: 9h00–12h00 and afternoon: 14h00–17h00
Meetings of the Technical Expert Committee and other committees

24–25 April 1983

Rest and free time

26 April 1983

Morning: 9h00–12h00
Matters related to the Standing Committee (continued)
2. Revision of the membership of the Standing Committee
3. Payment of travel expenses for Standing Committee members
4. Election of new members of the Standing Committee
Financing and budgeting of the Secretariat and of meetings of the Conference of the Parties (continued)
1. Financial report for 1981–82
2. Budget for 1984–85, and Medium Term Plan for 1986–87
Afternoon: 14h00–17h00
Financing and budgeting of the Secretariat and of meetings of the Conference of the Parties (continued)
3. External finding
4. Headquarters matters
Relationship with other international agreements and organizations
Committee reports and recommendations
1. Technical Expert Committee
2. Identification Manual Committee
3. Nomenclature Committee
4. IUCN/SSC Threatened Plants Committee

27 April 1983

Morning: 9h00–12h00 and afternoon: 14h00–17h00
Interpretation and implementation of the Convention
1. Report on national reports under Article VIII, paragraph 7, of the Convention.
2. Effects of reservations
3. Regulation of trade in wildlife listed, on Appendix II
4. Parts and derivatives from non-recognizing states
5. Parts and derivatives of plants and Appendix III animals
6. Trade in African elephant ivory
7. Trade in souvenirs

8. Return of illegally traded specimens
9. Time validity of export permits and re-export certificates
10. Exemptions under Article VII of the Convention
11. Specimens in transit

28 April 1983

Morning: 9h00–12h00
Interpretation and implementation of the Convention (continued)
12. Interpretation of "pre-Convention, acquisition"
13. Guidelines for transpoirt
14. Animals stressed during transport
15. Interpretation of "prepared and shipped", "living specimen" and "cruel treatment"
16. Control of captive breeding and artificially propagating operations in Appendix I species
17. Regulation of zoos and similar institutions
18. Identification of mammal hairs
19. Reverse listing concept for appendices
Afternoon: 14h00–17h00
General matters of principle relating to the appendices
1. Ten-Year Review of the Appendices
2. Procedure for the proposal of amendments
Consideration of proposals for amendment of Appendices I and II
1. Proposals submitted pursuant to Resolution on Ranching

29 April 1983

Morning: 9h00–12h00 and afternoon: 14h00–17h00
Consideration of proposals for amendment of Appendices I and II (continued)
2. Other proposals

30 April 1983

Morning: 9h00–12h00
Consideration of proposals for amendment of Appendices I and II (continued)
2. Other proposals (continued)
Afternoon 14h00–17h00
Conclusion of the meeting
1. Determination of the time and venue of the next regular meeting of the Conference, of the Parties
2. Closing remarks

This notice was prepared by Arthur Lazarowitz, Federal Wildlife Permit Office.

Dated: February 1, 1983.

Rolf L. Wallenstrom,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 83-3239 Filed 2-4-83; 8:45 am]
BILLING CODE 4310-55-M

Geological Survey

Advisory Committee on Water Data for Public Use; Renewal

This notice is published in accordance with the provisions of Section 7(a) of the Office of Management and Budget Circular A-63 (Revised). Pursuant to the authority contained in Section 14(a) of the Federal Advisory Committee Act (Pub. L. 94-463), the Secretary has determined that renewal of the Advisory Committee on Water Data for Public Use is necessary and in the public interest.

The Committee, representing the interests of the non-Federal community, advises the Department of the Interior, through the Geological Survey, on (a) plans, policies, and procedures related to water data acquisition programs, on (b) the effectiveness of those programs in meeting the national water data needs, and on (c) activities pursuant to the implementation of Office of Management and Budget Circular A-67.

The General Services Administration has concurred in the renewal of this committee.

Further information regarding this renewal may be obtained from Porter Ward, Chief, Office of Water Data Coordination, Reston, Virginia 22092, (703) 860-6931.

Dated: February 1, 1983.

Dallas L. Peck,

Director.

[FR Doc. 83-3190 Filed 2-4-83; 8:45 am]
BILLING CODE 4310-31-M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Amoco Production Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Amoco Production Company (USA) has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS-G 4234, Block 1, South Pelto Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837-4720, Ext. 228.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: January 31, 1983.

John L. Rankin,

Acting Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 83-3189 Filed 2-4-83; 8:45 am]
BILLING CODE 4310-31-M

Office of the Secretary

Federal-State Task Force on the Hawaiian Homes Commission Act; Meeting

AGENCY: Federal-State Task Force on the Hawaiian Homes Commission Act.

ACTION: Notice of meetings.

SUMMARY: Pursuant to Pub. L. 92-463, notice is hereby given of meetings of the Federal-State Task Force on the Hawaiian Homes Commission Act. These meetings will be open to the public. Attendance by the public will be limited to space available. Only written comments will be accepted from the public at these meetings, to insure the maximum amount of time for Task Force discussion. Written comments received will be made part of the Task Force record. Written comments may be submitted at any time until the termination of the Task Force. Later, Task Force plans for future months will include public meetings on draft findings and recommendations.

DATES: Wednesday, February 23 and Friday, February 25, 1983, at 9:00 a.m.

ADDRESS: Conference Room 1, Third Floor, Old Federal Building, 335 Merchant Street, Honolulu, Hawaii, 96813.

FOR FURTHER INFORMATION CONTACT: Executive Assistant to the Secretary Stephen P. Shipley, U.S. Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240; (202) 343-7351.

Dated: February 1, 1983.

Stephen P. Shipley,

Executive Assistant to the Secretary of the Interior.

[FR Doc. 83-3287 Filed 2-4-83; 8:45 am]

BILLING CODE 4310-10-M

INTERSTATE COMMERCE COMMISSION

[No. MC-F-15096]

Handling Exemptions Filed by Motor Carriers of Property

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed exemption.

SUMMARY: Pursuant to 49 U.S.C. 11343(e), and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1), *Procedures for Handling Exemptions Filed by Motor Carriers of Property under 49 U.S.C. 11343*, 363 I.C.C. 113 (1982), Mako Services, Inc., (No. MC-157834) seeks an exemption from the requirement under section 11343 of prior regulatory approval of the purchase of authorities issued to A & A Transport, Inc., in No. MC-145679 (Sub-Nos. 18, 19, and 22).

DATES: Comments must be received within 30 days after the date of publication in the **Federal Register**.

ADDRESSES: Send comments to:

(1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, D.C. 20423, and

(2) Petitioner's representative: Arlyn L. Westergren, Westergren, Hauptman & O'Brien, P.C., Suite 201, 9202 W. Dodge Road, Omaha, NE 68114

Comments should refer to No. MC-F-15096.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood, (202) 275-7949.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioner's representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

Decided: January 28, 1983.

By the Commission, Heber P. Hardy, Director, Office of proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-3169 Filed 2-4-83; 8:45 am]

BILLING CODE 7035-01-M

[No. MC-F-15051]

Motor Carriers; Bob's Transport and Storage Co., Inc.; Purchase Exemption; Haulmark Transfer, Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed exemption.

SUMMARY: Pursuant to 49 U.S.C. 11343(e), and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1), *Procedures Handling Exemptions Filed By Motor Carriers* 367 I.C.C. 113 (1982), Haulmark Transfer, Inc., (Haulmark) (MC-127579) and Bob's Transport and Storage Company, Inc., (Bob's Transport) (MC-148624) seek an exemption from the requirement of prior regulatory approval for the purchase by Bob's Transport of a portion of Haulmark's authority. A temporary authority application has been filed.

DATES: Comments must be received within 30 days after the date of publication in the **Federal Register**.

ADDRESSES: Send comments to:

(1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, D.C. 20423, and

(2) Petitioner's representative: Michael R. Werner, 241 Ceder Lane, Teaneck, NJ 07666

Comments should refer to No. MC-F-15051.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood, (202) 275-7949.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioner's representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

Decided: January 28, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-3170 Filed 2-4-83; 8:45 am]

BILLING CODE 7035-01-M

[No. MC-F-15087]

Motor Carriers; Patrick M. Porritt—Continuance in Control Exemption—Kramer Trucking Co., Inc., and Gabor Trucking, Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed exemption.

SUMMARY: Pursuant to 49 U.S.C. 11343(e), and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1), *Procedures For Handling Exemptions Filed by Motor Carriers of Property under 49 U.S.C. 11343*, 367 I.C.C. 113 (1982), Patrick M. Porritt, an individual, seeks an exemption from the requirement under section 11343 of prior regulatory approval for his continuance in control of Kramer Trucking Co., Inc. (No. MC-116923) and Gabor Trucking, Inc. (No. MC-118838), both of which are motor carriers.

DATES: Comments must be received within 30 days after the date of publication in the **Federal Register**.

ADDRESSES: Send comments to:

(1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, D.C. 20423, and

(2) Petitioner's representative: Patrick M. Porritt, P.O. Box 687, Detroit Lakes, MN 56501.

Comments should refer to No. MC-15087.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood, (202) 275-7949.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioner's representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

Decided: January 31, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-3168 Filed 2-4-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

In the matter of Motor Common and Contract Carriers of Property (fitness-only); Motor Common Carriers of Passengers (fitness-only); Motor Contract Carriers of Passengers; Property Brokers (other than household goods).

The following applications for motor common or contract carriage of property and for a broker of property (other than household goods) are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** on December 31, 1980. For compliance procedures, see 49 CFR 160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common or contract carriage of pasengers filed on or after November 19, 1982, are governed by Subpart D of the Commission's Rules of Practice. See 49 CFR part 1160, Subpart D, published in the **Federal Register** on November 24, 1982, at 49 FR 53271. For compliance procedures, see 49 CFR 1160.86. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E.

These applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the tansportation service or to comply with the appropriate statutes and Commission regulations.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants for operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as motor common carrier in interstate or foreign commerce, over irregular routes unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract."

Please direct status inquiries to Team 1, (202) 275–7992.

Volume No. OP1–40

Decided: January 27, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce and Dowell.

MC 67751 (Sub-3), filed January 18, 1983. Applicant: FRED HARVEY TRANSPORTATION COMPANY, P.O. Box 709, Grand Canyon, AZ 86023. Representative: Ronald V. Meeks, 2924 North 24th Ave., Phoenix, AZ 85015, (602) 253–2700. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI). Condition: Issuance of a certificate in this proceeding is subject to prior or coincidental cancellation, at applicant's written request, of its Certificate of Registration in MC–67751 (Sub-No. 1), issued June 24, 1970.

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 141820 (Sub-3), filed January 14, 1983. Applicant: ROMAN RURAK, 319 Eckford St., Brooklyn, NY 11222. Representative: Sidney J. Leshin, 3 East 54th St., New York, NY 10022, (212) 759–3700. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 144471 (Sub-2), filed January 17, 1983. Applicant: CLAUSEN BUS SERVICE, INC., 123 East Mineola Ave., Valley Stream, NY 11580. Representative: Sidney J. Leshin, 3 East 54th St., New York, NY 10022, (212)–759–3700. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 165731, filed January 17, 1983. Applicant: ABLE/SUNSHINE TRUCKING, INC., 711 278th Ave. N.E., Redmond, WA 98052. Representative: Marilyn J. Berthoud (same address as applicant), (206) 222–7710. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except HI).

MC 165780, filed January 17, 1983. Applicant: T & T BROKERAGE, a DIVISION OF TRANSPORTATION CONSULTANTS, INC., P.O. Box 517, Evergreen, AL 36401. Representative: Calvin R. Turner, Jr. (same address as applicant), (205) 578–3212. As a *broker* of *general commodities* (except household goods), between points in the U.S.

MC 165790, filed January 18, 1983. Applicant: EL CAMINO CHARTER LINES, INC., 428½ North Canal St., South San Francisco, CA 94080. Representative: J. E. Jones (same address as applicant) (415)–588–0256. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 165820, filed January 20, 1983. Applicant: DON SCOTT FARM TRUCKING, INC., 1703 Pacific Ave., Forest Grove, OR 97116. Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Ave. Portland, OR 97210 (503) 226–3755. Transporting *chemicals and related products*, between points in OR, WA and ID.

Volume No. OPI–44

Decided: January 28, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce and Dowell.

Mc 3971 (Sub-9), filed January 17, 1983. Applicant: GARFIELD HEIGHTS COACH LINE, INC. d.b.a. CLEVELAND SOUTHEASTERN TRAILS, 43 Harrison St., Bedford, OH 44146. Representative:

Robert J. Brooks, 1828 L St., NW., Suite 1111, Washington, DC 20036 (202) 466–3892. Transporting *passengers*, in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 139560 (Sub-1), filed January 7, 1983. Applicant: LEO R. DEE d.b.a. DEE CHARTER BUS SERVICE, 54 Orchard Rd., Concord, MA 01724. Representative: Donald N. Dunham, P.O. Box 281, 1298 Commonwealth Ave., #30, Allston, MA 02134. Transporting *passengers*, in charter and special operations, between points in the U.S. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either (1) state that a petition has been filed under 49 U.S.C. 11343(e) seeking an exemption from the requirements of 49 U.S.C. 11343, (2) file an application under 49 U.S.C. 11343(A), or (3) submit an affidavit indicating why such approval is unnecessary, to the Secretary's office. In order to expedite issuance of any authority please submit a copy of this filing to Team 1, Room 2379.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165580, filed January 17, 1983. Applicant: ANTHONY J. MIELLA, 1810 Brownell, Kansas City, MO 64124. Representative: Anthony J. Miella (same address as applicant) (816) 471–7281. Transporting *passengers*, in charter and special operations, beginning and ending at Kansas City, MO, and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165821, filed January 21, 1983. Applicant: O.J. TRUCKING CO., INC., 330 S.W. 104th St., Oklahoma City, OK 73170. Representative: Oleta June Paxton (same address as applicant) (405) 799–0045. Transporting, for or on behalf of the U.S. Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

Please direct status inquiries about the following to team 2, (202) 275–7030.

Volume No. OP2–050

Decided: January 31, 1983.

By the Commission Review Board No. 1, Members Parker, Chandler and Fortier. Member Parker not participating.

MC 150712 (Sub-2), filed January 10, 1983. Applicant: EXPRESS TOURS UNLIMITED, P.O. Box 77267, 2001 Third St., San Francisco, CA 94107. Representative: Richard Kline (same address as applicant) 415–621–7738. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded, charter and special transportation.

MC 165592, filed January 10, 1983. Applicant: R.D. HAFER, 1540 Billings St. C–69, Aurora, CO 80011. Representative: Herry Holt, 8212 Ithaca #9, Lubbock, TX 79423, 806–797–9743. Transporting *food and other edible products and by products intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S (except AK and HI).

MC 165602, filed January 10, 1983. Applicant: SHULTZ TRANSPORTATION CO., R.D. #2, P.O. Box 112, Conestoga, PA 17516. Representative: James D. Campbell, Jr., 130 State St., P.O. Box 1000, Harrisburg, PA 17108, 717–232–1876. Transporting *passengers*, in charter and special operations, beginning and ending at points in Lancaster and York Counties, PA and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165603, filed January 4, 1983. Applicant: ISC TRANSPORT, LTD., 71–08 51st Ave., Woodside, NY 11377. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934, 201–234–0301. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

Volume No. OP2–052

Decided: January 27, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce and Dowell.

MC 102793 (Sub-2), filed January 14, 1983. Applicant: THOMAS MANAGEMENT CORPORATION d.b.a. COLOR COUNTRY TOURS, P.O. Box 1032, 281 South Main, Cedar City, UT 84720. Representative: Steven D. Thomas (same address as applicant) 801–586–9916. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165412, (B) filed January 7, 1983. Applicant: BANNOCK PAVING COMPANY, INC., P.O. Box 4002, Pocatello, ID 83201. Representative: Dennis M. Olsen, 485 "E" St., Idaho Falls, ID 83402 (208) 523–4650. (1)(a) transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S., under continuing contract(s) with FMC Corporation, of Pocatello, ID, (2)(b) transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials and sensitive weapons), between points in the U.S., and 3(b) as a *broker of general commodities* (except household goods), between points in the U.S.

Note.—Part (1)(a) is published in the Federal Register, this issue, with "regular applications".

MC 165693, filed January 13, 1983. Applicant: CHRISTIAN TRANSPORTATION, INC., 3535 Brookshire Drive, Pensacola, FL 32503. Representative: J. Nixon Daniel, III, P.O. Box 12950, Pensacola, FL 32576, 904–432–2451. Transporting *passengers*, in charter operations, beginning and ending at points in FL, and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter transportation.

Please direct status inquiries about the following to team 3, (202) 275–5223.

Volume No. OP3–37

Decided: January 27, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler and Fortier.

MC 1934 (Sub-53), filed January 14, 1983. Applicant: THE ARROW LINE, INC., 105 Cherry St., P.O. Box 387, East Hartford, CT 06108. Representative: Helen D. Smith (same address as applicant) (203) 289–1531. Transporting *passengers*, in special operations, beginning and ending at points in CT and MA and extending to points in NJ.

Note.—Applicant seeks to provide privately-funded special transportation.

MC 12744 (Sub-2), filed January 17, 1983. Applicant: RIDGEWAY TOURS, INC., 22 West Clay Street, Lancaster, PA 17603. Representative: Charles J. Williams, P.O. Box 186, Scotch Plains, NJ 07076 (201) 322–5030. Transporting *passengers*, in special and charter operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 85635 (Sub-4), filed January 13, 1983. Applicant: TURNER COACHES, INC., 447 No. 9th St., Terre Haute, IN 47807. Representative: Andrew J. Carraway, Suite 1301, 1600 Wilson Blvd., Arlington, VA 22209 (703) 522–0900. Transporting *passengers*, in charter and

special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 139614 (Sub-4), filed January 17, 1983. Applicant: ERIN TOURS, INC., 2957 Avenue U, Brooklyn, NY 11229. Representative: Larsh B. Mewhinney, 555 Madison Avenue, New York, NY 10022 (212) 838–0600. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 153935 (Sub-1), filed January 17, 1983. Applicant: EXECUTIVE MOTOR TOURS, INC., 81 Brookfield Avenue, Staten Island, NY 10328. Representative: Larsh B. Mewhinney, 555 Madison Avenue, New York, NY 10022 (212) 838–0600. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 159475 (Sub-1), filed January 18, 1983. Applicant: HOLIDAY TRAVEL INC., 5418 Pernod, St. Louis, MO 63139. Representative: B. W. LaTourette, Jr., 11 South Meramec, Suite 1400, St. Louis, MO 63105 (314) 727–0777. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 160925, filed January 18, 1983. Applicant: WEBB TOURS, INC., d.b.a. SPIRIT OF 76 TOURS, 1900 Kendall ST., NE., Washington, D.C. 20002 (202) 529–2575. Representative: Ralph Webb (same address as applicant) (202) 529–2575. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded special and charter transportation.

MC 164854 (Sub-1), filed January 17, 1983. Applicant: MUNDI TOURS, 11520 Menlo Ave. No. 2, Hawthorne, CA 90250. Representative: Carlso F. Garcia (same address as applicant) (213) 978–9586. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165775, filed January 18, 1983. Applicant: S&S SERVICE, INC., 4818 Deanwood Dr., Deanwood Park, MD 20743. Representative: Samuel Sistrunk (same address as applicant) (301) 341–5068. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165784, filed January 17, 1983. Applicant: POCONO LIMOUSINE SERVICE, INC., Box 250, Bartonsville, PA 18321. Representative: W. Boyd Huges, 603 Electric Bldg., Scranton, PA 18503 (717) 344–7171. Transporting *passengers*, in charter and special operations beginning and ending at points in Carbon, Monroe, Pike, Wayne, Northampton, Lehigh, Lackawanna and Luzerne Counties, PA and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

Please direct status inquiries about the following to Team 4, (202) 275–7669.

Volume No. OP4–052

Decided: January 31, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 165876, filed January 24, 1983. Applicant: EARL L. NELSON, d.b.a. MAPLE LEAF TOURS, 1294 E. 41st St., Los Angeles, CA 90011. Representative: Donald R. Hedrick, P.O. Box 5334, Santa Ana, CA 92702. Transporting *passengers*, in charter and special operations, beginning and ending at point in CA, and extending to points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

Volume No. OP4–056

Decided: January 31, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Erwing.

MC 165466, filed January 3, 1983, noticed in the **Federal Register** issue on January 21, 1983, and republished this issue. Applicant: RICHARD AND ANN GILBERT, d.b.a. GILBERT AND SONS, Route 4, Box 528, Tecumseh, OK 74873. Representative: James P. Whitten, 820 NW 38th St., Oklahoma City, OK 73118 (405) 947–7660. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI.)

Note.—The purpose of this republication is to show the authority in this proceeding as being that of a "fitness-only" application.

Please direct status inquiries about the following to Team 5, (202) 275–7289.

Volume No.OP5–34

Decided: January 27, 1983.

By the Commission, review Board No. 2, Members Carleton, Williams, and Ewing.

MC 96946 (Sub-5), filed January 17, 1983. Applicant: POST ROAD STAGES, INC., 1105 Strong Road, South Windsor, CT 06074. Representative: Robert J. Brooks, 1828 L St., NW., Suite 1111, Washington, D.C. 20036 (202) 466–3892. Transporting *Passengers*, in charter and special operations between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 157729 (Sub-1), filed January 10, 1983. Applicant: RED RIDER, INC., 512 Custer Street, Delphos, KS 67436. Representative: Clyde N. Christey, KS Credit Union Bldg. 1010 Tyler, Suite 110–L, Topeka, KS 66612, 913–233–9629. Transporting *passengers*, in charter and special operations, between points in the U.S.

Note:—Applicant seeks to provide privately-funded charter and special transportation.

MC 161158, filed January 17, 1983. Applicant: FAUST TRAVEL SERVICE, INC., New York Ave. and Milman Lane, P.O. Box 307, Villas, NJ 08251. Representative: James W. Patterson, 1800 Penn Mutual Tower, 510 Walnut St., Philadelphia, PA 19106, 215–925–8300. Transporting *passengers* in charter and special operations, beginning and ending at points in PA and NJ extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 161239 (Sub-1), filed January 10, 1983. Applicant: GREAT AGE CORPORATION, 433 Union Avenue, Providence, RI 02909. Representative: Andrew J. Acciaioli (same address as applicant), (401) 943–2246. Transporting *passengers* in charter and special operations, beginning and ending at points in RI, MA, CT, ME, NH, VT, NY and NJ, and extending to points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165589, filed January 10, 1983. Applicant: PLEASURE TRAVEL, 400 Mt. Wilson La., Baltimore, MD 21208. Representative: Robert Feuereisen (same address as applicant), (212) 435–6589. Transporting *passengers* in charter and special operations, beginning and ending at New York, NY and points in CT, and extending to points in NJ, PA, DE, MD, and DC.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165699, filed January 14, 1983. Applicant: HEAVENER TRANSPORTATION, INC., 480 School Lane, Harleysville, PA 19438. Representative: Maxwell A. Howell, 2554 Massachusetts Ave., NW., Washington, DC 20008, (202) 483–8633. To operate as a *broker* of *general commodities* (except household goods), between points in the U.S.

MC 165718 filed January 17, 1983. Applicant: TRANSITI CHARTER COACHES, INC., 117 E. Hutchinson St., San Marcos, TX 78666. Representative: Roger W. Jenkins (same address as applicant), 512–392–2522. Transporting *passengers* in charter operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter transportation.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–3167 Filed 2–4–83; 8:45 am]

BILLING CODE 7035–01–M

Motor Carrier; Temporary Authority Applications

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3 These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F–236

The following applications were filed in Region I. Send protests to: Interstate Commerce Commission, Regional Authority Center, 150 Causeway Street, Room 501, Boston, MA 02114.

MC 165827 (Sub-1–1 TA), filed January 20, 1983. Applicant: ALBANY-BINGHAMTON EXPRESS, INC., 1303 Arterial Highway, Binghamton, NY 13901. Representative: Cheryl Chambers, P.O. Box 251, Chenango Bridge, NY 13745. *General commodities, except classes A & B explosives, household goods, and commodities in bulk,* between points in Broome, Chemung, Tioga, Tompkins, Otsego, Chenango, Delaware, Cortland and Schoharie Counties, NY. Applicant intends to interline at Chenango Bridge, NY. Supporting shipper: Preston Trucking Company, Inc., 151 Easton Boulevard, Preston MD 21655.

MC 165825 (Sub-1–1 TA), filed January 21, 1983. Applicant: CANALTOWN ENTERPRISES, INC., 1078 Canandaigua Road, Palmyra, NY 14522. Representative: Lee L. Tracy (same as applicant). *Electronics, electronic components, and parts and equipment used in the manufacture of electronic equipment,* between the facilities of Elstron Electronics, Inc., in Phelps & Geneva, NY, on the one hand, and, on the other, points in the U.S. Supporting shipper: Elston Electronics Corp., 35 Lehigh street, Geneva, NY 14456.

MC 165203 (Sub-1–1TA), filed January 20, 1983. Applicant: HORIZON AIR SERVICES, INC., General Aviation Building, Logan International Airport, East Boston, MA 02128. Representative: Herbert J. Lynch, Esq., Sullivan & Lynch, P.C., Suite 2810, One Boston Place, Boston, MA 02108. *General commodities (except Class A and B explosives and commodities in bulk),* Between points in MA, ME, NH, CT, RI, VT, NY, NJ, PA, FL and DE. Supporting shipper(s): GTE International Systems Corporation, 140 First Avenue, Waltham, MA; USM Corporation, 181 Elliot Street, Beverly, MA; David J. Cawley & Co., Inc., 239 Prescott Street, East Boston, MA 02128.

MC 160361 (Sub-1–1TA), filed January 24, 1983. Applicant: INDUSTRIAL TRANSPORT, LTD., 1445 South Main Street, Waterbury, CT 06706. Representative: Wesley S. Chused, 15 Court Square, Boston, MA 02108. *Building materials,* between Waterbury, CT, on the one hand, and, on the other, points in MA, NJ, NY, NC and RI. Supporting shipper: Midway Distributing Corporation, 1150 North Main Street, Waterbury, CT 06704.

MC 142011 (Sub-1–3TA), filed January 24, 1983. Applicant: LEISURE TIME TOURS, INC., 4 Leisure Lane, Mahwah, NJ 07430. Representative: Michael R. Werner, Esq., 241 Cedar Lane, Teaneck, NJ 07666. *Common carrier:* regular routes; *Passengers* between Cockeysville, MD and Atlantic City, NJ: From Cockeysville over Int. Hwy. 83 to junction Int. Hwy. 695, then over Int. Hwy. 695 to junction Int. Hwy. 95, then over Int. Hwy. 95 to junction MD Hwy. 272, then over MD Hwy. 272 to junction MD Hwy. 40, then over MD Hwy. 40 to junction DE Hwy 896, then over DE Hwy 896 to junction Int. Hwy 95, then over Int. Hwy. 95 via the DE Memorial Bridge to junction Int. Hwy. 295, then over Int. Hwy 295 to junction NJ Hwy 42, then over NJ Hwy 42 to junction Atlantic City Expressway, then over the Atlantic City Expressway to Atlantic City, and return over the same route. Applicant intends to tack to existing authority. Supporting shipper(s): Amor Expressions Card & Gift Shoppe, 7927 G Belair Road, Fullerton, MD 21236; Big Elk Liquors, Big Elk Shopping Mall, Route 40, Elkton, MD 21921; Invitation Inn Motel & House of Hess Restaurant, 1709 Emmorton Road, Edgewood, MD 21040; Baltimore County Travel, Inc., 8203 Harford Road, Baltimore, MD 21234; Karen Erwood, 132 Chenny Hill Road, Elkton, MD 21091.

MC 141758 (Sub-1–4TA), filed January 21, 1983. Applicant: LYDALL EXPRESS, INC., 615 Parker Street, Manchester, CT 06040. Representative: Robert J. Dunbar (same as applicant). *Contract carrier:* irregular routes: *Corrugated paper in rolls* between Riverville, VA, on the one hand, and, on the other, points in PA, CT, MA, NY, and NJ, under continuing contract with Virginia Fibre Corporation of New Canaan, CT. Supporting shipper: Virginia Fibre Corporation, 51 Locust Avenue, New Canaan, CT 06840.

MC 165853 (Sub-1–1TA), filed January 24, 1983. Applicant: MARC MOTORS TRANSPORT, 3 Worcester Avenue, Hudson, MA 01749. Representative: Hughan R. H. Smith, 26 Kenwood Place, Lawrence, MA 01841. *Contract carrier:* irregular routes: *New, used, and disabled automobiles,* between points in the U.S. (except AK and HI) under continuing contract(s) with Marc Motors Inc., of Beverly, MA. Supporting shipper:

Marc Motors, Inc., 685 North Shore Road, Revere, MA 02151.

MC 165852 (Sub-1–1TA), filed January 24, 1983. Applicant: MATE TRUCKING, INC., 628 Henry Street, Elizabeth, NJ 07201. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. *General commodities (except household goods, Class A and B explosives, commodities in bulk) having a prior or subsequent movement by water and rail* between New York, NY and Philadelphia, PA Commercial Zones, on the one hand, and, on the other, points in CT, DE, MD, MA, NJ, NY, PA, RI, and VA. Supporting shipper(s): M. Sergeant Pulp and Chemical Co., Inc., 5 Marineview Plaza, Hoboken, NJ, Continental Products Corp., 1200 Wall Street, West, Lyndhurt, NJ., Centurion Shipping Co., P.O. Box 10828, Stamford, CT; Itofca, Inc., 1001 West 31st Street, Sowners Grove, IL.

MC 127610 (Sub-1–4TA), filed January 18, 1983. Applicant: J. P. NOONAN TRANSPORTATION, INC., 436 West Street, Bridgewater, MA 02379. Representative: J. Peter Noonan (same as applicant). *Alcoholic and non-alcoholic beveroges, beer and wine,* from points in MA, MD, ME, NH, NJ, NY and PA to points in NH and VT. Supporting shipper(s): B & B Beverage Co., 26 Allen Street, Rutland, VT 05701; Champlain Valley Distributing Co., 47 Maple St., Burlington, VT 05402.

MC 164099 (Sub-1–2TA) (republication), filed December 30, 1982. Applicant: NORTHERN RENTALS, INC., 32 San Remo Drive, P.O. Box 2126, So. Burlington, VT 05401. Representative: James M. Burns, Suite 403, 1365 Main Street, Springfield, MA 01103. *Petroleum and petroleum products,* between points in Cumberland County, ME, on the one hand, and, on the other, points in MA, NH, NY and VT. Supporting shipper(s): A. R. Sandri, Inc., 400 Chapman St., Greenfield, MA 01302; Fred's Plumbing & Heating, Inc., P.O. Box 17, Derby, VT 05829; N. C. McCullock, South St., Bethlehem, NH 03574; Cities Service Co., 36 Washington St., Wellesley Hills, MA 02181; Champlain Oil Co., Inc., P.O. Box 2126, So. Burlington, VT 05401. Sole purpose of this republication is to correct previous publication. Should be: Cumberland County, ME—not MW.

MC 165849 (Sub-1–1TA), filed January 24, 1983. Applicant: PETER D. PIGULA d.b.a. P & L TRANSPORT, 219 F Grenadier Drive, Liverpool, NY 13088. Representative: Peter D. Pigula (same as applicant). *Petroleum products (except in bulk)* between points in NY and PA. Supporting shipper: Wasnel Inc., d.b.a. Wasnik Auto Supply, 909 State Fair Blvd., Syracuse, NY 13209.

MC 151193 (Sub-1–42TA), filed January 20, 1983. Applicant: PAULS TRUCKING CORP., 286 Homestead Avenue, Avenel, NJ 07001. Representative: Michael A. Beam (Same as applicant). *Contract carrier:* irregular routes: *General commodities (except Class A & B expolsives, household goods, as defined by the Commission, bulk commodities and shipments which, because of size and weight, require special equipment),* between Alexandria, VA, Chicago, IL, and points in NJ, on the one hand, and, on the other, points in ME, MA, NJ, NY, OH, CO and MO, under continuing contract(s) with National Piggyback Service, Inc., Indianapolis, IN. Supporting shipper: National Piggyback Services, Inc., 464 National, P.O. Box 27176, Indianapolis, IN 46227.

MC 152108 (Sub-1–7TA), filed January 21, 1983. Applicant: RELCO SYSTEMS, INC., 7310 Chestnut Ridge Road, Lockport, NY 14094. Representative: David H. Baker, 600 Maryland Avenue, S.W., Washington, DC 20024. *Contract carrier:* irregular routes: *Metals, metal products and scrap metals* between Massena, NY, on the one hand, and, on the other Barberton, Bedford Heights and Cleveland, OH, under continuing contract(s) with Aluminum Company of America, Pittsburgh, PA. Supporting shipper: Aluminum Company of America, Alcoa Building, Pittsburgh, PA 15219.

MC 142114 (Sub-1–16TA), filed January 19, 1983. Applicant: RETAIL EXPRESS, INC., 36 South Main Street, Sharon, MA 02067. Representative: Frank M. Cushman, 5 Carbrey Avenue, Sharon, MA 02067. *Contract carrier:* irregular routes: *Such commodities as are dealt in by retail department stores (except commodities in bulk and frozen foodstuffs)* between points in all of the 48 contiguous U.S. (AK and HI excluded) under continuing contract(s) with S. E. Nichols, Inc., New York, NY. Supporting shipper(s): S. E. Nichols, Inc., 500 Eighth Ave., New York, NY 10018.

MC 142114 (Sub-1–17TA), filed January 21, 1983. Applicant: RETAIL EXPRESS, INC., 36 South Main Street, Sharon, MA 02067. Representative: Frank M. Cushman, 5 Carbrey Avenue, Sharon, MA 02067. *Contract carrier:* irregular routes: *Cooking oils (other than in bulk)* between Carnegie, PA and points and places in CT, NJ, and NY that fall within a radius of 60 miles of New York, NY, under continuing contract(s) with Mallet and Company, Carnegie, PA. Supporting shipper: Mallet and Company, Box 474, Carnegie, PA 15106.

MC 165779 (Sub-1–1TA), filed January 19, 1983. Applicant: RICHMOND EXPRESS CO., INC., 1201 Corbin Street, Elizabethport, NJ 07201. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. *General commodities (except commodities in bulk, household goods and Class A and B explosives) having prior or subsequent movement by water* between New York, NY Commercial Zone, on the one hand, and, on the other, points in NJ and NY. Supporting shipper(s): American Coastal Line, Joint Venture, Inc., c/o Global Terminal, Box 273, Jersey City, NJ 07303; Delta Steamship Lines, Suite 3647, 1 World Trade Center, New York, NY 10048.

MC 165741 (Sub-1–1TA), filed January 18, 1983. Applicant: S & R TRUCKING CO., INC., 39 Franklin Street, Peabody, MA 01960. Representative: Robert Buckley (same as applicant). *General commodities (except hazardous materials, Class A & B explosives, and commodities in bulk)* from MA to points in NH, NJ, NY, DE, PA, MD, OH, KY and RI. Supporting shipper: Larrabee & Hingston Co., 19 Howley Street, Peabody, MA 01960.

MC 159499 (Sub-1–1TA), filed January 18, 1983. Applicant: W & M DELIVERIES, INC., 1024 Lackawanna Avenue, Elmira, NY 14901. Representative: Peter Wolff, 722 Pittston Avenue, Scranton, PA 18505. *Plastic shutters and components* between Elkland, PA, on the one hand, and, on the other, Elmira, NY. Supporting shipper: Mid-America Building Products, 9246 Hubbell Ave., Detroit, MI 48228. Applicant intends to interline at Elmira, NY.

MC 165727 (Sub-1–1TA), filed January 19, 1983. Applicant: WESTERN NEW YORK TRANSPORTATION & RIGGING CO., 189 McGinnis Road, Scottsville, NY 14546. Representative: S. Michael Richards, P.O. Box 225, Webster, NY 14580. *Contract carrier:* irregular routes: *Metals and metal products* between Monroe County, NY, on the one hand, and, on the other, points in the U.S. (except AK & HI), under continuing contract(s) with Sabin Metal, Inc., Scottsville, NY. Supporting shipper: Sabin Metal, Inc., 1647 Wheatland Center Road, Scottsville, NY 14546.

The following applications were filed in region 2. Send protests to: ICC, Fed. Res. Bank Bldg., 101 North 7th St. Rm. 620, Philadelphia, PA 19106.

MC 154240 (Sub-II–2TA), filed December 20, 1982. Applicant: HEIL WINDERMERE STORAGE AND MOVING CO., 8649 Freeway Drive, Macedonia, OH 44056. Representative: Richard J. Heil (same as applicant). Contract, irregular: *General*

commodities, between pts. in the U.S., under continuing contract with National Transportation Consultants Corp. of Brecksville, OH, for 270 days. Applicant intends to tack this authority with authority held under MC 154240. Supporting shipper: National Transportation Consultants Corp., 7850 Chippeward, Brecksville, OH.

Application was originally published in the **Federal Register** of January 10, 1983. The purpose of the republication is applicant intends to tack the authority.

MC 142723 (Sub-II–8TA), filed January 11, 1983. Applicant: BRISTOL CONSOLIDATORS, INC., 108 Riding Trail Lane, Pittsburgh, PA 15215. Representative: WILLIAM A. GRAY, 2310 Grant Bldg., Pittsburgh, PA 15219. *Such commodities as are dealt in or used by wholesale and retail grocery stores and food business houses* between Sharon, PA, on the one hand, and, on the other, points in the U.S., under continuing contract(s) with Golden Dawn Foods, Inc., Div. of Peter J. Schmitt Co., Inc. of Sharon, PA, for 270 days. Supporting shipper: Golden Dawn Foods, Inc., Div. of Peter J. Schmitt Co., Inc., 385 Shenango Ave., Sharon, PA 16146.

MC 165753 (Sub-II–1TA), filed January 18, 1983. Applicant: CHEMICAL TRANSPORTATION MANAGEMENT COMPANY, INC., Mt. Carmel & Roberts Ave., Glenside, PA 19038. Representative: Morton E. Kiel Suite 1832, Two World Trade Center New York, NY 10048. *Contract,* irregular: *Sodium hydroxide and methylene chloride, in bulk in tank vehicles,* from Wilmington, DE, to points in NJ, PA, MD, VA and NY, under contract(s) with Delmarva Incorporated/Chemicals I of Baltimore, MD. An underlying ETA seeks 120 days authority. Supporting shipper(s): Delmarva Incorporated/ Chemicals I, 7902 Belair Road, Baltimore, MD 21236.

MC 163509 (Sub-II–2TA), filed January 19, 1983. Applicant: DELTA FREIGHT INC., Box 4, Lower Valley Rd., Parkesburg, PA 19365. Representative: Lynn Hanaway (same address as applicant). *General commodities (except Classes A & B explosives, commodities in bulk, and commodities which because of size or weight require use of special handling or equipment and household goods as defined by the Commission)* between all points in the U.S. (except AK and HI), for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Dafoe & Dafoe, 155 Great Valley Pkwy, Malvern, PA 19355.

MC 165628 (Sub-II–1TA), filed January 11, 1983. Applicant: EASY RIDER COACH, INC., 1619 Bethlehem Pike, Flourtown, PA 19031. Representative: Alan Kahn 1430 Land Title Bldg., Phila., PA 19110. *Passengers and their baggage in charter and special operations,* between points in NJ and the Philadelphis, PA commercial zone, on the one hand, and, on the other, points in NY, NJ, PA, VT, NH, ME and WV, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Worldwide Consolidated Travel Service, Inc., Malvern, PA Pottstown Memorial Medical Center, 1600 E. High St, Pottstown, PA Summit Ski Club, 3608 Centre Square West, Phila., PA.

MC 2796 (Sub-II–2TA), filed January 18, 1983. Applicant: FULLINGTON AUTO BUS COMPANY, 316 Cherry St., Clearfield, PA 16830. Representative: Christian V. Graf, 407 N. Front St., Harrisburg, PA 17101. Common, regular: *Passengers and their baggage* between DuBois, PA and Cleveland, OH, over the following route: U.S. Hwy 219 to its intersection with U.S. 119; then over U.S. 119 to its intersection with U.S. 322; then over U.S. 322 to its intersection with PA 257 at or near Cranberry; then over PA 257 to Oil City; then over U.S. 62 to Youngstown, OH; then via U.S. 422 to Cleveland, OH and return over the same route in the reverse direction; and over a deviation route beginning at the intersection of U.S. 322 and PA 208; then over PA 208 through Fryburg to its intersection with PA 157, then over PA 157 to its intersection with U.S. 62; then over U.S. 62 to Oil City. An underlying ETA requests 120 days authority. Supporting shipper(s): There are five supporting statements attached to this application which may be examined at the Phila. Regional office.

MC 117036 (Sub-2–2 TA), filed January 11, 1983. Applicant: H. M. KELLY, INC. P. O. Box 87, New Oxford, PA 17350. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P. O. Box 1417, Hagerstown, MD, 21740. Contract: Irregular: *Packaging machinery, including materials, equipment and supplies used in the manufacture, sale and distribution thereof,* between Hanover, PA and Stockton, CA, including their commercial zones, on the one hand, and, on the other, points in the U.S. (except AK and HI), under a continuing contract(s) with New Way Packaging Machinery, Inc. for 270 days. Supporting Shipper: New Way Packaging Machinery, Inc., Blettner Ave., Hanover, PA 17331.

MC 165629 (Sub-2–1 TA), filed January 11, 1983 Applicant: LYNCHBURG EXPRESS COMPANY; Wye Switches, P.O. Box 279, Duncansville, PA 16635. Representative: Carl E. Munson, 469 Fisher Bldg., P. O. Box 798, Dubuque, IA 52001. *Paper, paper products and printed matter,* from Duncansville, PA, to Danbury, Enfield and W. Hartford, CT; Chicage, Genoa and E. Peoria, IL; Clinton, Dubuque, Elk Horn and Wilton Jct., IA; Boston, E. Longmeadow and Holliston, MA; Camden, E. Rutherford, and Patterson, NJ; Concord, Nashua, and Wilton, NH; Deer Park, Brooklyn, Long Island and Yonkers, NY; Charlotte, Elm City and Raleigh, NC; Memphis, Nashville and Shelbyville, TN; and East Ryegate, VT. An underlying ETA seeks 120 days authority. Supporting shipper: North American Envelope Corp., P. O. Box 39, Duncansville, PA 16635.

MC 118816 (Sub-II–1 TA), filed January 20, 1983 Applicant: MATERIALS TRANSPORT SERVICE, INC., P. O. Box 33 Northampton, PA 18067. Representative: Henry J. Spisszak, Jr. (same address as applicant). *Hydrochloric acid, in bulk or barrels,* between Dover, Tuscarawas County, OH, on the one hand, and, on the other, points in Broward County, FL; Union and Essex Counties, NJ and Baltimore County, MD, for 270 days. Supporting shipper(s): International Marketers Inc., Box 906, 37 N. 3rd St., Easton, PA 18042.

MC 165800 (Sub-II–1TA), filed January 4, 1983. Applicant: NEW CONCEPT TRANSPORTATION, INC., 458 Kleman Road, Gilbertsville, PA 19525. Representative: Alan Kahn, 1430 Land Title Bldg. Philadelphia, PA 19110, (215) 561–1030. *General commodities (except commodities in bulk, Classes A and B explosives, and household goods),* having a prior or subsequent movement by water, between points in MA, CT, RI, NY, NJ, PA, MD, DE, VA, NC, SC and GA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): There are six supporting statements attached to this application which may be examined at the Philadelphia Regional Office.

MC 107012 (Sub-II–259TA), filed January 24, 1983. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 39 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same as applicant). Contract irregular: *household goods* between points in the US under continuing contract(s) with General Electric Company, Bridgeport, CT for 270 days. Supporting shipper: General Electric Company, 1285 Boston Avenue, Bridgeport, CT 06601–2385.

MC 107012 (Sub-II–260TA), filed January 24, 1983. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort

Wayne, IN 46801. Representative: David D. Bishop (same as applicant). Contract irregular: *general commodities* except Class A & B explosives and commodities in bulk) between points in the US under continuing contract(s) with Scientific Atlanta, Inc., Atlanta, GA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Scientific Atlanta, Inc., One Technology Parkway, Atlanta, GA 30348.

MC 165833 (Sub-II–1TA), filed January 24, 1983. Applicant: NORTHEAST VALLEY TRANSPORTATION, INC., 1258 Route 315, Suite B, Wilkes-Barre, PA 18702. Representative: Edward F. V. Pietrowski, 336 Scranton Life Bldg., Scranton, PA 18503. *Passengers and their baggage,* between Luzerne and Lackawanna Counties, PA, on the one hand, and, on the other, Great Gorge and Atlantic City, NJ and New York, Buffalo and Cortland, NY. An underlying ETA seeks 120 days authority. Supporting shipper(s) Ski Flites, 101 White St, Dupont, PA 18641, Cameo Tours, Route 315, P.O.B. 543, Pittston, PA 18640.

MC 2202 (Sub-II–33TA), filed January 26, 1983. Applicant: ROADWAY EXPRESS, INC., 1077 Gorge Boulevard, Post Office Box 471, Akron, OH 44309. Representative: William O. Turney, 7101 Wisconsin Ave, Suite 1010, Washington, D.C. 20814. Contract Irregular: *General commodities* (except household goods as defined by the Commission, classes A and B explosives, and commodities in bulk) between points in the U.S., except AK and HI, under contract or contracts with K mart Corporation, Troy, MI 48084 for 270 days. Supporting shipper(s): K mart Corporation, 3100 W. Big Beaver, Troy, MI 48084.

MC 161923 (Sub-II–2TA), filed January 21, 1983. Applicant: DOYLE H. SHADDUCK, R.D. #1, Cogan Station, PA 17728. Representative: James D. Casale, 329 Market St., Williamsport, PA 17701. *Lumber and lumber products,* between Union City, Williamsport and Erie, PA, on the one hand, and, on the other, points in NY, OH, NJ, MD, DE, VT, CT, VA, WV, NC, SC, and MA, for 270 days. Supporting shipper(s): American Hardwood Industries, Inc., Div. of Hammermill Paper Co., 1540 E. Lake Rd., P.O.B. 1440, Erie, PA 16533.

MC 110683 (Sub-II–18TA), filed January 11, 1983. Applicant: SMITH'S TRANSFER CORPORATION, P.O. Box 1000, Staunton, VA 24401. Representative: Robert L. Stover (same address as applicant). Contract, irregular: *General commodities (except household goods as defined by the Commission, commodities in bulk and Classes A and B explosives):* between points in the U.S. (except AK & HI), under continuing contract(s) with Household Merchandising, Inc. Supporting shipper(s): Household Merchandising, Inc., 1700 South Wolf Road, Des Plaines, IL 60018.

MC 165812 (Sub-II–1TA), filed January 20, 1983. Applicant: Michael E. Fisher, d.b.a. T. C. CHARTER COACH CO., 7924 Frankford Ave., Philadelphia, PA 19136. Representative: Michael E. Fisher (same address as applicant). *Passengers and their baggage, in charter operations,* between points in PA, on the one hand, and, on the other, pts in MD, NY, VA and DC, for 270 days. Supporting shipper(s): Fisher's Travel Service, Inc., 7924 Frankford Ave., Philadelphia, PA 19136.

MC 160628 (Sub-II–3TA), filed January 12, 1983. Applicant: TITAN TRANSFER INC., 3617A Silverside Rd., Wilmington, DE 19803. Representative: Gerald K. Burns, 3308 Englewood Rd., Wilmington, DE 19810. Contract, irregular: *umber and wood products and materials, supplies and equipment used in the manufacture and distribution thereof,* between Buckhannon, WV, on the one hand, and, on the other, points in AL, SC, GA, MS, TN, IN, IL, MI, NC, VA, WV, DC, MD, DE, PA, OH, NJ, NY, CT, RI, MA, VT, NH, MN, under continuing contract(s) with J. D. Hinkle and Son Inc. An underlying ETA seeks 120 days authority. Supporting shipper(s): J. D. Hinkle & Son, Inc, 99 E. Main St., Buckhannon, WV.

MC 165856 (Sub-II–1TA), filed January 24, 1983. Applicant: TOMMY-JOHN TRUCKING CO., INC., P.O. Box 56, Havre de Grace, MD 21078. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740. Contract: Irregular: (1) *Plastic bottles, including materials, equipment and supplies used in the manufacture, sale and distribution thereof,* between Havre de Grace, MD, including its commercial zone, on the one hand, and, on the other, points in NH, CT, MA, NY, NJ, DE, PA, OH, MD, WV, VA, DC, NC, SC, GA and FL, under a continuing contract(s) with Sewell Plastics, Inc.; and (2) *paper and paper products, including materials, equipment and supplies used in the manufacture, sale and distribution thereof,* between Hatfield, PA, including its commercial zone, on the one hand, and, on the other, Tucker, GA; Chicago, IL; Richardson and Waxahachie, TX, and Los Angeles, CA, including their respective commercial zones, under a continuing contract(s) with Safeguard Business Systems, Inc., for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: Sewell Plastics, Inc., 350 Old Bay Lane, Harve de Grace, MD 21078, and Safeguard Business Systems, Inc., 2356 North Penn Rd., Hatfield, PA 19440.

The following applications were filed in region 3. Send protests to: ICC, Regional Authority Center, Room 300, 1776 Peachtree Street, NE., Atlanta, GA 30309.

MC 165910 (Sub-3–1TA), filed January 26, 1983. Applicant: MANUFACTURED HOMES SERVICE CENTER, INC., Industrial Drive, P.O. Box 669, Ashburn, GA 31714. Representative: Norman T. Fowlkes III, 1919 Pennsylvania Avenue NW., Washington, D.C. 20006. *Contract* irregular routes: *General commodities (except Classes A and B explosives, household goods as defined by the Commission and commodities in bulk),* between points in the U.S. (except AK and HI) under continuing contracts(s) with All American of Ashburn, Inc., Ashburn, GA; All American Housing of Alabama, Inc., Bear Creek, AL; Ashburn Supply, inc., Ashburn, GA; Lake Blackshear Door & Supply Corp., Ashburn, GA; All American Credit Corporation, Ashburn, GA; All American Warranty and Insurance Agency, Inc.; Ashburn, GA; Family Homes Sales Center, Inc., Ashburn, GA. Supporting shipper: All American of Ashburn, Inc., P.O. Box 669 Ashburn, GA 31714, all of the supporting shippers are affiliates of All American.

MC 145794 (Sub-3–7TA), filed January 26, 1983. Applicant: ARDS TRUCKING COMPANY, INCORPORATED, P.O. Box 362, Darlington, SC 29532. Representative: C. Allen Ard (same as above). *Thermal and accoustical insulation, plastics, rubber, roofing shingles, roof insulation, asphalt materials, integrated ceiling systems, wood fiber products and plastic products, mechanical insulation, industrial rubber products and all construction and production materials related to the roofing and insulation industry, supplies and equipment used in the manufacture, sale, or distribution of the above commodities,* between points in AL, CT, DE, FL, GA, IL, IN, KY, MA, ME, MD, MS, NC, NH, NJ, NY, OH, PA, RI, SC, TN, VA, VT, WI, WV, LA, TX, AND MI. Supporting Shipper: Owens-Corning Fiberglas Corporation, Fiberglas Tower, Toledo, OH 43659.

MC 164840 (Sub-3–1TA), filed January 26, 1983. Applicant: BIG D TRANSPORT, INC., P.O. Box 2506, Dalton, GA 30720. Representative: Dean N. Wolfe, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877. *Contract* Carrier: Irregular: *Carpets, rugs and padding,* between points in the U.S. (except AK and HI),

under continuing contracts with C & M Carpet Company, Dalyn Corporation and Rosewood Rug, Inc. Supporting shippers: C & M Carpet Company, P.O. Box 3338, Dalton, GA 30721: Dalyn Corporation, P.O. Box 1031, Dalton, GA 30720; Rosewood Rug, Inc., P.O. Box 656, Calhoun, GA 30701.

MC 165732 (Sub-3–1TA), filed January 18, 1983. Applicant: ALL STATES MOVING & STORAGE, INC., 1009 West Hill Avenue, Valdosta, GA 31601. Representative: Donald R. Aldrich (same as above). *Household goods, as defined by the Commission, restricted to transportation for the US Government,* between points in Lowndes County, GA, on the one hand, and, on the other, points in Atkinson, Ben Hill, Berrien, Brooks, Clinch, Cook, Coffee, Colquitt, Echols, Irwin, Lanier, Lowndes, Thomas, Tift, and Ware Counties, GA, and Jefferson, Lafayette, Madison, Hamilton, Suwanee and Taylor Counties, FL. Restriction: Said operations are restricted to the transportation of traffic having a prior or subsequent movement in containers beyond the points authorized. Said operations are restricted to the performance of pickup and delivery service in connection with packing, crating and containerization or unpacking, uncrating and decontainerization of such traffic. Supporting shipper (s): United States Air Force, Moody AFB, GA 31699.

MC 165791 (Sub-3–1TA), filed January 26, 1983. Applicant: CFA TRANSPORT, INC., P.O. Box 26007, 2506 Starita Road, Charlotte, NC 28213. Representative: Wyatt E. Smith (address same as applicant). *Contract* Carrier: *Irregular: General Commodities (except classes A and B explosives, household goods and/or commodities in bulk)* between points in the US (except AK and HI), under continuing contract with Charlotte Freight Association, Inc., of Charlotte, NC. Supporting shipper: Charlotte Freight Association, Inc., 2508 Starita Road, Charlotte, NC 28213.

MC 146869 (Sub-3–10TA), filed January 26, 1983. Applicant: CARRIER FREIGHT LINES, INC., P.O. Box 813, Hickory, NC 28601. Representative: William P. Farthing, Jr., 1100 Cameron-Brown Building, Charlotte, NC 28204. *Contract:* Irregular: *such items as are dealt in by wholesale distributors of grocery store products,* from points in and east of the states of MS, TN, KY, IL, and WI to Hickory, Charlotte, Fayetteville and Rocky Mount, NC and Bluefield, VA, under continuing contract with Thomas & Howard Company of Hickory, Inc.; Thomas & Howard Company of Charlotte, Inc.; Thomas & Howard Company of Fayetteville, Inc.; Thomas & Howard Company of Rocky Mount, Inc. and Virginia Foods of Bluefield, Inc. Supporting Shippers: Thomas & Howard Company of Hickory, Inc.; Thomas & Howard Company of Charlotte, Inc.; Thomas & Howard Company of Fayetteville, Inc.; Thomas & Howard Company of Rocky Mount, Inc. and Virginia Foods of Bluefield, Inc., all at P. O. Box 428, 1200 Burris Road, Newton, NC 28258.

MC 164468 (Sub-3–1TA), filed January 26, 1983. Applicant: ELMER SANDERS d.b.a. SANDERS WRECKER SERVICE, Route 6, Strawplains Pike, Knoxville TN 37914. Representative: Jack W. Bowers, 712 Walnut Street, Knoxville, TN 37902. *Disabled vehicles* between points in the U.S., except AK and HI. Supporting Shippers: Peterbilt of Knoxville, 5218 Rutledge Pike, Knoxville, TN 37914; American Fleet Leasing, Inc., 3521 John Sevier Highway, Knoxville, TN 37914; Silver Fleet Express, 4521 Rutledge Pike, Knoxville, TN 37914; and Thurston Motor Lines, Inc., 3718 E. Governor John Sevier Highway, Knoxville, TN 37914.

MC 142680 (Sub-3–7TA), filed January 26, 1983. Applicant: SUMTER TIMBER COMPANY, P.O. Box 104, Cuba, AL 36907. Representative: Donald B. Sweeney, Jr., Esq., P.O. Box 2366, Birmingham, AL 35201. *Roofing and roofing materials; equipment, material and supplies used in their manufacture* between Tuscaloosa County, AL and Lauderdale County, MS, on the one hand, and, on the other, points in TX, AR, LA, MS, TN, KY, AL, GA, NC, SC, FL, and VA. *Supporting shippers:* Atlas Corporation, P. O. Box 5777, Meridian, MS 39301; Elk Corporation of Alabama, P.O. Box 2450, Tuscaloosa, AL 35403; Tamko Asphalt Products, Inc., 220 West 4th Street, Joplin, MO 64801.

MC 154306 (Sub-3–1TA), filed January 26, 1983. Applicant: COOPER AIR FREIGHT SERVICE, INCORPORATED, 2810 Rudder Road, Memphis, TN 38118. Representative: James F. Flint, 406 World Center Building, 918 16th Street, Washington, DC 20006. *General commodities (except classes A and B explosives, commodities in bulk and household goods)* between points in New Madrid County, MO; Mississippi, Crittenden, Phillips, and Poinsett Counties, AR; Coahoma, Panola, LeFlore, Grenada, Lafayette, Alcorn, Prentiss, Lee and Chickasaw Counties, MS and Shelby, Lauderdale, McNairy, Madison, and Gibson Counties, TN. There are six statements of support attached to this application which may be examined at the ICC Regional Office, Atlanta, GA.

MC 157290 (Sub-3–1TA), filed January 26, 1983. Applicant: A–1 TRUCKING & RIGGING, INC., P.O. Box 691, 2121 So. US 1, Rockledge, FL 32955. Representative: Ella M. Beyel (same address as applicant). *Contract* Carrier: Irregular: *Armored vehicles, parts and accessories* between Cocoa, FL and Buffalo, NY; Mt Clemens, MI; Delphos, OH, under continuing contract with Cadillac Gage Company, Division of Excello Corporation of Warren, MI. Supporting Shipper: Cadillac Gage Company, Division of Excello Corporation, 25760 Groesbeck Highway, Warren, MI 48090.

MC 157140 (Sub-3–2TA), filed January 26, 1983. Applicant: TRICO EQUIPMENT INCORPORATED, P.O. Box 669, Ahoskie, NC 27910. Representative: Carroll B. Jackson, 1810 Vincennes Rd., Richmond, VA 23229. *Lumber and wood products, and materials, equipment and supplies used in the manufacture, distribution and sales of lumber and wood products,* between points in NC and VA, on the one hand, and, on the other, points in CT, DE, FL, GA, MA, MD, ME, NC, NH, NY, NJ, OH, PA, RI, SC, VA, VT, WV and DC (includes shipments having a prior or subsequent movement in interstate or foreign commerce). There are 7 statements in support of the application which may be examined at the I.C.C. Regional Office, Atlanta, GA.

MC 2934 (Sub-3–54TA), filed January 27, 1983. Applicant: AERO MAYFLOWER TRANSIT COMPANY, INC., 9998 North Michigan Road, Carmel, Indiana 46032. Representative: W. G. Lowry (same as above). *Contract* Carrier: Irregular *Household Goods and Electronic Equipment* between points in the United States (except AK and HI) and Canada, under continuing contracts with Paradyne Corporation, 8550 Ulmerton Road, Largo, Florida, 33541. Supporting shipper: Paradyne Corporation, 8550 Ulmerton Road, Largo, FL, 33541.

MC 141589 (Sub-3–1TA), filed January 27, 1983. Applicant: AMERICAN COACH LINES, INC., d.b.a. AMERICAN TRAILWAYS OF GEORGIA, 486 Fairmont Drive, Norcross, GA 30071. Representative: Gene Bryson (same address as applicant). Part I: *Passengers and baggage* from all points in the United States to all points in the United States. Part II: *Common: Regular: Passengers, baggage, and express,* from Gainesville, GA over US Highway 23 to Atlanta, GA, Thence over Interstate 85 to State Highway 365 to Gainesville, GA; Thence over US Highway 23 to Cornelia, GA Also: *Passengers, baggage, and express* from Carrollton, GA, over State Highway 166 and 61 to US

Highway 78; Thence over US Highway 78 to Interstate 285 to Interstate 20 then East to Atlanta, GA and return. Supporting shipper: Carroll Travel Service d/b/a/ Red Carpet Travel Maple & South Streets, Carrollton, GA 30117 and Osborne Travel 3379 Peachtree Rd. N.E., Atlanta, GA 30326.

Note.—Applicant intends to tack this authority (PART I and PART II) to existing authority in MC 141589 and to interline with other carriers at Atlanta, GA and Ashville, NC.

MC 165916 (Sub-3–1TA), filed January 27, 1983. Applicant: GOLDMAN STEEL FABRICATING & ERECTING CORPORATION, 7886 Barlow Road, Mobile, AL 36608. Representative: Jessie L. Goldman (same address as applicant). *Contract;* Irregular; Concrete pipe and supplies as is dealt with by construction companies under continuing contracts with Faulkner Concrete Pipe Co., from the facilities of Faulkner located at Mobile, AL to New Augusta, MS. Supporting Shipper: Faulkner Concrete Pipe Company, Drawer F., Hattiesburg, MS 39401.

MC 145956 (Sub-3–10TA), filed January 27, 1983. Applicant: TRANSMEDIC CARRIERS, INC., 1340 Indian Rocks Road, Belleair, FL 33516. Representative: Robert H. Kinker, 314 West Main Street, P. O. Box 464, Frankfort, KY 40602. *Blood derivatives of blood, plasma, medical products and materials, equipment and supplies used in connection therewith,* between points in the U.S. (except AK and HI), restricted to shipments originating at or destined to the facilities used by Amex Plasma Ltd. Supporting shipper: Amex Plasma Ltd., 319 William, Corpus Christi, TX 78401.

The following applications were filed in Region 6. Send protests to: Interstate Commerce Commission, Region 6, Motor Carrier Board, 211 Main St., Suite 501, San Francisco, CA 94105.

MC 165931 (Sub-6–1TA), filed January 26, 1983. Applicant: JAMES L. CARTER, d.b.a. CARTERS, 1046 N. County Road 17, Berthoud, CO 80513. Representative: Robert W. Wright, Jr., 5711 Ammons St., Arvada, CO 80002. *Contract carrier,* irregular routes: *Building Materials, Lumber and wood products, and metal products,* between Adams County, CO and Berthoud, CO and points in KS, MT, NE, NM, UT and WV under continuing contract with Snavely Forest Products Company and Mountain States Standards, Inc. for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: Snavely Forest Products Company, P.O. Box 16107, Denver, CO 80216 and Mountain States Standards, Inc., P.O. Box 948, Berthoud, CO 80513.

MC 150917 (Sub-6–2TA), filed January 27, 1983. Applicant: FOOD EXPRESS INC., 4325 Fruitland Ave., Los Angeles, CA 90058. Representative: Michael L. Springer (same as applicant). *Contract carrier,* irregular routes, *general commodities* between points in the Continental U.S. under continuing contracts with CPC International, and Terminal Flour Mills Company, for 270 days. Supporting shippers; CPC International, International Plaza, Englewood Cliffs, NJ 07632; and Terminal Flour Mills Company, Terminal No. 4, Portland, OR 97203.

MC 104832 (Sub-6–2TA), filed January 27, 1983. Applicant: HOLMAN TRANSFER CO., 49 S E Clay, Portland, OR 97214. Representative: Lawrence V. Smart, Jr., 419 N W 23rd Avenue, Portland, OR 97210. *Contract carrier,* irregular routes: *food and related products,* between Portland, OR and its commercial zone, on the one hand, and points in CA in and north of Humbolt, Trinity, Tehama, Shasta and Lassen Counties, on the other, for 270 days. An underlying ETA seeks 120 day authority. Supporting shipper: Keebler Co., One Hollow Tree Lane, Elmhurst, IL 60126.

MC 164606 (Sub-6–1TA), filed January 27, 1983. Applicant: ALFREDO LOPEZ, 810 N. Lacy St., Santa Ana, CA 92701. Representative: Alfredo Lopez, (same as applicant). *Contract carrier,* irregular routes *constructions materials* between CA, NY, FL, PA, and VA for 270 days, for the account of GMK Transportation. An underlying ETA seeks 120 days authority. Supporting shipper: GMK Transportation, 606 N. Terminal St., Santa Ana, CA 92701.

MC 165651 (Sub-6–1TA), filed January 27, 1983. Applicant: MSM HAULING, INC., 255 West Laurel Rd., Bellingham, WA 98226. Representative: Bruce A. Wolf, 2120 Pacific Bldg., Seattle, WA 98104. *Building materials, consisting of shakes, shingles and lumber,* between points of entry on U.S.-CD border in WA and points in WA, OR, and ID for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: There are 7 shippers their statements may be examined in the office listed.

MC 156408 (Sub-6–1TA), filed January 27, 1983. Applicant: SOUTHWEST CANNERS, INC., P.O. Box 862, Portales, NM 88130. Representative: James W. Hightower, Suite 301, 5801 Marvin D. Love Freeway, Dallas, TX 75237–2385. *Alcoholic beverages (except in bulk),* From CA to Aurora and Denver, CO, for 270 days. Supporting shipper: Midwest Liquors, 14200 E. Moncrieff Place, Aurora, CO 80011.

MC 148791 (Sub-6–19TA), filed January 27, 1983. Applicant: TRANSPORT–WEST, INC., 1850 S 1100 W., Woods Cross, UT 84087. Representative: Rick J. Hall, P.O. Box 2465 Salt Lake City, UT 84110. *Contract Carrier,* Irregular routes: *Such commodities as are dealt in or used by department, discount or variety stores,* from Maumelle, AR to points in CO and TX, for the account of Target Stores for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Target Stores, 777 Nicollet Mall, Minneapolis, MN 55440.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-3186 Filed 2-4-83; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 387]

Rail Carriers; Exemptions for Contract Tariffs

AGENCY: Interstate Commerce Commission.

ACTION: Notices of provisional exemptions.

SUMMARY: Provisional exemptions are granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the below-listed contract tariffs may become effective on one day's notice. These exemptions may be revoked if protests are filed.

DATES: Protests are due within 15 days of publication in the **Federal Register.**

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT:
Douglas Galloway, (202) 275–7278
or
Tom Smerdon, (202) 275–7277.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in these instances to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption requests meet the requirements of 49 U.S.C. 10505(a) and are granted subject to the following conditions:

These grants neither shall be construed to mean that the Commission has approved the contracts for purposes of 49 U.S.C. 10713(e) not that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review these contracts and to determine their lawfulness.

Sub-No.	Name of railroad, contract No. and specifics	Review Board [1]	Decided date
752	Richard B. Ogilvie, Trustee, for Property of Chicago, Milwaukee, St. Paul and Pacific Railroad Co., ICC-MILW-C-0262, (Flour)	2	1-31-83
753	Soo Line Railroad Co., ICC-SOO-C-0160, (Petroleum residual fuel oil)	3	1-31-83
755	Burlington Northern Railroad Co., ICC-BN-C-0272, (Grain or grain products)	2	1-31-83
756	Burlington Northern Railroad Co., ICC-BN-C-0271, (Grain or grain products)	3	1-31-83
757	Burlington Northern Railroad Co., ICC-BN-C-0041-A, Supplement 2, (Soda ash)	1	1-31-83
758	Burlington Northern Railroad Co., ICC-BN-C-0020-A, Supplement 2, (Soda ash)	2	1-31-83

[1] Review Board No. 1, Members Parker, Chandler, and Fortier. Member Parker not participating. Review Board No. 2, Members Carleton, Williams, and Ewing. Review Board No. 3, Krock, Joyce, and Dowell.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

49 U.S.C. 10505

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-3041 Filed 2-4-83; 8:45 am]

BILLING CODE 7035-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 83-14]

NASA Advisory Council; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council.

DATE AND TIME: February 22, 1983, 9 a.m. to 4:30 p.m., and February 23, 1983, 8:30 a.m. to 3 p.m.

ADDRESS: NASA Headquarters, Room 7002, 400 Maryland Avenue SW, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Nathaniel B. Cohen, Code LB-4, National Aeronautics and Space Administration, Washington, DC 20546 (202/755-8383).

SUPPLEMENTARY INFORMATION: The NASA Advisory Council was established as an interdisciplinary group to advise senior management on the full range of NASA's programs, policies, and plans. The Council is chaired by Mr. Daniel J. Fink and is composed of twenty-six members. Standing committees containing additional members report to the Council and provide advice in the substantive areas of aeronautics, life sciences, space applications, space and earth science, space systems and technology, and history, as they relate to NASA's activities.

Visitors will be admitted to the meeting room up to its capacity, which is approximately 60 persons including Council members and other participants. Visitors will be requested to sign a visitor's register.

Type of meeting: Open.

AGENDA:

February 22, 1983

9 a.m.—Introductory Remarks.
9:15 a.m.—FY 1984 President's Budget and Five-Year Plan.
11:15 a.m.—Task Force Reports.
1 p.m.—Committee Reports.
2 p.m.—Report of the NAC Solar System Exploration Committee.
3:30 p.m.—Committee Reports.
4:30 p.m.—Adjourn.

February 23, 1982

8:30 a.m.—Review of International Programs.
1 p.m.—Council Discussion and Planning.
3 p.m.—Adjourn.

Dated: January 31, 1983.

Richard L. Daniels,

Director, Management Support Office, Office of Management.

[FR Doc. 83-3159 Filed 2-4-83; 8:45 am]

BILLING CODE 7510-01-M

[Notice 83-15]

NASA Advisory Council, Aeronautics Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of change in Meeting.

SUMMARY: The scheduled meeting on February 23-24, 1983, of the NAC Aeronautics Advisory Committee, Informal Advisory Subcommittee on Materials and Structures, published in the **Federal Register** January 25, 1983, (48 FR 3433), has been changed as follows.

DATE AND TIME: February 23-24, 1983, 8:30 a.m. to 5 p.m. each day.

Agenda:

February 23, 1983

8:30 a.m.—Introduction.
9 a.m.—Overview of Long Range Thrusts.
1:30 p.m.—Turbine Hot Section Durability.
3 p.m.—Ceramics.
4:30—Adjourn.

February 24, 1983

8:30 a.m.—Unsteady Aerodynamics.
1:30 p.m.—Subcommittee Discussions.
4 p.m.—Adjourn.

Dated: January 31, 1983.

Richard L. Daniels,

Director, Management Support Office, Office of Management.

[FR Doc. 83-3160 Filed 2-4-83; 8:45 am]

BILLING CODE 7510-01-M

[Notice 83-16]

NASA Wage Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Wage Committee.

DATE AND TIME: March 4, 1983, 1:30 p.m. to 4:30 p.m.

ADDRESS: National Aeronautics and Space Administration, Room 5092, Federal Building 6, 400 Maryland Avenue SW, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Ms. Deborah C. Green, Code NPC-28, National Aeronautics and Space Administration, Washington, DC 20546 (202/755-3732).

SUPPLEMENTARY INFORMATION: The Committee's primary responsibility is to consider and make recommendations to the NASA Director of Personnel Programs Division on all matters involved in the development and authorization of a Wage Schedule for the Cleveland, Ohio, wage area, pursuant to Pub. L. 92-392. The Committee, Chaired by Mr. William Dey, consists of 6 members. During this meeting the Committee will review the survey specifications for the Cleveland, Ohio, wage area which were recommended by the Local Wage Committee and will determine whether to recommend acceptance or modification of those survey specifications. Discussions of these matters in a public session would constitute release of confidential commercial and financial information obtained from private industry. Since this session will be concerned with matters listed in 5 U.S.C. 552b(c)(4), it has been determined that this meeting will be entirely closed to the public. However, members of the public who may wish to do so, are invited to submit material in writing to the Chairperson concerning matters felt to be deserving of the Committee's attention.

Type of Meeting

Closed.

Purpose of Meeting

The NASA Wage Committee will recommend to the NASA Wage Fixing Authority the proposed wage schedule to be adopted.

Dated: January 31, 1983.

Richard L. Daniels,

Director, Management Support Office, Office of Management.

[FR Doc. 83-3161 Filed 2-4-83; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL COMMISSION FOR EMPLOYMENT POLICY

Meeting; Correction

AGENCY: National Commission for Employment Policy.

ACTION: Correction of meeting date.

SUMMARY: This document corrects the dates of February 24, 25, given in the **Federal Register** notice of January 25, 1983, p. 3433, vol. 48, No. 17.

DATE: The Commission will meet on February 23 and 24, 1983. On February 23 the Commission will meet from 9:00 a.m. to 11:00 a.m. and from 2:30 to 5:00 p.m. They will meet from 9:00 to 5:00 on February 24. For site information call Velada Waller at 202–724–1545.

FOR FURTHER INFORMATION CONTACT: Laura von Behren, 202–724–1553.

Signed in Washington, D.C., this 1st day of February, 1983.

Patricia W. Hogue,

Director.

[FR Doc. 83-3232 Filed 2-4-83; 8:45 am]

BILLING CODE 4510-30-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Humanities Panel; Meetings

AGENCY: National Endowment for the Humanities, NFAH.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at 806 15th Street, N.W., Washington, D.C. 20506:

Date: February 24–25, 1983.
Time: 9:00 a.m. to 5:30 p.m.
Room: 1134
Program: This meeting will review applications concerning the history and culture of the United States, submitted for Research Materials Programs, Division of Research Programs, for projects beginning after July 1, 1983.

Date: February 25, 1983
Time: 8:30 a.m. to 5:00 p.m.
Room: 807
Program: This meeting will review applications submitted for the Youth Grants Program, Division of General Programs, for projects beginning after June 1, 1983.

Date: February 28–March 1, 1983
Time: 9:00 a.m.–5:30 p.m.
Room: 1134
Program: This meeting will review applications submitted for Research Resources: United States Newspaper Projects Panel, Division of Research Programs, for projects beginning after July 1, 1983.

SUPPLEMENTARY INFORMATION: The proposed meetings are for the purpose of Panel review, discussion, evaluation and recommendation on applications for financial assistnce under the National Foundation on the Arts and the Humanities Act of 1965, as amended including discussion of information given in confidence to the agency by grant applicants. Because the proposed meetings will consider information that is likely to disclose: (1) Trade secrets and commercial or financial information obtained from a person and privileged of confidential; (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and (3) information the disclosure of which would significantly frustrate implementation of proposed agencey action; pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that these meetings will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information about these meetings can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, D.C. 20506, or call (202) 724–0367.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 83-3237 Filed 2-4-83; 8:45 am]

BILLING CODE 7536-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–348]

Alabama Power Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 28 to Facility Operating License No. NPF–2 issued to Alabama Power Company (the licensee), which revised Technical Specifications for operation of the Joseph M. Farley Nuclear Plant, Unit No. 1 (the facility) located in Houston County, Alabama. The amendment is effective as of the date of issuance.

The amendment modified the effective date for the mechanical snubber functional test from the fourth refueling outage until the fifth refueling outage. Compensatory tests will be used during the fourth outage.

The application for 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. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated November 5, 1982, (2) Amendment No. 28 to License No. NPF–2, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the George S. Houston Memorial Library, 212 W. Burdeshaw Street, Dothan, Alabama 36303. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 31st day of January, 1983.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No.1, Division of Licensing.

[FR Doc. 83-3245 Filed 2-4-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50–255]

Consumers Power Co.; Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has

issued Amendment No. 75 to Provisional Operating License No. DPR–20, to Consumers Power Company (the licensee), which revised the Technical Specifications for operation of the Palisades Plant (the facility) located in Van Buren County, Michigan. This amendment is effective as of its date of issuance.

The amendment approves changes to the Appendix A Technical Specification provisions of Section 6, Administrative Controls, that primarily reflect the addition of a Nuclear Activities Plant Organization, and reflect some organizational title changes.

The application for 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. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated November 12, 1982, (2) Amendment No. 75 to License No. DPR–20, and (3) the Commission's related Safety Evaluation. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street N.W., Washington, D.C. and at the Kalamazoo Public Library, 315 South Rose Street, Kalamazoo, Michigan 49006. A single copy of items (2) and (3) may be obtained by request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 28 day of January, 1983.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Chief, Operating Reactors Branch No. 5, Division of Licensing.

[FR Doc. 83-3247 Filed 2-4-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-423-A]

Northeast Nuclear Energy Company, et al.;[1] Receipt of Antitrust Information

The Northeast Nuclear Energy Company, acting as agent and representative for the fifteen co-owners of the Millstone 3 nuclear unit, has submitted antitrust information in conjunction with the application for an operating license for a pressurized water nuclear plant known as Millstone 3, located in New London County, Connecticut. The data submitted contains antitrust information for review pursuant to NRC Regulatory Guide 9.3 necessary to determine whether there have been any significant changes since the completion of the antitrust review at the construction permit stage.

On completion of a staff antitrust review, the Director of Nuclear Reactor Regulation will issue an initial finding as to whether there have been "significant changes" under Section 105c(2) of the Atomic Energy Act. A copy of this finding will be published in the **Federal Register** and will be sent to the Washington, D.C. and local public document rooms and to those persons providing comments or information in response to this notice. If the initial finding concludes that there have not been any significant changes, requests for reevaluation may be submitted for a period of 30 days after the date of the **Federal Register** notice. The results of any reevaluations that are requested will be published in the **Federal Register** and copies sent to the Washington and local public document rooms.

A copy of the general information portion of the application for an operating license and the antitrust information submitted is available for public examination and copying for a fee at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, and in the local public document room at the Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Conn. 06385.

Any person who desires additional information regarding the matter covered by this notice or who wishes to have his views considered with respect to significant changes related to antitrust matters which have occurred in the licensees' activities since the construction permit antitrust review should submit such information or views to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Chief, Antitrust and Economic Analysis Branch, Office of Nuclear Reactor Regulation on or before March 9, 1983.

Dated at Bethesda, Md., this 24th day of January, 1983.

For the Nuclear Regulatory Commission.

B. J. Youngblood,

Chief, Licensing Branch No. 1, Division of Licensing.

[FR Doc. 83-3248 Filed 2-4-83; 8:45 am]

BILLING CODE 7590-01-M

[1] Northeast Nuclear Energy Company (a wholly-owned of Northeast Utilities) has no ownership interest in the Unit. The following fifteen electric utilities own the unit as tenants in common: The Connecticut Light and Power Company and Western Massachusetts Electric Company (also wholly-owned subsidiaries of Northeast Utilities), Burlington Electric Light Department, Central Maine Power Company, Central Vermont Public Service Corporation, Chicopee Municipal Lighting Plant, Connecticut Municipal Electric Energy Cooperative, Fitchburg Gas and Electric Light Company, Village of Lyndonville Electric Department, Massachusetts Municipal Wholesale Electric Company, Montaup Electric Company, New England Power Company, Public Service Company of New Hampshire, The United Illuminating Company and the Vermont Electric Cooperative, Inc.

Transnuclear, Inc., et al.; Applications for Licenses To Import/Export Nuclear Facilities or Materials

Pursuant to 10 CFR 110.70(b) "Public notice of receipt of an application", please take notice that the Nuclear Regulatory Commission has received the following applications for import/export licenses. A copy of each application is on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H Street, NW., Washington, D.C.

A request for a hearing or a petition for leave to intervene may be filed within 30 days after publication of this notice in the **Federal Register**. Any request for hearing or petition for leave to intervene shall be served by the requestor or petitioner upon the applicant, the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, the Secretary, U.S. Nuclear Regulatory Commission and the Executive Secretary, Department of State, Washington, D.C. 20520.

In its review of applications for licenses to export production or utilization facilities, special nuclear material or source material, noticed herein, the Commission does not evaluate the health, safety or environmental effects in the recipient nation of the facility or material to be exported. The table below lists all new major applications.

Dated this 28th day of January, at Bethesda, Md.

For the Nuclear Regulatory Commission.

James V. Zimmerman,

Assistant Director, Export/Import and International Safeguards, Office of International Programs.

FEDERAL REGISTER (EXPORT AND IMPORT)

Name of applicant, date of application, date received, application number	Material type	Material in kilograms		End-use	Country of destination
		Total element	Total isotope		
Transnuclear, Inc., Jan. 18, 1983, Jan. 18, 1983, XSNM02012.	93.3 pct. enriched uranium	25.0	23.3	Fuel for HFR, Grenoble	France.
General Electric Co., Jan. 6, 1983, Jan. 10, 1983, XSNM01645(01).	Natural uranium	1,500		Add ENUSA as Intermediate Consignee and add 1500 KGS of Natural Uranium—Multiple reload (6) fuel for Nuclenor.	Spain.
Mitsui & Co., Jan. 18, 1983, Jan. 24, 1983, XSNM02014.	3.95 pct. enriched uranium	21,294	611	Reload fuel for Hamaoka Unit 2	Japan.
Mitsui & Co., Jan. 18, 1983, Jan. 24, 1983, XSNM02015.	3.95 pct. enriched uranium	6,834	207	Reload fuel for Hamaoka Unit 2	Japan.
Westinghouse Elect., Jan. 17, 1983, Jan. 21, 1983, ISNM80001(02).	3.6 pct. enriched uranium	[1]25,075.0	[1]974.7	Return new fuel rods which are in storage at KO-RI I site—Amended to increase the amount of material.	From Rep. of Korea.
Transnuclear, Inc., Dec. 21, 1982, Dec. 22, 1982, XM.8561.	Natural uranium	1,200,000		As fuel in light water commercial power reactors located within the Euratom Community only.	EURATOM.

[1] Additional.

[FR Doc. 83-3246 Filed 2-4-83; 8:45 am]
BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Subcommittee on Systematic Evaluation Program; Meeting

The ACRS Subcommittee on the Systematic Evaluation Program will hold a meeting on February 23, 1983, Room 1167, 1717 H Street, NW, Washington, D.C. The Subcommittee will discuss the Systematic Evaluation Program review of Yankee Rowe. Notice of this meeting was published January 18, 1983.

In accordance with the procedures outlined in the **Federal Register** on October 1, 1982 (47 FR 43474), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance except for those sessions during which the Subcommittee finds it necessary to discuss proprietary information (Sunshine Act Exemption 4). One or more closed sessions may be necessary to discuss such information. To the extent practicable, these closed sessions will be held so as to minimize inconvenience to members of the public in attendance.

The agenda for subject meeting shall be as follows:

Wednesday, February 23, 1983—8:30 a.m. until the conclusion of business

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will 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, their 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 Designated Federal Employee, Mr. Herman Alderman (telephone 202/634-1414) between 8:15 a.m. and 5:00 p.m., EST.

I have determined, in accordance with Subsection 10(d) of the Federal Advisory Committee Act, that it may be necessary to close some portions of this meeting to public attendance to protect proprietary information. The authority for such closure is Exemption (4) to the Sunshine Act, 5 U.S.C. 552b(c)(4).

Dated: February 2, 1983.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 83-3243 Filed 2-4-83; 8:45 am]
BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Subcommittee on Clinch River Breeder Reactor

The ACRS Subcommittee on Clinch River Breeder Reactor (CRBR) will hold a meeting on February 23 and 24, 1983, Room 1046, 1717 H Street, NW., Washington, DC. The Subcommittee will continue its review of the application from the Department of Energy for a permit to construct the CRBR. Notice of this meeting was published January 18, 1983.

In accordance with the procedures outlined in the **Federal Register** on October 1, 1982 (47 FR 43474), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Cognizant Designated Federal employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance except for those sessions during which the Subcommittee finds it necessary to discuss proprietary

information. One or more closed sessions may be necessary to discuss such information (Sunshine Act Exemption 4). To the extent practicable, these closed sessions will be held so as to minimize inconvenience to members of the public in attendance.

The agenda for subject meeting shall be as follows:

Wednesday, February 23, 1983—8:30 a.m. until the conclusion of business
Thursday, February 24, 1983—8:30 a.m. until the conclusion of business

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 Department of Energy, NRC Staff, their 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 Decisnated Federal Employee, Mr. Paul Boehnert (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m., EST.

I have determined, in accordance with Subsection 10(d) of the Federal Advisory Committee Act, that it may be necessary to close some portions of this meeting to protect proprietary information. The authority for such closure is Exemption (4) to the Sunshine Act, 5 U.S.C. 552b(c)(4).

Dated: February 2, 1983.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 83-3244 Filed 2-4-83; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 19466/(SR-Amex-82-21)]

American Stock Exchange, Inc.; Order Approving Proposed Rule Change

January 28, 1983.

The American Stock Exchange, Inc. ("Amex"), 86 Trinity Place, New York, NY 10006, submitted on November 18, 1982,[1] copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b–4 thereunder, to amend Rules 131 (Types of Orders) and 154 (Orders Left With Specialist). Specifically, the definition of percentage order in Rule 131 would be revised to differentiate between "straight limit," "last sale," and "buy minus-sell plus" percentage orders. A commentary also would be added to Rule 154 describing the procedures followed by specialists when receiving and executing percentage orders.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission Release (Securities Exchange Act Release No. 19304, December 7, 1982) and by publication in the **Federal Register** (47 FR 56091, December 14, 1982). No written comments were filed with the Commission.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6, and the rules and the regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-3178 Filed 2-4-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 19465; (SR-Amex-83-1)]

American Stock Exchange, Inc.; Filing of Proposed Rule Change and Order Approving Proposed Rule Change

January 28, 1983.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 86 Trinity Place, New York, NY 10006, 15 U.S.C. 78s(b)(1), notice is hereby given that on January 20, 1983, the American Stock Exchange, Inc. ("Amex") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change would increase the limits on orders eligible for the Amex's Post Execution Reporting ("PER") system from 200 shares to 300 shares for market orders and from 400 shares to 500 shares for all limit orders, including good 'til cancelled orders.[1] In its filing with the Commission, the Amex states that the increase in the size of the orders that are eligible for PER treatment is warranted because in recent years the percentage or orders eligible for PER has been declining due to the significant increase in the average size of equity orders. In addition, the Amex states that the proposed changes would permit the Exchange to respond to member firm requests for greater speed and efficiency in the processing of small, routine orders. According to the Exchange, 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 will foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities. In addition, the Exchange states that the increase in order limits will result in more efficient and effective market operations, consistent with Section 11A(a)(1)(B) of the Act.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days from the date of this publication in the **Federal Register**. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 5th Street, N.W., Washington, D.C. 20549. Reference should be made to File No. SR–Amex–83–1.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and of all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 5th Street, N.W., Washington, D.C.

The Commission finds that the proposed rule change is consistent with

[1] On January 21, 1983, the Amex withdrew from the filing those provisions which would have authorized the conversion of percentage orders on "destabilizing ticks," *i.e.*, buying on a zero plus or selling on a zero minus tick. The exchange further indicated that it plans to modify and refile these provisions at a later date.

[1] The PER system, which the Amex installed in 1977, provides an electronic means for Amex member firms to send market and limit orders in equities directly to the Amex specialists' posts for manual execution, after which the reports are sent back in electronic form to the member firms.

the requirements of the Act and the rules and regulations thereunder applicable to a securities exchange and in particular, the requirements of Section 6 and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof, in that the Amex PER system is presently able to accommodate the proposed increases in order size, and accelerated effectiveness of this proposal will enable the Amex both to facilitate the execution of small orders while helping reduce the potential for error, and to improve its operating efficiency during periods of high trading volume. Accordingly, the Commission finds that notice for 30 days prior to approval of the proposed rule change is unnecessary and that accelerated temporary approval is in the public interest.

It is therefore ordered, pursuant to Section 19(b)92) of the Act, that the proposed rule change referenced above be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-3177 Filed 2-4-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22842; (70-6759)]

Appalachian Power Co.; Proposed Coal Transloading Service To Affiliate at Cost

January 31, 1983.

The Appalachian Power Company ("Appalachian"), 40 Franklin Road, Roanoke, Virginia 24022 an electric utility subsidiary of American Electric Power Company, Inc., a registered holding company, has filed an application and amendments thereto with this Commission pursuant to Section 13(b) of the Public Utility Holding Company Act of 1935 ("Act") and Rules 87, 90 and 91 promulgated thereunder.

Appalachian proposes to offer a coal transloading and transfer service to its affiliate, Ohio Power Company ("Ohio"), utilizing a rail-to-river coal transfer facility known as the Putnam Coal Terminal ("terminal"). The terminal was constructed by Appalachian to be utilized primarily in the transfer and delivery of coal to its Mountaineer Plant in West Virginia. At full operation, the terminal is designed to transfer up to four million tons of coal per year from rail cars or storage to river barges. Appalachian's Mountaineer Plant currently consumes an estimated 3,500,000 tons of coal annually, not all of which is delivered through the terminal, resulting in excess transloading capacity at the terminal.

It is proposed that this available transloading capacity (in addition to that required for coal supply to other Appalachian plants) be used from time to time to transfer coal to barges for delivery to a generation facility jointly owned by Appalachian and Ohio. All coal so delivered will be deposited into a single stockpile and jointly consumed by Appalachian and Ohio.

The fee to Ohio for the transfer service would be limited to the cost of providing such service, determined on the basis of the expenses of operation, maintenance of the terminal, depreciation and overhead expenses, taxes, plus a provision for capital fixed charges on Appalachian's associated investment in the terminal. The expenses would be apportioned to Ohio on the basis of the percentage of utilization of the terminal for transferring coal to barges for delivery to the jointly-owned facility, with an appropriate adjustment for the amount of such coal actually consumed by Ohio's units. Appalachian proposes that the provision for capital fixed charges on its investment in the terminal would be at annual rate of 14.45%, calculated by reference to Appalachian's weighted annual cost of capital in the terminal (including the components of long-term debt, preferred stock and common equity). The rate would be subject to adjustment annually based on changes in the average of the rates of return on common equity allowed by the Public Service Commission of West Virginia and the State Corporation Commission of Virginia in the last premanent retail rate proceedings involving Appalachian. The provision for capital fixed charges would be applied to the portion of Appalachian's investment in the terminal related to the estimated percentage of utilization of such facility on behalf of Ohio and adjustments to the billings would be made at least once a year on the basis of actual percentage of utilization, measured in number of tons transferred.

At this time, Appalachian has no plans to offer this service to any affiliates other than Ohio. However, it is possible that the terminal could be utilized from time to time, as capacity permits, to transfer coal for delivery to other plants of Ohio or to plants owned by other affiliates of Appalachian. The transfer fee charged by Appalachian to any affiliate for any such utilization would be limited to cost, including the provision for capital fixed charges, determined in the same manner as outlined herein. The form of agreement that Appalachian proposes to enter into with Ohio and with any other affiliate company utilization of the terminal has been filed with the Commission.

The application and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by February 25, 1983, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant at the address specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date the application, as amended or as it may be further amended, may be granted.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-3182 Filed 2-4-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22841; (70-6799)]

Connecticut Light & Power Co.; Proposed Debt Financing Through an Interest Rate Swap Agreement and Unsecured Notes; Request for Exception From Competitive Bidding

January 31, 1983.

The Connecticut Light & Power Company ("CL&P"), Selden Street, Berlin, Connecticut 06037, an electric utility subsidiary of Northeast Utilities, a registered holding company, has filed with this Commission an application-declaration and amendments thereto pursuant to Sections 6(a), 7, 9(a) and 10 of the Public Utility Holding Company Act of 1935 ("Act") and Rule 50 promulgated thereunder.

CL&P seeks authorization to transact one of the following during the period ending December 31, 1983: (1) To enter into a contractual arrangement (the "interest rate swap") with a bank whereby the bank and CL&P will exchange periodic payments, calculated by reference to a fixed principal amount and to interest rate indices, as herein described or (2) to execute an interest

rate swap as described in conjunction with the issuance and sale of unsecured term notes, in one or more issues and in an aggregate amount not to exceed $75 million for a term of approximately seven years. CL&P intends either to execute an independent swap agreement with respect to existing debt or to issue and sell unsecured notes contemporaneously with an interest rate swap, but it will not transact both. CL&P also seeks authority to negotiate the terms in connection with these transactions, pursuant to a proposed exception from the competitive bidding requirements of Rule 50 under the Act.

By contractual agreement, CL&P would agree to make payments to a bank, payable annually or semi-annually in arrears, calculated by reference to an established, fixed rate of interest and to a specific principal amount not to exceed $75 million. Such payments would be for a specific period set forth in the contract not to exceed approximately seven years. By the same agreement, the bank will contract to make payments to CL&P, under the same terms, for the same length of time, and with reference to the identical principal amount. The bank's payments, however, will be determined in accordance with an agreed-upon rate index, as that index may vary from time to time either upward or downward. The rate index will be selected to correspond with that of CL&P's new or existing floating-rate indebtedness targeted for conversion to a fixed rate of interest, and such rate index is likely to be either the prime rate as quoted by a bank or other financial institution, or the London interbank offered rate ("LIBOR"). The bank's payments will be claculated to match as closely as possible CL&P's obligations under the floating-rate indebtedness.

If the proposed interest rate swap become effective, CL&P will transfer payments received thereunder to its lender in satisfaction of the floating-rate interest obligations. It may also be necessary for CL&P to pay a certain percentage or margin, in addition to the rate received under the interest rate swap, in order to fully meet the floating-rate obligation. For exemple, if pursuant to the interest rate swap a bank has agreed to pay CL&P at LIBOR Minus ¼%, while CL&P's floating-rate obligation on the existing or new loan is LIBOR plus ¼%, then CL&P would pay to the lender the annual or semi-annual amounts received under the interest rate swap plus ½%. Without giving effect to the transaction costs of the interest rate swap, the effective interest cost to CL&P of the existing or new underlying loan will have been converted from the floating LIBOR to a rate equal to the fixed interest rate under the interest rate swap plus ¾ of 1%.

CL&P indicates that it will be obligated to pay an arrangement fee and various legal fees and other expenses which will increase the effective cost of borrowing through the interest rate swap by 14 basis points. The cost-effectiveness of an interest rate swap, as compared to refinancing through conventional first mortgage bonds or intermediate term loans, may fluctuate greatly from time to time. CL&P represents that based on terms available to it on December 6, 1982, projected savings would not have been significant and, therefore, CL&P would not have elected to enter into such a transaction at that time. CL&P intends to use this method of financing where savings would approximate 50 basis points over the coupon or interest rates of conventional forms of financing.

The proposed interest rate swap would have the effect of converting a new or existing loan, bearing a floating, variable interest rate, into indebtedness at a fixed rate of interest. CL&P asserts that it would be advantageous to accomplish such a conversion, through the vehicle of an interest rate swap, in order to reduce exposure to increases in interest rates, to improve its ability to project and to recover interest costs, and to obtain lower, fixed interest rates than would be available through the conventional refinancing of a loan or the issuance of first mortgage bonds or other debt instruments.

It is anticipated that the interest rate swap would provide, in effect, that CL&P may not terminate the agreement without the bank's consent or that CL&P may terminate the agreement only if it makes substantial early termination payments. Since a bank would typically fund its obligations by issuing its own obligation in the Eurobond market, the purpose of such provisions would be to assure the bank of a continuing flow of fixed rate payments to service its own fixed rate interest obligations. This aspect of the interest rate swap has the effect of eliminating any economical method of terminating the payment obligations under the interest rate swap agreement prior to its expiration.

If an interest rate swap is entered into in conjunction with the proposed term loan financing, the net proceeds would be applied to reduce short-term debt incurred to finance CL&P's construction program and for general corporate purposes. CL&P's construction expenditures for 1982 and 1983 are expected to be approximately $891 million (including allowance for funds used during construction but excluding nuclear fuel), of which approximately $346 million had been expended through November 30, 1982.

CL&P has requested an exception from the competitive bidding requirements of Rule 50 on the grounds that the protections of competitive bidding are not appropriate in the public interest or for the protection of investors and consumers, for the following reasons: (1) An interest rate swap is a complex transaction in which coordination between the parties is essential; a financial institution can enter into an interest rate swap only if it is able to arrange a series of complex, offsetting transactions which require precise timing and the assurance that the swap agreement will be effected without the uncertainties raised by the competitive bidding process; (2) There has been active competition among several financial institutions in the presentation of proposals to CL&P; and (3) If the interest rate swap is effected in connection with new term financing, that financing cannot be made at competitive bidding because of the need to coordinate it with the interest rate swap. In light of the foregoing, CL&P proposes to initiate preliminary negotiations with several financial institutions and is hereby granted permission to do so.

The application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by February 25, 1983, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy of the applicant-declarant at the address specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified or any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as amended, or as it may be further amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-3183 Filed 2-4-83; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 12998; (812-5402)]

Daily Tax-Exempt Money Fund (Formerly Congress Street Tax-Exempt Money Market Trust); Filing of an Application

January 28, 1983.

Notice is hereby given that Daily Tax-Exempt Money Fund ("Applicant"), 82 Devonshire Street, Boston, Massachusetts 02109, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application on December 17, 1982, and an amendment thereto on January 28, 1983, pursuant to Section 6(c) of the Act, for an order of the Commission exempting Applicant and any other series it may establish (1) from Section 2(a)(41) of the Act and from Rules 2a–4 and 22c–1 thereunder, to the extent necessary to permit Applicant's assets to be valued at amortized cost, and to value rights acquired from brokers, dealers, or banks to sell portfolio securities to such persons in the special manner described in the application and (2) from Section 12(d)(3) of the Act to the extent necessary to permit Applicant to acquire rights to sell its portfolio securities to brokers or dealers. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below. Such persons are also referred to the Act and the Rules thereunder for the complete text of those provisions thereof from which an exemption is being sought.

Applicant states that it was organized and is presently legally existing as a business trust under the laws of The Commonwealth of Massachusetts. Applicant states that it is a "series" money market fund designed to provide both individual and institutional investors with as high a level of current income exempt from federal income taxes, as is consistent with a portfolio of high quality, short-term municipal obligations selected on the basis of liquidity and stability of principal. Applicant currently has only one series (referred to as "series" or "portfolio") but may include additional series in the future. The application represents that each series will be subject to the conditions specified in the order.

Applicant states that its presently existing series will invest in a diversified portfolio of municipal obligations whose interest payments are exempt from Federal income tax and in commitments to purchase these securities on a "when-issued" basis. In purchasing "when-issued" securities Applicant will comply with the views set forth in Investment Company Act Release No. 10666. These securities, which are issued by states, cities, municipalities and municipal agencies, will include Tax Anticipation Notes, Revenue Anticipation Notes, Bond Anticipation Notes and Construction Loan Notes. Applicant may also invest in Project Notes, which are instruments sold by the Department of Housing and Urban Development but issued by a state or local housing agency. While the issuing agency has the primary obligation on such Project Notes, they are also secured by the full faith and credit of the United States. Applicant states that it may also invest in municipal bonds, including industrial development bonds.

Applicant also states that it may invest in floating or variable rate obligations which provide that their rate of interest is set as a specific percentage of a designated base rate (such as the prime rate of a bank or 90-day United States Treasury Bill rate) and that Applicant can demand payment of the obligation on short notice (not to exceed 7 days) at par plus accrued interest. In purchasing these variable rate demand obligations, including certificates of participation, the Applicant represent that it will comply in all respects with proposed Rule 2a–7 under the Act, and the formal Rule when adopted. Frequently, such obligations are secured by letters of credit or other credit support arrangements provided by banks.

Applicant states that all of its investments will be in securities which at the time of investment have remaining maturities of one year or less. For this purpose, the floating or variable rate obligations which are payable on demand (on not more than seven day's notice), but which may otherwise have a stated maturity in excess of one year, will be deemed to have remaining maturities of one year or less. Applicant also states that the dollar weighted average maturity of Applicant's portfolio will be 120 days or less.

Applicant states that it is authorized to purchase securities together with a right to resell them to the seller at an agreed upon price or yield within a specified period prior to the maturity date of such securities ("stand-by commitments"). Applicant intends to enter into stand-by commitments solely for the purpose of maintaining liquidity, and represents that its acquisition of stand-by commitments will not affect the valuation or assumed maturity of the underlying municipal obligations which would continue to be valued at amortized cost. Applicant states that it does not currently intend to enter into such transactions but reserves the right to do so in the future.

In a May 31, 1977 interpretative release (Investment Company Act Release No. 9786), the Commission stated that (1) Rule 2a–4 requires that portfolio instruments of "money market" funds be valued with reference to market factors and (2) it would prospectively consider the use by a money market fund of the amortized cost basis for valuing its portfolio securities (except those having maturities of 60 days or less) to be inconsistent with Rule 2a–4. Applicant states that it proposes to value its portfolio securities by means of the amortized cost method of valuation, subject to the conditions enumerated below.

Applicant states that it has been management's experience that in order to attract and retain investors Applicant must have a stable net asset value (preferably at $1.00 per share) and a constant and steady flow of investment income. It is believed by Applicant that the valuation of its portfolio securities on the amortized cost basis will benefit shareholders by enabling Applicant to maintain a constant $1.00 per share purchase and redemption price, while at the same time providing shareholders with a steady flow of investment income through daily dividends which reflect Applicant's net income as earned.

Applicant states that its Trustees have determined in good faith that in light of the characteristics of the Applicant as described above and absent unusual or extraordinary circumstances, the amortized cost method of valuing portfolio securities is appropriate and preferable for Applicant and reflects the fair value of such securities. It is the investment adviser's experience that given the nature of Applicant's policies and operations, there will be relatively negligible discrepancy between prices obtained by market value methods and amortized cost. Applicant therefore requests exemptions from Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder to the extent necessary to permit its use of the amortized cost method to value its portfolio securities.

Section 6(c) of the Act provides, in part, that the Commission upon application may conditionally or

unconditionally exempt any person, security or transaction or any class or classes of persons, securities or transactions from any provision or provisions of the Act or of the rules thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant believes that the granting of the requested exemptions by the Commission is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicant expressly consents to the imposition of the following conditions in any order granting the relief it requests:

(1) In supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, Applicant's Board of Trustees undertakes—as a particular responsibility within the overall duty of care owed to its shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objectives, to stabilize Applicant's net asset value per share for each portfolio, as computed for the purpose of distribution, redemption and repurchase, at $1.00 per share.

(2) Included with the procedures to be adopted by the Board of Trustees shall be the following:

(a) Review by the Board of Trustees, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from the $1.00 amortized cost price per share, and maintenance of records of such review.[1]

(b) In the event such deviation from the $1.00 amortized cost price per share exceeds ½ of 1%, a requirement that the Board of Trustees will promptly consider what action, if any, should be initiated.

(c) Where the Board of Trustees believes the extent of any deviation from Applicant's $1.00 amortized cost price per share for any portfolio may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which action may include: redemption of shares in kind; the sale of portfolio instruments prior to maturity to realize capital gains or losses or to shorten Applicant's average portfolio maturity of the relevant portfolio; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

(3) Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share in each of its portfolios; provided, however, that Applicant will not (a) purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity in excess of 120 days in each portfolio.[2]

(4) Applicant will record, maintain and preserve permanently in an easily accessible place a written copy of the procedure (and any modifications thereto) described in condition 1 above, and Applicant will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the Board of Trustees' considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of the Board of Trustees' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act as though such documents were recorded required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

(5) In each of the portfolios, Applicant will limit its portfolio investments, including repurchase agreements, to those U.S. dollar-denominated instruments which the Board of Trustees determines present minimal credit risks and which are of high quality as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by the Board of Trustees.

(6) Applicant will include in each quarterly report, as an attachment to Form N–1Q, a statement as to whether any action pursuant to condition 2(c) was taken during the preceding fiscal quarter, and, if any action was taken, will describe the nature and circumstances of such action.

The Applicant also requests exemption from Section 12(d)(3) of the Act to the extent necessary to permit its acquisition of stand-by commitments from brokers or dealers. These stand-by commitments will have the following features: (1) They will be in writing and will be physically held by the Applicant's custodian; (2) they may be exercisable by the Applicant at any time or during specified periods prior to the maturity of the underlying security; (3) they will be entered into only with dealers, banks and broker-dealers who, in the judgment of the Board of Trustees, present a minimal risk of default; (4) Applicant's right to exercise them will be unconditional and unqualified; (5) although they may not be transferable, municipal obligations purchased subject to such commitments could be sold to a third party at any time, even though the commitment was outstanding; and (6) their exercise price will be (i) Applicant's acquisition cost of the municipal obligations which are subject to the commitment (excluding any accrued interest which the Applicant paid on their acquisition), less any amortized market premium or plus any amortized or original issue discount during the period Applicant owned the securities, plus (ii) all interest accrued on the securities since the last interest payment date during the period the securities were owned by the Applicant. The Applicant intends to enter into stand-by commitments with only those banks, brokers and dealers which in the judgment of the Board of Trustees present minimum credit risks. The Applicant intends to acquired stand-by commitments solely to facilitate portfolio liguidity and does not intend to exercise its rights thereunder for trading purposes. Applicant will not acquire stand-by commitments to promote reciprocal practices, to encourage the sale of its shares, or to obtain research services.

Since the Applicant plans to value its municipal obligations on an amortized cost basis, the amount payable under a stand-by commitment will be substantially the same as the value assigned by Applicant to the underlying security. Applicant submits there is little risk of an event occurring which would make amortized cost valuation of its portfolio securites inappropriate. In such event, however, Applicant expects to refrain from exercising the stand-by

[1] To fulfill this condition, Applicant intends to use actual quotations or estimates of market value reflecting current market conditions chosen by its Board of Trustees in the exercise of its discretion to be appropriate indicators of value which may include, *inter alia*, (1) quotations or estimates of market value for individual portfolio instruments, or (2) values obtained from yield data relating to classes of money market instruments furnished by reputable sources.

[2] In fulfilling this condition, if the disposition of a portfolio instrument results in a dollar-weighted average portfolio maturity in excess of 120 days for any of its portfolios, Applicant will invest its available cash in such a manner as to reduce its dollar-weighted average portfolio maturity for that portfolio to 120 days or less as soon as reasonably practicable.

commitments to avoid imposing a loss on a dealer and jeopardizing Applicant's business relationship with that dealer.

If necessary and advisible, the Applicant will pay for stand-by commitments, either separately in cash or by paying a higher price for portfolio securities which are acquired subject to the commitment. As a matter of policy, the total amount "paid" in either manner for outstanding stand-by commitments held in Applicant's portfolio will not exceed ½ of 1% of the value of its total assets of the relevent portfolio calculated immediately after any stand-by commitment is acquired. Applicant claims that the acquisition of stand-by commitments will not affect its net asset value per share and will not pose new investment risks. Applicant will value stand-by commitments at zero, regardless of whether any direct or indirect consideration was paid. Where the Applicant has paid for a stand-by commitment, its cost will be reflected as unrealized depreciation for the period during which the commitment is held.

The Applicant represents that the relationship between the Applicant and the dealer will be comparable to a fully collateralized broker-dealer repurchase agreement or security loan and that the risk of loss that would result from the failure of a broker or dealer to fulfill its obligation under the stand-by commitment is not qualitatively different from the risk of loss faced by an investment company holding securities pending settlement after having agreed to sell the securities to a broker or dealer in the ordinary course of business. Finally, it is contended that Applicant's acquisition of stand-by commitments will not meaningfully expose its assets to the entrepreneurial risks of the investment banking business.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than February 22, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact of law bthat are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-3173 Filed 2-4-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13003; File No. 812-5433]

Charles O. Daly; Filing of Application

February 1, 1983.

I

Notice is hereby given that Charles O. Daly, 26 Worcester Road, Peabody, Massachusetts 01960, hereinafter referred to as Applicant, had filed an application pursuant to the provisions of Section 9(c) of the Investment Company Act of 1940, 15 U.S.C. 80a-1 *et seq.*, as amended (the "Act"), for an order granting him an exemption from the provisions of Section 9(a) of the Act and a temporary exemption from Section 9(a) pending the Commission's determination of the application for a permanent exemption.

All interested persons may review the application on file with the Commission for a statement of the representations therein, pertinent parts of which are summarized below:

On January 27, 1982 the Commission instituted proceedings against Applicant seeking to enjoin Applicant from aiding and abetting violations of Sections 31(a), 34(a) and 34(b) of the Investment Company Act of 1940 (*Securities and Exchange Commission,* v. *Edward J. Falvey, et al.,* Civil Action No. 82-0197-S, United States District Court for the District of Massachusetts). The action was brought against Applicant, and other defendants, as a result of alleged record-keeping irregularities which occurred for a period of time prior to 1979 while Applicant was employed by the New England Merchants National Bank of Boston (now Bank of New England), (herein the "Bank"). Applicant executed a stipulation and consent neither admitting or denying the allegations of the complaint, but consenting to the entry of an injunction. On December 22, 1982 a Final Judgment and Permanent Injunction was entered by the District Court.

Applicant is presently employed by Merrill Lynch Funds Distributors, Inc. ("MLFD"), a broker-dealer registered with the Commission, and has been so employed as a customer representative since September 1981. Because of the injunction entered against Applicant, MLFD would be prohibited by Section 9(a)(3) from serving in its current capacity as underwriter for registered investment companies retains Applicant as an employee.

Section 9(c) of the Act provides that upon application the Commission shall by order grant an exemption from the provisions of Section 9(a) of the Act either unconditionally or on an appropriate temporary or conditional basis if it is established that the prohibitions of Section 9(a), as applied to the Applicant, are unduly or disproportionately severe or that the conduct of the applicant has been such as not to make it against the public interest or protection of investors to grant such application.

In support of his position applicant represents that: (1) It was the intention in negotiating the stipulation and consent that the injunction would not preclude his continued employment by MLFD; and (2) that his continued employment by MLFD would not be inconsistent with the public interest or the protection of investors.

II

The Commission, having considered the matter, the Applicant's application for an exemption from the prohibitions of Section 9(a) of the Act and the terms of the stipulation and consent and relief granted by the court in the civil action described above, finds that the prohibitions of Section 9(a) of the Act may be unduly or disproportionately severe as applied to Applicant.

III

Accordingly, it is hereby ordered that, pursuant to Section 9(c) of the Act, the Applicant, and his employer, as of the date of this Order, be and hereby are granted a temporary exemption from the prohibitions of Section 9(a) of the Act, to the extent necessary to permit Applicant to continue his current employment, pending final determination by the Commission of the Application for an Order granting an exemption from such prohibitions.

IV

Notice is futher given that any interested person may, not later than February 28, 1983, at 5:30 p.m., submit to the Commission in writing, a request for a hearing on the matter accompanied by a statement as to the nature of his or her interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he or she may request that he or she be notified if the Commission shall order a hearing thereon. Any such

communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail on James C. Hamilton, Esquire, One Court Street, Boston, Massachusetts 02108. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the matter herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-3176 Filed 2-4-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 19470; (File No. SR-DTC-83-1)]

Filing and Immediate Effectiveness of Proposed Rule Change by the Depository Trust Company

January 31, 1983.

Pursuant to Section 19(b)(1) of the Securities Exchange Act 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on January 14, 1983, the Depository Trust Company ("DTC") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change would eliminate the across-the-board surcharge of twelve percent (12%) on each DTC participant's monthly bill. This surcharge was levied by DTC on the services it rendered to its participants during August, September and October of 1982. In its rule filing, DTC stated that it originally imposed the surcharge to supplement declining revenues in prior months. DTC believes, however, that the increased trading volume in August, September and October of 1982 was sufficient to obviate the need for a surcharge on services rendered after October 31, 1982.

DTC believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to DTC inasmuch as the proposed rule change eliminates the 12% surcharge for all participants. Furthermore, DTC believes that this proposed rule change is consistent with Section 17A(b)(3)(F) of the Act in that it will not affect DTC's present safeguards for securities and funds in its custody or control or for which it is responsible.

The foregoing rule change has become effective, pursuant to Section 19(b)(3)A) of the Act and subparagraph (e) of Securities Exchange Act Rule 19b-4. At any time within sixty days of the filing of such 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.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the **Federal Register.** Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Reference should be made to File No. SR-DTC-83-1.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-3185 Filed 2-4-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 19471; (File No. SR-MSTC-83-1; File No. SR-MSTC-82-25)]

Filing and Immediate Effectiveness of Proposed Rule Change and Order Granting the Withdrawal of Proposed Rule Change by the Midwest Securities Trust Company ("MSTC")

January 31, 1983.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on January 19, 1983, the Midwest Securities Trust Company ("MSTC") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change would amend MSTC Rule 6, Section 3, which authorizes MSTC, on payable date, to credit participant accounts for cash dividends and bond interest regardless of whether MSTC receives the funds on payable date from the paying corporation (the "automatic payment procedure"). The proposed rule change would permit MSTC to reverse automatic payments and delay disbursements of cash, dividends and bond interest to participants until the day after the disbursing agent has paid MSTC for those issues that meet the following criteria: (1) The anticipated receipts due from the disbursing agent are in excess of an amount determined by management; (2) the disbursing agent and/or issuing corporation has refused MSTC payable date receipt arrangements; and (3) payments received from the disbursing agent for the past two quarters have been received after payable date.

In its filing, MSTC notes that many disbursing agents and/or issuing companies have refused to arrange for efficient payable date disbursements to MSTC. Under the automatic payment procedure, therefore, MSTC has financed dividend and interest payments to participants. On occasion, MSTC notes, the dollar value of these payments has been significant.

According to MSTC, the revised payment procedures should significantly limit MSTC financing as a result of cash dividend and bond interest payments to participants. MSTC believes that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act in that it provides for the safeguarding of securities and funds which are in the custody of control of MSTC and for which it is responsible, and is also

designed to protect investors and the public interest.

The foregoing rule change has become effective, pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Securities Exchange Act Rule 19b/4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such 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.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the **Federal Register.** Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Reference should be made to File No. SR–MSTC–83–1.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule changes which are filed with the Commission, and all written communications relating to the proposed rule changes between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspecion and copying at the principal office of the above-mentioned self-regulatory organization.

On November 19, 1983, MSTC submitted a proposed rule change (File No. SR–MSTC–82–25) interpreting MSTC Rule 6, Section 3. In accordance with Section 19(b)(3)(A) of the Act, that proposed rule change became effective upon filing. Subsequently, MSTC submitted the proposed rule change discussed above and requested withdrawal of the rule change submitted on November 19, 1982. Accordingly, the Commission has considered MSTC's request for consent to the withdrawal of its November 19, 1982 rule change and, hereby, approves the withdrawal of SR–MSTC–82–25.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–3184–Filed 2–4–83; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 19474; (File No. SR–OCC–83–1)]

Filing and Immediate Effectiveness of Proposed Rule Change by the Options Clearing Corporation ("OCC")

February 1, 1983.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on January 17, 1983, OCC filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change would permit the completion of expiration exercise processing one day early when the day before an expiration date is an Exchange holiday.

Under OCC's current procedures, exercise instructions for expiring options submitted on expiration Saturday are processed by OCC that night. Delivery advices and updated position and margin reports are made available to clearing members of Sunday morning. Clearing members generally have personnel on duty Sunday to process that data.

In 1983, and twice more during this century, an expiration date will occur on Easter weekend. In those three instances, if OCC were to follow its regular procedures for processing exercises of expiring options, clearing members would need to have staff on duty Easter Sunday.

The proposed rule change is intended to avoid that result by permitting exercise processing to be completed one day early. Since in each of those instances Good Friday is an Exchange holiday, there will be no options trading on Good Friday, and final positions in expiring options will be fixed one day earlier than usual. In addition, under Exchange rules, the cut-off time for acceptance of exercise instructions by Exchange members in those instances will occur on Thursday rather than Friday.[1] There is therefore no reason why exercise processing should not begin on Friday instead of Saturday.

The proposed rule change would not modify OCC's procedures for processing expiration date exercises;[2] it would simply allow OCC, upon reasonable notice to clearing members,[3] to advance the processing time frames by 24 hours. Clearing members would still have the right to submit supplementary exercise instructions up until the expiration time (*i.e.*, the contractually established expiration Saturday) subject to disciplinary action for delays without good cause.[4]

In addition, OCC stated that it believes the proposed rule change is consistent with the requirements of Section 17A(b)(3) of the Act because it fosters cooperation with persons engaged in the clearance settlement of securities transactions by avoiding unnecessary burdens on clearing member personnel.

The foregoing change has become effective, pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such 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.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the **Federal Register.** Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Reference should be made to File No. SR–OCC–83–1.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed by the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room,

[1] Under Exchange rules, the cut-off time occurs on the last "business day" (*i.e.*, trading day) before an expiration date. *See* Amex Rule 980(b), CBOE Rule 11.1(b), PSE Rule VI, Sec. 30(b), and Phlx Rule 1042(b).

[2] OCC's procedures for processing expiration date exercises are contained in OCC Rule 805.

[3] OCC stated that at least seven days' notice of the early expiration processing will be given to clearing members.

[4] OCC stated that in the five years that OCC Rule 805 has been in effect, no Clearing Member has every filed a supplementary exercise instruction. If such an instruction were to be filed, OCC would process it separately through a manual random assignment process replicating OCC's automated system and would distribute additional delivery advices to the exercising and assigned clearing members.

450 Fifth Street, N.W., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-3195 Filed 2-4-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22840; (70-6833)]

Northeast Utilities Western Massachusetts Electric Co. and Connecticut Light & Power Co.; Proposed Issuance and Sale of Common Stock at Competitive Bidding and Capital Contributions to Subsidiaries

January 31, 1983.

In the matter of Northeast Utilities Western Massachusetts Electric Company, 174 Brush Hill Avenue, West Springfield, Massachusetts 01089 and Connecticut Light & Power Company, Selden Street, Berlin, Connecticut 06037.

Northeast Utilities ("Northeast"), a registered holding company, and Connecticut Light and Power Company ("CL&P") and Western Massachusetts Electric Company ("WMECO"), electric utility subsidiaries of Northeast, have filed an application-declaration and an amendment thereto with this Commission, pursuant to Sections 6(a), 7 and 12(b) of the Public Utility Holding Company Act of 1935 ("Act") and Rules 45 and 50 promulgated thereunder.

Northeast proposes to issue and sell at competitive bidding, in one or more sales from time to time not later than December 31, 1983, up to an additional 8,000,000 of its authorized common shares, $5 par value. The timing, number of shares, and the frequency of the issues will be determined by Northeast after consideration of its financial needs, market conditions, trading price of outstanding shares, and other relevant factors. Northeast may employ alternative competitive bidding procedures in accordance with the Commission's statement of policy pursuant to Rule 50(a)(5) under the Act (HCAR No. 22623, September 2, 1982). Northeast also indicates, however, that it may eventually request an exception from all competitive bidding requirements under Rule 50(a)(5) to permit it to negotiate, with one or more underwriters the terms of a public offering of the shares. In such case, if authorized by the Commission, the price per share to Northeast and to the public upon reoffering, and the compensation to underwriters, would be determined by negotiation.

It is also proposed that the proceeds from the sale or sales of the common shares (estimated to be $96 million if all shares are sold at $12 per share) be used to assist Northeast: (i) To make open account advances and capital contributions of up to $70 million to CL&P and up to $40 million to WMECO, (ii) to make payments of principal and interest on a $50,000,000 term loan agreement with an institutional investor, under which an installment of $10,000,000 in principal, and accrued interest, is due on June 1, 1983, and (iii) to reduce short-term borrowings incurred by Northeast from time to time for the principal purpose of making capital contributions and open account advances to its subsidiaries. These funds will be used by the subsidiaries primarily to repay a portion of their short-term borrowings incurred for the purpose of financing, in part, their respective construction programs, and for general working capital purposes. Any short-term borrowings of Northeast remaining after the application of proceeds as set forth above are expected to be repaid through future sales of securities.

If this application-declaration is approved, Northeast intends to make the capital contributions described herein from time to time after the sale of the additional shares, but in any event not later than December 31, 1983. The authorization for these capital contributions would supersede that previously ordered by the Commission (HCAR No. 22559) under which $20 million of capital contributions to WMECO and $30 million of capital contributions to CL&P have been authorized during the period ending June 30, 1983, but have not yet been made.

The application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by February 25, 1983, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants-declarants at the addresses specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as amended or as it may be further amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-3181 Filed 2-4-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12997; (311-3060)]

Ohio National Variable Interest Account; Filing of Application

January 28, 1983.

Notice is hereby given that Ohio National Variable Interest Account ("Applicant"), 237 William Howard Taft Road, Cincinnati, Ohio 45219, registered under the Investment Company Act of 1940 ("Act") as a unit investment trust, filed an application on Janury 13, 1983, pursuant to Section 8(f) of the Act, for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein which are summarized below.

Applicant registered under the Act on May 12, 1980. On July 11, 1980, it filed a registration statement pursuant to the Securities Act of 1933 on Form S-6, to register variable interest annuity contracts ("contracts") which are not issued in predetermined amounts or units. This registration statement became effective on July 13, 1981, and a public offering of the contracts commenced on that date. The Ohio National Life Insurance Company ("Ohio National") and the O. N. Equity Sales Company were Applicant's depositor and principal underwriter, respectively. As of October 31, 1982, there were 2,047 contracts outstanding and as of November 1, 1982, those contracts represented 1,850,760.229 units which had an aggregate net asset value of $24,310,128.67.

The application states that on November 28, 1982, the Executive Committee of the Board of Directors of Ohio National authorized the realignment of Ohio National's variable accounts. It further states that in conjunction with the merger of O. N. Fund, Inc., into O. N. Market Yield Fund, Inc. ("Market Yield") and the reorganization of Market Yield into a series fund, the separate accounts of

Ohio National were realigned. All of Applicant's assets were transferred to Ohio National Variable Account A and Ohio National Variable Account B, each a separate account of Ohio National, and each is registered under the Act as a unit investment trust. Expenses in the realignment and transfer of Applicant's assets were borne by Ohio National.

Applicant states that no vote of contract owners was required by law. However, the owners of variable interest annuity contracts the assets pertaining to which were invested exclusively in shares of Market Yield were given a right to instruct Ohio National as to the manner in which the Market Yield shares attributable to their variable interest annuity contracts should be voted. The instructions of the owners relating to the merger were deemed to constitute a vote on the transfer of each owner's contract values from the Applicant to the appropriate Money Market Subaccount of Ohio National Variable Accounts A or B. The contract owners instructed Ohio National to approve the transaction by a vote of 2,152,148 of a possible 2,381,749 total vote.

According to the application, Applicant has ceased to exist as a separate account under Ohio law; it has no securityholders; it is not a party to any litigation; it has no assets, debts or liabilities outstanding and it is not engaged, nor does it propose to engage in any business activities other than those necessary for the winding up of its affairs.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission, upon application, finds that a registered investment company has ceased to be an investment company it shall so declare by order and, upon taking effect of that order, the registration of such company under the Act shall cease to be in effect.

Notice is further given that any interest person wishing to request a hearing on the application may, not later than February 22, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-3179 Filed 2-4-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12996; (812-5379)]

Paine Webber CASHFUND, Inc.; Filing of Application

January 28, 1983.

Notice is hereby given that Paine Webber CASHFUND, Inc. ("Applicant"), 1120 20th Street, N.W., Washington, D.C. 20036, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified management investment company, filed an application on November 19, 1982, requesting an order of the Commission, pursuant to Section 6(c) of the Act, exempting the Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder, to the extent necessary to permit the Applicant to compute its net asset value per share using the amortized cost method of valuation. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below. Such persons are also referred to the Act and the rules thereunder for the complete text of those provisions thereof from which exemption is being sought.

Applicant, organized by Paine, Webber, Jackson & Curtis Incorporated ("Paine, Webber") under Maryland law in 1978, states that its investment objective is to offer current income, stability of principal and high liquidity. Applicant states that it provides the opportunity to invest in a professionally managed, diversified portfolio of high grade money market obligations with maturities generally not exceeding one year. Applicant submits that it invests in U.S. Treasury Bills and other obligations issued or guaranteed as to interest and principal by the U.S. Government, its agencies, and instrumentalities; obligations of U.S. banks, including certificates of deposit and bankers' acceptances; commercial paper, including variable rate master notes; and repurchase agreements involving commercial paper, certificates of deposit, and obligations issued or guaranteed by the U.S. Government, its agencies or instrumentalities, with financial institutions believed by Applicant's board of directors to present minimal credit risks. The application also states that Applicant may purchase variable rate securities with maturities in excess of one year, which are issued by U.S. agencies or instrumentalities and guaranteed by the U.S. Government. Applicant states that the yields on such securities are adjusted at least semi-annually, in relation to specific money market rates. Applicant states that it may also enter into reverse repurchase agreements with banks.

Applicant states that its net asset value per share, the price at which shares are issued and redeemed, is computed by dividing the value of Applicant's total assets, less its liabilities, by the total number of shares outstanding. Applicant states that its net asset value is determined each day that the New York Stock Exchange is open for trading, as of 12:00 noon New York City time. Applicant represents that it presently calculates its price per share using the penny rounding method pursuant to an order granted by the Commission on June 4, 1979 (Investment Company Act Release No. 10716). Applicant further represents that in accordance with the conditions therein, Applicant uses its best efforts to maintain a $1.00 net asset value per share.

Applicant asserts that Investment Company Act Release No. 9786 (May 31, 1977) stated, *inter alia*, the Commission's view that it is inconsistent with Rule 2a–4 for a money market fund to value its portfolio securities maturing in more than sixty days on an amortized cost basis and that the valuation of such securities by such a fund should be made with reference to market factors.

Section 6(c) of the Act provides that the Commission may, by order upon application, conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities or transactions from any provision or provisions of the Act and the rules thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant states that it understands that to attract investors to a money market investment vehicle, it must have a stable capital value and a constant and steady flow of investment income. Applicant states that its management believes that, in order to attract such investors and retain them as

shareholders, Applicant must have a stable net asset value per share and must be able to pay dividends that do not fluctuate as a consequence of changes in the values of its portfolio securities.

Applicant states that currently it seeks to achieve this stability by investing in high grade, money market obligations and valuing such securities by means of the "penny rounding" method of valuation. Applicant states that it believes that by valuing its portfolio securities on the basis of their amortized cost, Applicant will benefit investors more by providing an investment vehicle even less subject to fluctuation than under its current procedures. Applicant states that it believes that, with respect to a portfolio of money market obligations with a dollar-weighted average maturity of less than 120 days, the discrepancy between market value and amortized cost is negligible. Applicant asserts that a large majority of money market funds with which Applicant is in direct competition now effect sales, redemptions and repurchases of their shares at prices calculated using the amortized cost method of valuation. In addition, Applicant states that because Paine Webber utilizes the amortized cost method of valuation with respect to other money market portfolios which it manages, administrative cost reductions are expected if Applicant is also allowed to use the amortized cost method. Applicant states that its board of directors has determined in good faith that in light of the characteristics of Applicant, absent unusual or extraordinary circumstances, the amortized cost method of calculating the net asset value per share of Applicant is appropriate and in the best interests of Applicant's shareholders and reflects fair value of such securities.

Applicant represents that as a condition to the granting of the exemption, it agrees that the following may be made conditions of the order:

1. In supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, the board of directors of Applicant undertakes—as a particular responsibility within the overall duty of care owed to its shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objectives, to stabilize Applicant's net asset value per share, as computed for the purpose of distribution, redemption and repurchase, at $1.00 per share.

2. Included within the procedures to be adopted by the board of directors of Applicant shall be the following:

(a) Review by the board of directors, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from the $1.00 amortized cost price per share, and the maintenance of records of such review. To fulfill this condition, Applicant will use actual quotations or estimates of market value reflecting current market conditions chosen by its board of directors in the exercise of its discretion to be appropriate indicators or value which may include, *inter alia*, (1) quotations or estimates of market value for individual portfolio instruments, or (2) values obtained from yield data relating to classes of money market instruments furnished by reputable sources.

(b) In the event such deviation from the $1.00 amortized cost price per share exceeds ½ of 1 percent, a requirement that the board of directors will promptly consider what action, if any, should be initiated.

(c) Where the board of directors believes the extent of any deviation from the $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which may include: redemption of shares in kind; the sale of protfolio instruments prior to maturity to realize capital gains or losses, or to shorten Applicant's average portfolio maturity; reducing or withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

3. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that Applicant will not (a) purchase any instrument with a remaining maturity at the date of acquisition of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity which exceeds 120 days. In fulfilling this condition, if the disposition of a portfolio instrument results in a dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

4. Applicant will record, maintain, and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in condition 1 above, and will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of its board of directors' considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of the board of directors' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act, as if such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit its portfolio investments, including repurchase agreements, if any, to those United States dollar-denominated instruments which its board of directors determines present minimal credit risks, and which are of high quality as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by its board of directors.

6. If any action pursuant to condition 2(c) was taken during the preceding calendar quarter, Applicant will file, as an attachment to Form N–1Q, a statement which describes the nature and circumstances of such action.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than February 22, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-3180 Filed 2-4-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13004; (812-5398)]

Tax-Free Cash Reserve, Inc.; Filing of Application

February 1, 1983.

Notice is hereby given that Tax-Free Cash Reserve, Inc. ("Applicant"), 11 Greenway Plaza, Suite 1919, Houston, TX 77046, registered under the Investment Company Act of 1940 ("Act"), as an open-end, diversified, management investment company, filed an application on December 15, 1982, and an amendment thereto on January 12, 1983, pursuant to Section 6(c) of the Act, for an order of the Commission exempting Applicant: (1) From the provisions of Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder, to the extent necessary to permit Applicant (a) to compute its net asset value per share using the amortized cost method of valuation and (b) to value in the manner described below standby commitments acquired from brokers, dealers, or banks; and (2) from the provisions of Section 12(d)(3) of the Act to permit Applicant to acquire standby commitments from brokers or dealers. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The application states that Applicant's investment objective is to maximize current income exempt from federal income taxes to the extent consistent with preservation of capital and maintenance of liquidity. Applicant states that it is designed as an investment vehicle for institutions and individuals who wish to invest short-term funds where direct purchase of tax-exempt securities may be undesirable or impractical.

According to the application, Applicant will offer two series of shares, the Institutional Series and the General Series. Applicant states that both Series will share a common investment objective and advisory fee, but each Series is designed to be a convenient and economic vehicle in which financial institutions, particularly banks, acting for themselves or in a fiduciary, advisory, agency, custodial or other similar capacity can invest. The minimum initial investment in the Institutional Series is $1 million. The General Series is designed to be a convenient and economic vehicle for individuals and for institutions which wish to invest less than $1 million.

Applicant states that it will invest primarily in obligations ("Municipal Securities"), issued by or on behalf of states, territories and possessions of the United States and the District of Columbia, and their political subdivisions, duly constituted authorities and corporations, the interest from which is, at the time of issuance in the opinion of counsel for the issuers, exempt from federal income taxes. Applicant states that it may, from time to time, on a temporary basis or for defensive purposes, also invest in taxable short-term investments consisting of obligations of the United States Government, its agencies or instrumentalities, and repurchase agreements relating thereto; commercial paper rated within the highest rating category by a recognized rating agency; and certificates of deposit of domestic banks with assets of $1.5 billion or more as of their most recently published financial statements. Applicant may invest in these temporary investments, for example, due to market conditions or pending investment of proceeds from sales of shares or proceeds from the sale of portfolio securities or in anticipation of redemptions. Applicant represents that its fundamental policy during normal market conditions is that its assets be invested so that at least eighty percent of its annual income will be exempt from federal income taxes, and that its present intention is to invest its assets so that one hundred percent of its annual income will be tax-exempt.

Applicant states that it may also invest in commitments to purchase Municipal Securities on a "when-issued" basis. Additionally, Applicant states that the tax-exempt obligations it may purchase include both fixed rate and variable rate securities and that Applicant is authorized to purchase standby commitments with respect to municipal obligations held in its portfolio. Standby commitments give Applicant a right to sell the principal amount of the securities it has purchased from a dealer or other financial institution back to the seller, at Applicant's option, at a specified price.

The application represents that investments by the Applicant will be limited to obligations with remaining maturities of one year or less. Applicant asserts that it will maintain a dollar weighted average portfolio maturity of 120 days or less and that it will seek to maintain liquidity and a constant $1.00 per share price for each series. For these purposes, Applicant states that the maturities of variable rate obligations will be determined in accordance with the procedures set forth in proposed Rule 2a–7 or, if the rule should ultimately be adopted, in accordance with the procedures set forth in the rule as adopted.

Applicant requests an order of the Commission pursuant to Section 6(c) of the Act exempting it from the provisions of Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder to the extent necessary to permit Applicant's portfolio securities to be valued at amortized cost.

In support of the relief requested, Applicant states that experience indicates that two features are necessary to attract investors to an investment company investing in short-term tax-exempt obligations: (1) Certainty of stability of principal and (2) steady flow of predictable and competitive investment income. Applicant asserts that it can provide these features to investors by maintaining a portfolio of high quality, muncipal obligations valued at amortized cost. According to AIM Advisors, Inc., Applicant's investment advisor, experience in the management of other investment companies has shown that, given the nature of Applicant's policies and operations, there should be a negligible discrepancy between prices obtained by the amortized cost method and those obtained by a market valuation method.

Applicant further represents that (1) its board of directors has determined in good faith that, in light of the characteristics of Applicant, absent unusual or extraordinary circumstances, the amortized cost method of valuation of portfolio instruments is appropriate and preferable to the use of a market-based valuation method; and (2) its board of directors has further determined to monitor continuously valuation indicated by methods other than amortized cost so that any necessary changes in the valuation method may be made to assure that the valuation method being used is a fair approximation of fair value in view of all pertinent factors.

Applicant expressly consents to issuance of the requested order of the Commission upon the following conditions:

1. In supervising the Applicant's operations and delegating special responsibilities involving portfolio management to the Applicant's investment advisor, Applicant's board of directors undertakes—as a particular responsibility within the overall duty of care owed to its shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objectives, to stabilize the net asset value per share for each portfolio, as computed for the purposes

of distribution, redemption and repurchase, at $1.00 per share.

2. Included within the procedures to be adopted by the board of directors shall be the following:

(a) Review by Applicant's board of directors, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from the $1.00 amortized cost price per share of each portfolio, and maintenance of records of such review.[1]

(b) In the event such deviation from the $1.00 amortized cost price per share exceeds ½ of 1%, Applicant's board of directors will promptly consider what action, if any, should be initiated.

(c) Where Applicant's board of directors believes the extent of any deviation from Applicant's $1.00 amortized cost price per share for any portfolio may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which action may include: redemption of shares in kind; the sale of portfolio securities prior to maturity to realize capital gains or losses, or to shorten the average portfolio maturity of the relevant portfolio; withholding dividends; or utilizing a net asset value per share for such series as determined by using available market quotations.

3. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share in each of its portfolios; provided, however, that Applicant will not, with respect to either portfolio (a) purchase any instrument with a remaining maturity at the date of acquisition of greater than one year, or (b) maintain a dollar-weighted average portfolio in excess of 120 days.[2]

4. Applicant will record, maintain and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in condition 1 above, and Applicant will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of Applicant's board of directors' considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of the board of directors' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act as though such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit its portfolio investments, including repurchase agreements, if any, to those United States dollar-denominated instruments which Applicant's board of directors determines present minimal credit risks, and which are of "high quality" as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by Applicant's board of directors.

6. Applicant will include in each quarterly report, in an attachment to Form N-1Q, a statement as to whether any action pursuant to condition 2(c) above was taken during the preceding fiscal quarter, and, if any action was taken, will describe the nature and circumstances of such action.

Applicant asserts that in addition to maintaining a constant net asset value per share, it needs to be able to provide its shareholders with the ability to obtain same day redemption proceeds in federal funds. Applicant states further that, because the maturity dates of the Municipal Securities to be held in its portfolio will be relatively infrequent and non-negotiable, Applicant will be unable to rely on scheduled maturities to meet net redemptions.

Applicant states that it proposes to improve its portfolio liquidity by assuring same-day settlements on portfolio sales (and thus facilitate the same-day payments of redemption proceeds in federal funds) through the acquisition of "standby commitments" for both its Institutional Series portfolio and its General Series portfolio. Applicant states further that standby commitments are also known as "puts," and that its investment policies permit the acquisition of standby commitments solely to facilitate portfolio liquidity.

Applicant represents that the acquisition or exercisability of a standby commitment will not affect the valuation or maturity of its underlying portfolio, which will be valued in accordance with the amortized cost order hereby requested.

Applicant asserts that it undertakes to acquire only standby commitments having the following features: (1) They will be in writing and will be physically held by Applicant's custodian; (2) they may be exercisable by Applicant at any time prior to the underlying security's maturity; (3) Applicant's rights to exercise them will be unconditional and unqualified; (4) they will be entered into only with dealers, banks and brokers who in the investment adviser's opinion present a minimal risk of default; (5) although they will not be transferable, Municipal Securities purchased subject to such commitments could be sold to a third party at any time, even though the commitment was outstanding; and (6) their exercise price will be (i) Applicant's acquisition cost of the Municipal Securities which are subject to the commitment (excluding any accrued interest which Applicant paid on their acquisition), less any amortized market premium or plus any amortized market or original issue discount during the period Applicant owned the securities, plus (ii) all interest accrued on the securities since the last interest payment date during the period the securities were owned by Applicant.

Applicant further states that since it plans to value its Municipal Securities on an amortized cost basis, the amount payable under a standby commitment will be substantially the same as the value assigned by Applicant to the underlying securities. Moreover, Applicant submits that there is little risk of an event occurring which would make the amortized cost valuation of its portfolio securities inappropriate; however, Applicant represents that in the unlikely event that the market or fair value of securities in its portfolio were not substantially equivalent to their amortized cost value, the securities would be valued on the basis of available market information and held to maturity. Applicant represents that it expects to refrain from exercising the standby commitments in such a situation to avoid imposing a loss on a dealer and jeopardizing Applicant's business relationship with that dealer.

Applicant asserts that it is difficult to evaluate the likelihood of use or the potential benefit of a standby commitment. Therefore, Applicant states that its board of directors will determine that standby commitments

[1] To fulfill this condition, Applicant will use actual quotations or estimates of market value reflecting current market conditions selected by its board of directors in the exercise of its discretion to be appropriate indicators of value, which may include, *inter alia*, (i) quotations or estimates of market value for individual portfolio instruments, or (ii) values obtained from yield data relating to classes of money market instruments furnished by reputable sources.

[2] In fulfilling this condition, if the disposition of a portfolio instrument results in a dollar-weighted average portfolio maturity in excess of 120 days for any of its portfolios, Applicant will invest its available cash in such a manner as to reduce its dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

have a "fair value" of zero, regardless of whether any direct or indirect consideration is paid for the standby commitment. Where Applicant has paid for a standby commitment, Applicant states that its cost will be reflected as unrealized depreciation for the period during which the commitment is held. In addition, for purposes of complying with the condition of its amortized cost order that the dollar-weighted average maturity of its portfolio shall not exceed 120 days, Applicant states that the maturity of a portfolio security shall not be considered shortened or otherwise affected by any standby commitment to which such security is subject. Applicant states that it intends to apply to the Internal Revenue Service for a ruling, or seek an opinion from counsel, that interest on Municipal Securities subject to standby commitments will be tax-exempt. In the absence of a favorable tax ruling or opinion of counsel, the Applicant will not engage in the purchase of standby commitments.

Applicant requests an order pursuant to Section 6(c) of the Act exempting it from the provisions of Section 12(d)(3) of the Act to the extent necessary to permit its acquisition of standby commitments from brokers or dealers. Applicant also requests, pursuant to Section 6(c) of the Act, an exemption from the provisions of Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder, permitting it to value standby commitments in the manner described above.

Applicant asserts that this relief is appropriate in the public interest, and consistent with the protection of investors. Applicant asserts that the proposed acquisition of standby commitments will not affect its net asset value per share for purposes of sales and redemptions and will not pose new investment risks, but rather will improve its liquidity and ability to pay redemption proceeds the same day in federal funds.

Section 6(c) of the Act provides that the Commission may, by order upon application, conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities or transactions, from any provision or provisions of the Act and the rules thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than February 25, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-3174 Filed 2-4-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-19462; File No. SR-NYSE-83-3]

Self-Regulatory Organizations; Proposed Rule Change; New York Stock Exchange, Inc.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1), notice is hereby given that on January 20, 1983, the New York Stock Exchange, Inc. 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 changes from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would amend Rule 312(g) to remove the prohibition against a member organization from soliciting orders in its own publicly held securities, or from recommending its own securities or those of a person controlling, controlled by or under common control with a member organization. Concurrently, language would be added to parallel the requirements currently contained in SEC Rule 15c1–5, which essentially requires that broker/dealers disclose control relationships with the issuer prior to completion of transactions in securities of the issuer.

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. 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 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 Changes

(a) *Purpose of Proposed Rule Changes.* Rule 312(g) prohibits a member organization from soliciting orders in its own publicly held securities, or from recommending its own securities or those of a person controlling, controlled by or under common control with a member organization.

Since 1970, when this provision was adopted simultaneously with permitting public ownership of Exchange Member organizations, the nature and structure of member corporations and the manner in which they are capitalized has changed significantly. The recent trend towards consolidation of member organizations with non-brokerage related entities whose securities are widely held and publicly traded is one example of these changes.

It is submitted that a thorough analysis of investments in any group of securities upon which an investor could be expected to make an intelligent investment decision must include consideration of *all* securities in a particular category be they publicly traded broker/dealer or any other industry which may or may not be a part of a member organization's control family. Existing Exchange Rules such as Rule 405 (Diligence as to Accounts), Rule 401 (Business Conduct), Rule 342 (Offices—Approval, Supervision and Control), as well as '34 Act Rules 10b–5, 15c1–2 and 5 provide a comprehensive body of antifraud, disclosure and suitability criteria, which provide ample protection to the investing public.

Rule 312(g) is currently broader than SEC or industry requirements addressing disclosure and potential conflicts of interest regarding control relationships.

It is proposed that Rule 312(g) be modified to parallel the disclosure requirements currently contained in SEC

Rule 15c1–5 which essentially requires that broker/dealers disclose control relationships with the issuer prior to completion of transactions in securities of the issuer.

(b) *Statutory Basis for the Proposed Rule Change.* The proposed amendment is consistent with Section 6(b)(8) of the Act in that the amendment will remove a burden on competition by placing NYSE members on an equal footing with members of other self-regulatory organizations vis-a-vis recommending/soliciting orders in publicy held securities if disclosure of control relationships is made.

The elimination of the prohibition against a member organization from soliciting orders in its own publicly held securities, or from recommending its own securities or those or a person controlling, controlled by or under common control with a member organization will not alter the scope of Exchange Rules intended to prevent fraudulent and manipulative acts, and to provide protection to investors and the public interest as required by Section 6(b)(5) of the Act. The adoption of the disclosure requirements contained in SEC Rule 15c1–5 is consistent therewith. Further, the protection of investors and the public interest in this regard is amply covered by the anti-fraud provisions of SEC Rules 10b–5 and 15c1–2.

The concurrent rescission of the general prohibition in 312(g) described above and the adoption of the disclosure language contained in SEC Rule 15c1–5 will not alter the consistency of the Rule with Section 15(c)(1) of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition. In fact, it eliminates a competitive disadvantage currently borne by Exchange members.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

In connection with the proposed Rule change, the Exchange solicited responses from the 14 publicly traded member organizations regarding the possibility of eliminating the prohibition against member organizations recommending/soliciting transactions in their own securities and in securities of entities controlled by, controlling or under common control with member organizations. The consensus of the four firms responding was that Rule 312(g) should be liberalized to allow for the recommendation and solicitation of orders. Copies of the comment letters received by the Exchange may be examined at the places specified in Item IV below.

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 changes, or

B. Institute proceedings to determine whether the proposed rule changes 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, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule changes that are filed with the Commission, and all written communications relating to the proposed rule changes 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 Branch, 450 Fifth Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above mentioned self-regulatory organization.

All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: January 28, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-3186 Filed 2-4-83; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

National Airspace Review; Meeting

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. 1) notice is hereby given of a meeting of Task Group 2–4 of the Federal Aviation Administration (FAA) National Airspace Review Advisory Committee. The agenda for this meeting is as follows: A review of separation requirements and procedures for helicopter operations.

DATE: Beginning February 22, 1983, at 11 a.m., continuing daily, except Saturdays, Sundays, and holidays, not to exceed three weeks.

ADDRESS: The meeting will be held at the Federal Aviation Administration, conference room 9 A/B, 800 Independence Avenue, SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: National Airspace Review Program Management Staff, Room 1005, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, (202) 426–3560. Attendance is open to the interested public, but limited to the space available. To insure consideration, persons desiring to make statements at the meeting should submit them in writing to the Executive Director, National Airspace Review Advisory Committee, Air Traffic Service, AAT–1, 800 Independence Avenue, SW., Washington, D.C. 20591, by February 17, 1983. Time permitting and subject to the approval of the chairman, these individuals may make oral presentations of their previously submitted statements.

Issued in Washington, D.C. on January 27, 1983.

Karl D. Trautmann,

Manager, Special Projects Staff.

[FR Doc. 83-3120 Filed 2-4-83; 8:45 am]

BILLING CODE 4910-13-M

Urban Mass Transportation Administration

Notice of Availability of Grant Application Guidelines and Request for Information

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: Notice and request for information.

SUMMARY: The Urban Mass Transportation Administration (UMTA) announces the availability of a Circular containing guidance on how to apply for grants under the new formula grant program, Section 9A, of the Urban Mass Transportation Act during Fiscal Year 1983. It also explains changes in the law pertaining to other grant programs for FY 1983. In this Notice UMTA is publishing the entire text of Appendix B of the Circular, *Letters of Intent, Letters of Commitment, Full Funding Contracts,* and is requesting information under the Appendix.

DATE: The Circular is effective as of February 2, 1983. Information under Appendix B must be submitted by March 9, 1983.

ADDRESS: Information requested under Appendix B must be submitted to Mr. Brian Cudahy, Office of Capital and Formula Assistance, (202) 472–2440. Copies of the Circular are available from the UMTA Regional Offices or from Mr. David C. Johnston, Office of Administrative Services, (202) 426–4865. Mr. Cudahy and Mr. Johnston are located at 400 Seventh Street, SW., Washington, D.C. 20590.

SUPPLEMENTARY INFORMATION: UMTA believes that the list provided in Appendix B sets forth all items covered by the three categories of projects for which Federal funds may be granted on an 80–20 Federal-local share basis rather than on the 75–25 basis. If any grantee believes that it has a written statement from UMTA setting forth a commitment to obligate funds that constitutes a letter of commitment as that term is used in the Surface Transportation Assistance Act of 1982, that person must notify UMTA within the time period prescribed in the Notice.

Issued on: February 3, 1983.

Arthur E. Teele, Jr.,

Administrator.

Text: The text of Appendix B of the Circular is reprinted in full below:

Appendix B—Letters of Intent, Letters of Commitment, Full Funding Contracts

The Surface Transportation Assistance Act of 1982 (STAA) "grandfathers" three categories of Projects for which Federal funds may be granted on an 80–20 basis rather than on the 75–25 basis. They are:

(1) *Full Funding Contract:* "Full funding contracts" are written agreements between UMTA and a grantee that are intended to cap the Federal commitment to a project to an amount certain, subject to adjustment of extraordinary costs (a defined term).

(2) *Letters of Intent:* A letter of intent is a formal expression of intention to obligate amounts stipulated therein from future available budget authority. It is not an obligation or administrative commitment as those terms are defined in the U.S. Code. The total estimated amount of future obligations covered by letters of intent cannot exceed total authorizations at any time, less an amount needed for activities not covered by such letters. (This was the essential control established by Congress in placing 3(a)(4) in the 1978 legislation amending the Act.)

(3) *Letters of Commitment:* Prior to 1978 the mechanism for expressing an intent to obligate funds from future available budget authority was a letter of commitment. The letter of intent legislatively authorized in 1978 was designed to supersede the practice of using "letters of commitment." However, UMTA issued one letter after that date which we believe constitutes a sufficiently express commitment of funds by UMTA so as to fall within the category of "letters of commitment" as that term is used in the STAA.

We want to clarify two areas that do *not* constitute letters of intent or letters of commitment. First, letters of no prejudice are not covered by the grandfather provision and therefore the funding of all such letters will be at the new prevailing match (75/25). Second, the fact that an item is "earmarked" in an Appropriation's Committee or Conference Report does not constitute a letter of intent or letter of commitment.

Listed below are projects covered by full funding contracts, letters of intent, and letters of commitment dated prior to January 6, 1983. By the terms of the law, the Federal share of grants made after January 6, 1983, for these projects, from Section 3 budget authority, will continue to be 80 percent.

UMTA believes that the following list sets forth all items covered by the "grandfather" provision. However, if any person believes that he has a written statement from UMTA setting forth a commitment to obligate funds that constitutes a "letter of commitment" as that term is used in the STAA, that person must, within 30 days, notify UMTA of that statement and set forth the reasons for inclusion within the "grandfather" provision. UMTA will resolve each such matter on a case-by-case basis.

BILLING CODE 4910-57-M

UIA	Project Description	Effective Date	Unobligated Balances (1/6/83)
I. Full Funding Contracts			
Pittsburgh, PA	South Hills LRT Reconstruction	2/27/82	$102.1M
Buffalo, NY	Light Rapid Rail Transit System (Includes Extra-ordinary Costs)	1/22/79	$12.7M
Miami, FL	Metrorail - Stage 1 (Includes Extra-ordinary Costs)	5/8/80	$20.2M
Baltimore, MD	Section A Rapid Rail Line (Extraordinary Costs)	12/14/78	$33.4M
Pittsburgh, PA	East Busway (Extraordinary Costs)	12/15/77	$ 2.8M
Portland, OR	Banfield Project	3/24/82	TO BE DEVELOPED
	Grand Total (FFC's)-		$171.2M

Note: Any additional eligible extraordinary costs under existing full funding contract would be payable at the 80-20 ratio.

II. Letters of Intent (Excludes Projects also Covered by Full Funding Contracts)			
Detroit, MI	Central Automated Transit System	3/23/82	$80.4M
San Francisco, CA	Cable Car Rehabilitation	7/28/82	$25.1M
Portland, OR	Non-Rail Projects in Portland Metropolitan Region	5/14/82	$64.8M
	Grand Total (LOI's) -		$170.3M

UIA	Project Description	Effective Date	Unobligated Balances (1/6/83)
III. Letters of Commitment			
Detroit, MI	Transit Improvements in the Detroit Metro Area (Current Balance-$555.9M)	10/19/76	TO BE DEVELOPED
Denver, CO	Improved Bus Service (Commitment $100.0M-$200.0M - Approximately $100.0M obligated to date)	7/15/76	Approximately $100.0M
Oxnard, CA	Intermodal Transportation Center	10/18/82	$4.7M

[FR Doc. 83-3382 Filed 2-4-83; 11:49 am]
BILLING CODE 4910-57-C

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 83-33]

Classification of Cigar Tobacco

AGENCY: Customs Service, Department of the Treasury.

ACTION: Change of Practice.

SUMMARY: This document advises the public that the Customs Service is changing its practice of classifying cigar tobacco. Customs previous practice involved the segregation of wrapper tobacco from filler tobacco, and the classification of all cigar tobacco in a particular unit with a wrapper content of 35 percent or more as wrapper tobacco. Customs new practice will involve the segregation of wrapper tobacco from filler tobacco and the classification of each under the appropriate provision of the Tariff Schedules of the United States.

DATE: This practice will become effective March 9, 1983. It will apply to all cigar tobacco both: (1) Imported on and after January 1, 1976; and (2) entered, or withdrawn from warehouse for consumption, on and after July 4, 1981.

FOR FURTHER INFORMATION CONTACT: J. G. Hurley, General Classification Branch, Office of Regulations and Rulings, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-8181).

SUPPLEMENTARY INFORMATION:

Background

Title V of the Trade Act of 1974 (19 U.S.C. 2461-2465) (the "Trade Act") authorizes the President to establish a Generalized System of Preferences (GSP) to provide duty-free entry for eligible articles arriving directly from designated "beneficiary developing countries." Section 503(b) of the Trade Act (19 U.S.C. 2463(b)), relating to the requirements which must be met for eligible articles to receive duty-free treatment, authorizes the Secretary of the Treasury to prescribe such regulations as may be necessary to carry out the provisions of that subsection.

Sections 10.171 through 10.178, Customs Regulations (19 CFR 10.171-10.178), set forth the requirements and procedures for the entry of eligible merchandise from "beneficiary developing countries" under GSP.

Executive Order 12311 of June 29, 1981, published in the **Federal Register** on July 1, 1981 (46 FR 34305), designated two categories of cigar wrapper tobacco (items 170.12 and 170.13, Tariff Schedules of the United States (TSUS; 19 U.S.C. 1202)), as eligible articles for duty-free treatment under the GSP, effective July 4, 1981. GSP eligibility was limited to bales of wrapper tobacco containing no more than five percent of filler tobacco by volume. Bales containing more than five percent by volume of filler tobacco were provided for under items 170.08 and 170.09, TSUS.

Prior to July 4, 1981, Customs had a practice of segregating wrapper tobacco from filler tobacco, and classifying all tobacco with a wrapper content of more than 35 percent as wrapper tobacco. If the percentage of wrapper tobacco was 35 percent or less, the wrapper tobacco was classified as wrapper tobacco and the filler tobacco was classified as filler tobacco. Because of Executive Order 12311, and the incompatibility of the five percent limit therein with Customs classification practice (the 35 percent limit), Customs has not liquidated any entries of cigar tobacco since July 3, 1981.

Executive Order 12354 of March 30, 1982, published in the **Federal Register** on March 31, 1982 (47 FR 13477), reinstated the provisions for wrapper tobacco which were in effect prior to Executive Order 12311 (item 170.10 and 170.15, TSUS). All wrapper tobacco is not eligible for duty-free treatment under the GSP without the five percent limitation of Executive Order 12311.

Executive Order 12389 of October 25, 1982, published in the **Federal Register** on October 27, 1982 (47 FR 47529), provided that the changes made by Executive Order 12354 with respect to wrapper tobacco are effective as to articles both: (1) Imported on and after January 1, 1976; and (2) entered, or withdrawn from warehouse for consumption, on and after July 4, 1981.

The present situation necessitates a change in Customs practice of classifying wrapper tobacco, in order that filler tobacco not be given GSP treatment. Accordingly, following the segregation of wrapper tobacco from filler tobacco, all wrapper tobacco will be classified under item 170.10 or 170.15, TSUS, and will be eligible for duty-free treatment under the GSP. All filler tobacco will be classified under its appropriate TSUS provision, and will not be eligible for duty-free treatment under the GSP.

This new practice will apply to all cigar tobacco both: (1) Imported on and after January 1, 1976; and (2) entered, or withdrawn from warehouse for consumption, on and after July 4, 1981.

Drafting Information

The principal author of this document was Gerard J. O'Brien, Jr., Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

Dated: January 28, 1983.

William von Raab,

Commissioner of Customs.

[FR Doc. 83-3240 Filed 2-4-83; 8:45 am]

BILLING CODE 4820-02-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 28
Monday, February 7, 1983

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).

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1

FEDERAL HOME LOAN BANK BOARD

TIME AND DATE: 10:00 a.m., Thursday, February 10, 1983.

PLACE: Board room, sixth floor, 1700 G Street, NW., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Lockwood (202-377-6679).

MATTERS TO BE CONSIDERED:

Trust Department Application—Family Federal Savings and Loan Association, Saginaw, Michigan
Branch Office Application—Home Savings of America, a Federal Savings and Loan Association, Los Angeles, California

[No. 8, February 3, 1983]

[S-172-83 Filed 2-3-83; 3:04 pm]

BILLING CODE 6720-01-M

2

FEDERAL RESERVE SYSTEM

Board of Governors

TIME AND DATE: 3 p.m., Friday, February 11, 1983.

PLACE: 20th Street and Constitution Avenue, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204.

Dated: February 3, 1983.

William W. Wiles,

Secretary of the Board.

[S-178-83 Filed 2-3-83; 3:55 pm]

BILLING CODE 6210-01-M

3

INTERNATIONAL TRADE COMMISSION

[VSITC ERB-83-01B]

This notice cancels ERB-01, previously amended

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 46 FR 4597.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 12:30 p.m., Monday, February 7, 1983.

CHANGES IN THE MEETING: Notice of change of date and time of the meeting.

By memorandum dated February 1, 1983, Commissioners Stern and Haggart voted to reschedule the ERB meeting previously announced for February 7, 1983, at 12:30 p.m., to February 17, 1983, at 11 a.m. There are no other changes to the notice.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523-0161.

[S-177-83 Filed 2-3-83; 3:15 pm]

BILLING CODE 7020-02-M

4

NATIONAL COUNCIL ON EDUCATIONAL RESEARCH (NIE)

DATE AND TIME:
February 17, 1983—10:30 a.m.-5 p.m.
February 18, 1983—9:00 a.m.-12 Noon.

PLACE: Room 823, National Institute of Education, 1200 19th Street, NW., Washington, D.C.

STATUS: Certification is being sought from the Department of Education Office of General Counsel, that in the opinion of that office, the NCER "would be authorized to close portions of its meeting on February 17, 1983, under U.S.C. 522b(c)(9)(B) and 34 CFR 705.2(a)(9) for the purposes of reviewing and discussing with the Director of NIE options for the NIE fiscal year 1984 budget and procurement planning and budget for fiscal year 1983." Agenda item No. 4 will be closed, the rest of the agenda will be open to the public. The public should call to verify the *closing* of this portion of the meeting.

MATTERS TO BE CONSIDERED:

Thursday, February 17

Prior to the opening of the meeting the Council members will be sworn in by Secretary T. H. Bell at the Department of Education.

1. Opening remarks by the Chairman (10:30 a.m.)
2. Orientation to the Department of Education (10:35 a.m.)
3. Overview of the National Institute of Education (11:00 a.m.)

Lunch (12:00 N-1:00 p.m.)

NIE overview continued (1:00 p.m.-3:00 p.m.)

Break

4. Executive Session—Closed (3:15 p.m.-5:00 p.m.)

Friday, February 18

5. Council Discussion and Business (9:00 a.m.-12:00 Noon)

Adjournment (12:00 Noon)

CONTACT PERSON FOR MORE INFORMATION: Martha H. Catto; telephone (202) 254-7900.

Eileen T. Nicosia,

Acting Chief, Policy and Administrative Coordination, National Council on Educational Research.

[S-174-83 Filed 2-3-83; 12:44 pm]

BILLING CODE 4000-05-M

5

NATIONAL TRANSPORTATION SAFETY BOARD

[NM-83-4]

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR 4597, February 1, 1983.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9 a.m., Tuesday, February 8, 1983.

CHANGE IN MEETING: A majority of the Board determined by recorded vote that the business of the Board required revising the agenda of this meeting and that no earlier announcement was possible. The following items were deleted from the agenda:

1. *Letter* to the Federal Aviation Administration regarding the Safety Board's reconsideration of the Pacific Southwest Airlines B-727 accident in San Diego, California, on September 25, 1978, and Safety Board policy regarding reconsiderations of probable cause.
2. *Letter* to Air Line Pilots Association regarding the reopening of the investigation of the Pacific Southwest Airlines B-727 accident in San Diego, California, on September 25, 1978.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming (202) 382–6525.

February 2, 1983.

[S-171-83 Filed 2-2-83; 4:54 pm]

BILLING CODE 4910-58-M

6

NUCLEAR REGULATORY COMMISSION

DATE: Week of February 7, 1983.

PLACE: Commissioners' Conference Room, 1717 H Street, NW., Washington, D.C.

STATUS: Open and closed.

MATTERS TO BE DISCUSSED: Monday, February 7:

10:00 a.m.
Discussion of Order in Waste Confidence Proceeding (Closed—Exemption 10)

2:00 p.m.
Discussion of Management-Organization and Internal Personnel Matters (Closed—Exemption 2 and 6) (If needed)

Tuesday, February 8:

2:00 p.m.
Discussion of Regionalization (Public meeting)

Wednesday, February 9:

10:00 a.m.
Discussion of Regulatory Reform Task Force—Administrative Proposals—Backfit Rule (Public meeting)

3:30 p.m.
Affirmation/Discussion and Vote (Public meeting)
a. Order in NFS–Erwin
b. Regulations to Implement Legislation on: (1) Temporary Operating Licensing Authority and (2) No Significant Hazards Consideration (The "Sholly Amendment") (Tenative)

Thursday, February 10:

2:30 p.m.
Discussion with ACRS on Severe Accident Policy Statement (Public meeting)

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634–1498. Those planning to attend a meeting should reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Gary Gilbert, (202) 634–1410.

Gary Gilbert,

Office of the Secretary.

January 31, 1983.

[S-173-83 Filed 12-3-82; 12:44 pm]

BILLING CODE 7590-01-M

7

POSTAL SERVICE

(Board of Governors)

Vote To Close Meeting

At its meetings of January 31 and February 1, 1983, the Board of Governors of the United States Postal Service unanimously voted to close to public observation its meeting scheduled for March 7, 1983. The meeting will consist of a discussion of Postal Service strategic planning.

The Board is of the opinion that public access to this discussion would be likely to disclose information that will become involved in future rate litigation.

Accordingly, the Board of Governors has determined that, pursuant to section 552b(c)(3) of title 5, United States Code, and § 7.3(c) of Title 39, Code of Federal Regulations, this 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 (having to do with postal ratemaking, mail classification, and changes in postal services), which is specifically exempted from disclosure by section 410(c)(4) of title 39, United States Code. The Board determined further that, pursuant to section 552b(c)(10) of title 5 and § 7.3(j) of Title 39, Code of Federal Regulations, the discussion is exempt because it is likely to specifically concern the participation of the Postal Service in a civil action or proceeding or the litigation of a particular case involving a determination on the record after opportunity for a hearing. The Board further determined that the public interest does not require that the Board's discussion of this matter be open to the public.

In accordance with section 552(b)(f)(1) of title 5, United States Code, and § 7.6 of Title 39, Code of Federal Regulations, the General Counsel of the United States Postal Service has certified that in his opinion the meeting to be closed may properly be closed to public observation, pursuant to sections 552b(c)(3), and (10) of title 5 and section 410(c)(4) of title 39, United States Code, and § 7.3(c) and (j) of Title 39, Code of Federal Regulations.

Louis A. Cox,

Secretary.

[S-175-83 Filed 2-3-83; 2:48 pm]

BILLING CODE 7710-12-M

8

POSTAL SERVICE

(Board of Governors)

Vote to Close Meeting

At its meeting of January 31, 1983, the Board of Governors of the United States Postal Service unanimously voted to close to public observation its meeting scheduled for February 16, 1983. The meeting will involve a continuation of the discussion of the recommended decision of the Postal Rate Commission on third-class bulk rates in Docket No. R80–1, dated December 23, 1982.

The Board has determined that pursuant to section 552b(c)(3) of title 5, United States Code, and § 7.3(c) of title 39, Code of Federal Regulations, the portion of the meeting to be closed is exempt from the open meeting requirement of the Government in the Sunshine Act (5 U.S.C. 552(b)), in that it is likely to disclose information prepared for use in connection with proceedings under chapter 36 of title 39 (having to do with postal ratemaking, mail classification, and postal services), which is specifically exempted from disclosure by section 410(c)(4) of Title 39. The Board determined further that, pursuant to section 552b(c)(10) of title 5, United States Code, and § 7.3 (j) of Title 39, Code of Federal Regulations, the discussion is exempt because it is likely to specifically concern the participation of the Postal Service in a civil action or proceeding, and the initiation of a particular case involving a determination on the record after opportunity for a hearing. The Board of Governors has determined that the public interest does not require that the Board's discussion of this matter be open to the public.

In accordance with section 552b(f)(1) of title 5, United States Code, and § 7.6(a) of Title 39, Code of Federal Regulations, the General Counsel of the United States Postal Service has certified that in his opinion the portion of the meeting to be closed may properly be closed to public observation, pursuant to section 552b(c) (3) and (10) of title 5 and section 410(c)(4) of Title 39, United States Code, and § 7.3 (c) and (j) of Title 39, Code of Federal Regulations.

Louis A. Cox,

Secretary.

[S-176-83 Filed 2-3-83; 2:48 pm]

BILLING CODE 7710-12-M

federal register

Monday
February 7, 1983

Part II

Department of Energy

Nuclear Waste Policy Act of 1982; Proposed General Guidelines for Recommendation of Sites for Nuclear Waste Repositories; Proposed Rule

DEPARTMENT OF ENERGY

10 CFR Part 960

Nuclear Waste Policy Act of 1982; Proposed General Guidelines for Recommendation of Sites for Nuclear Waste Repositories

AGENCY: Department of Energy.

ACTION: Notice of proposed siting guidelines.

SUMMARY: In accordance with the requirements of the Nuclear Waste Policy Act of 1982 (Pub. L. 97–425), hereinafter referred to as the Act, the Department of Energy is proposing general guidelines for the recommendation of sites for repositories for disposal of high-level radioactive waste and spent nuclear fuel in geologic formations. These guidelines are based on the criteria that the Department has used in its National Waste Terminal Storage program, the criteria proposed by the Nuclear Regulatory Commission (NRC), and the environmental standards proposed by the Environmental Protection Agency. These guidelines establish the performance requirements for a geologic repository system, specify how the Department will implement its site-selection program, and define the technical qualifications that candidate sites must meet in the various steps of the site-selection process mandated by the Act. After considering comments from the public; consulting with the Council on Environmental Quality, the Administrator of the Environmental Protection Agency, the Director of the Geological Survey, and interested Governors; and obtaining NRC concurrence, the Department will issue these guidelines in final form as a new Part 960 to Title 10 of the Code of Federal Regulations (10 CFR Part 960).

DATES: Comments must be received on or before 4:30 p.m. e.s.t. on March 24, 1983 to ensure their consideration. Dates and locations of hearings will be provided in a subsequent Federal Register notice. Hearings will be scheduled no sooner than 15 days after such notice.

ADDRESSES: Comments should be sent to Robert L. Morgan, Project Director, Office of Civilian Radioactive Waste, U.S. Department of Energy, Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT:
Critz H. George, Division of Waste Repository Deployment, Office of Terminal Waste Disposal and Remedial Action, U.S. Department of Energy, Washington, D.C. 20545, Telephone: (301) 353–3014

Robert Mussler, Esq., Deputy Assistant General Counsel for Environment, Office of General Counsel, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, D.C. 20585, Telephone: (202) 252–6947.

SUPPLEMENTARY INFORMATION:

I. Background.
II. Description of Proposed Action.
III. Comment and Hearing Procedures.
IV. Consultation with the Council on Environmental Quality, the Administrator of the Environmental Protection Agency, the Director of the Geological Survey, and Interested State Governors.
V. Regulatory Flexibility Analysis.
VI. Compliance with the National Environmental Policy Act.
XII. List of Subjects in 10 CFR Part 960.

I. Background

The Department of Energy (DOE) has the authority and the responsibility to provide for the disposal of highly radioactive waste. The responsibility is derived from the Atomic Energy Act of 1954, the Energy Reorganization Act of 1974, and the Department of Energy Organization Act of 1977; and the authority was specifically assigned to the DOE by the Nuclear Waste Policy Act of 1982 (Pub. L. 97–425, hereinafter referred to as "the Act").

In 1980, after issuing an environmental impact statement on the management of commercially generated radioactive waste (1), the DOE selected mined geologic repositories as the preferred means for the disposal of commercially generated high-level and transuranic wastes (46 FR 26677, May 14, 1981). To carry out this decision, the DOE has been conducting research and development and performing siting studies. Potential sites are being evaluated in several geologic media: basalt, tuff, and salt. Early survey studies of crystalline rock are under way, but potential sites have not yet been determined.

On January 7, 1983, the Act was signed into law. The Act establishes a process and schedule for the development of repositories. The guidelines proposed in this notice are a required part of that process. Section 112(a) of the Act provides that "not later than 180 days after the date of the enactment of this Act, the Secretary, following consultation with the Council on Environmental Quality, the Administrator of the Environmental Protection Agency, the Director of the Geological Survey, and interested Governors, and the concurrence of the [Nuclear Regulatory] Commission shall issue general guidelines for the recommendation of sites for repositories."

These siting guidelines will be used to identify and nominate sites for characterization and eventually to determine the suitability of a site for development as a repository. The characterization of a site will include the sinking of a shaft to the depth of the repository in order to allow testing in the host-rock unit. The Act requires that prior to the detailed characterization of a site, the site be formally nominated, recommended to the President, and approved by the President. In support of this process the DOE will issue an environmental assessment, as required by Sections 112 (b) and (f) of the Act, for each site when the site is nominated. Based on an evaluation of each site against these guidelines, these environmental assessments will discuss, among other things, the suitability of the site for characterization and, to the extent possible, for development as a repository. The DOE recognizes that it may not be possible in preparing the environmental assessment to provide a complete evaluation of the site against all siting guidelines. This may be particularly true in the case of guidelines which relate to systems and program issues. In such instances the environmental assessment should contain a discussion of the current status of activities relating to the guidelines (currently available information and a brief summary of planned activities) and present a preliminary conclusion relating to conformance with the guidelines.

The DOE will consult with the Governors of the States in which sites being considered for nomination are located and conduct public hearings in the vicinity of any site before the site is nominated for characterization. The purpose of the hearings will be to obtain comments on the proposed nomination and recommendations on the issues that should be addressed in the environmental assessment and site-characterization plan for the site.

The DOE is required to nominate at least five sites as suitable for site characterization for selection of the first repository site. By no later than January 1, 1985, the Secretary will make a preliminary determination that three of the nominated sites are suitable for development as repositories consistent with these guidelines and recommend those sites to the President for characterization as candidate sites. By March 1987, the Secretary will recommend the site for the first repository to the President. In order to provide sufficient time to characterize and evaluate the three sites under consideration for the first repository, the

DOE expects to begin nominating such sites in 1983 and to have recommended three sites to the President by the end of the Summer of 1983. The President may approve or disapprove the recommendation submitted by the DOE or permit the characterization to proceed by failing to disapprove it within a specified period of time.

The Act also requires that the process of nomination and selection be conducted for a second set of sites, with a recommendation of three sites to the President no later than July 1, 1989.

Before sinking shafts for site characterization, the DOE will submit a site-characterization plan for review by the Nuclear Regulatory Commission (NRC) and by either the State in which the recommended site is located or the governing body of the affected Indian tribe on whose reservation the site is located, as the case may be. The site-characterization plan will be made available to the public for review, and public hearings will be held in the vicinity of each recommended site to obtain comments on the plan.

Section 302(d)(6) of the Act authorizes the Secretary of Energy to construct one repository. Under the provisions of the Energy Reorganization Act of 1974 and the Nuclear Waste Policy Act of 1982, the DOE can construct or operate geologic repositories only after authorization by the NRC. The procedures that the DOE must follow to obtain such authorization from the NRC are prescribed in 10 CFR Part 60, subparts A through D (46 FR 13980). These procedures include requirements for the content of the DOE's site-characterization plan and other submittals to the NRC.

When the characterization of a site has been completed, a public hearing will be held in the vicinity of the site under consideration to inform the residents of the area in which the site is located of the results of the characterization and to obtain their comments concerning possible recommendations concerning the site.

After completing site characterizations and hearings, the DOE will recommend to the President the first site to be devloped as a repository. This recommendation will be supported by a final environmental impact statement. The Act requires that the President then recommend the first site to Congress no later than March 31, 1987, and a site for a second repository no later than March 31, 1990. The Act does permit up to a year's extension in these dates if requested by the DOE.

After a site is recommended to Congress, the State in which the site is located or the Indian tribe on whose reservation the site is located, as the case may be, can submit a notice of disapproval to Congress within 60 days. This disapproval prevents the use of the site for a repository unless the Congress passes a resolution of siting approval within the next 90 days of continuous session.

If the site designation becomes effective because no notice of disapproval is submitted or through a Congressional resolution, the DOE must then submit to the NRC an application for a construction authorization as part of the licensing process. The application must be submitted not later than 90 days after the effective date of the site designation. When a construction authorization has been received from the NRC, the construction of the repository will begin.

II. Description of Proposed Action

A. *Introduction.* The objective of these siting guidelines is to provide a basis for the recommendation, characterization, and selection of sites for the disposal of radioactive waste in deep geologic repositories. These broadly stated guidelines encompass all factors potentially important to the containment and isolation of the waste (e.g., site geometry, geohydrology, geochemistry, tectonic environment, terrain, human intrusion) as well as the factors that determine the environmental and socioeconomic acceptability of a site. The guidelines are directed toward the key objectives in site selection: Protecting the health and safety of the public and protecting the environment.

Before formulating these guidelines, the DOE had earlier developed and adopted criteria for establishing deep geologic repositories (2, 3). Published in draft form in January 1980 and in final form in February 1981, the siting criteria (3) received extensive review both within and outside the DOE. The draft and request for comments were sent to more than 800 persons, including State officials, and comments were received from 24 parties outside the DOE. The criteria were adopted after a careful consideration of criteria defined for geologic repositories by the National Academy of Sciences (4), the International Atomic Energy Agency (5), earlier programs in the United States (6, 7) and advance information from the NRC (8) available at that time.

The guidelines proposed by this notice have incorporated these prior criteria and have been made compatible with the proposed criteria and standards recently issued by the NRC and the Environmental Protection Agency (EPA). Within the past year the NRC has nearly completed the pertinent technical criteria (9), and the EPA has issued for public comment a proposed rule to establish environmental standards for the management and disposal of spent nuclear fuel, high-level, and transuranic radioactive wastes (10). These proposed NCR criteria and the proposed EPA standards have provided the DOE with an improved basis for developing these guidelines. Additional guidance on the content of these guidelines was provided by Section 112 of the Act, which states that the guidelines "shall specify factors that qualify or disqualify any site from development as a repository * * *." Such specifications had not been explicitly included in criteria previously issued by the DOE or by other U.S. and foreign agencies.

The guidelines are presented in three parts: system guidelines, program guidelines, and technical guidelines. The system guidelines address the primary objectives of protecting the health and safety of the public and the environment. They relate the performance of the geologic repository system to standards for allowable releases of radioactive material and provide the basis for developing the technical criteria. The program guidelines define the policy requirements to be followed in implementing the DOE's program for selecting a repository site. The technical guidelines specify factors for the qualification and disqualification of sites and the conditions that would be considered favorable or potentially adverse.

The *qualification* factors in the technical guidelines generally specify performance requirements and conditions related to physical properties, physical phenomena, and potential impacts on people and the environment. Taken together, these are the minimum conditions for site qualification. Certain of these qualification factors are followed by explicit factors that would disqualify a site or area. The significance of each factor must be determined through system analyses and be related to the overall performance of a specific site. In other words, all of the factors identified in the technical guidelines must ultimately be considered together in an integrated analysis of system performance to ascertain whether a site meets the overall system guidelines. For example, the movement of water through an aquifer, though potentially adverse, may be offset by downward hydraulic gradients, which tend to direct ground-water flow to greater depths; by long ground-water travel paths; and by the retardation of radionuclide transport

by chemical reactions. Because of the need to evaluate the effects of individual site parameters on overall performance, it is not appropriate to quantify the siting guidelines without reference to specific sites. The technical guidelines are therefore generally qualitative rather than quantitative. In regard to *disqualifying* factors, the presence of such a factor will result in the elimination of that site.

Several potential sites have been technically disqualified in the past. For example, the Eleana Shale at the Nevada Test Site was disqualified because the available geotechnical information indicated a complexity, due to a number of interacting factors, that could probably not have been characterized with confidence by practicable exploration methods.

This experience has led to the inclusion of *favorable* and *potentially adverse* conditions to supplement the qualification and disqualification factors. A similar approach has been adopted by the NRC in its proposed siting criteria, and indeed many of the conditions in the technical guidelines are based on those identified by the NRC.

The favorable and potentially adverse conditions are primarily directed at factors that, if present, would be significant in the evaluation of a site. For example, although the favorable conditions listed under any given qualification criterion need not exist at a given site in order for that criterion to be met, their existence leads to a presumption that subsequent evaluations will yield positive results. This is especially important in preliminary site-screening activities, where insufficient data exist to establish compliance with certain criteria, and program-resource limitations require judgments to be made about the concentration of program resources.

Similarly, the potentially adverse conditions provide early warning that disqualification could result unless mitigating factors are present. Generally, the potentially adverse conditions reflect situations that must be examined carefully to determine the overall acceptability of a site. Such examinations must consider other conditions present at a site.

The remainder of this notice of proposed guidelines, especially the technical guidelines, contains many references to, and excerpts from (not always verbatim), the most recent version of the NRC criteria (9). The proposed EPA standards (10) are also cited. It should be noted that when the criteria and standards are released in final form, they may not correspond exactly to the citations and excerpts included in this notice. Changes in the NRC criteria or the EPA standards will be reflected in these guidelines, if warranted.

B. *Rationale for System Guidelines.* A radioactive-waste repository must contain and isolate radioactive material in a manner that is safe and environmentally acceptable. The DOE has established system guidelines to achieve these objectives and to provide a basis for the program and technical guidelines discussed in the sections that follow.

The system guidelines combine the safety and environmental objectives with applicable standards and regulations to define general requirements for system performance. The system guidelines address two periods of performance: (1) The period that precedes the permanent closure of the repository and (2) the period that follows closure. This division is consistent with the proposed EPA standards for waste management, 40 CFR 191, which specify different numerical performance requirements for these periods.

The EPA's proposed preclosure-performance requirements in 40 CFR Part 191, Subpart A, are identical with the numerical performance standards previously issued by the EPA (40 CFR Part 190) for all nuclear-fuel-cycle operations except waste management and transportation (11). Thus, the protection provided to the public from repository operations is equivalent to that provided from other activities in the uranium fuel cycle. Another pertinent standard is 10 CFR Part 20 (12), which has provided a basis for the NRC's licensing actions for more than two decades. The DOE's approach in basing the proposed preclosure system guidelines on these two standards is consistent with the approach taken by the NRC in 10 CFR 60.111(a).

Compliance with either proposed 40 CFR 191, Subpart A, or 10 CFR 20 will generally depend both on repository design and on siting. In its evaluation of candidate sites the DOE will comply with those standards and will consider the effect of individual site characteristics on system design.

For the preclosure-performance objectives, the site conditions of primary concern are: (1) The meteorological conditions that would control the atmospheric dispersion of gaseous effluents and (2) the potential for releases from other nearby nuclear factilities governed by 40 CFR Part 190 or the proposed 40 CFR 191. These concerns are reflected in the "favorable" and "potentially adverse conditions" specified in the guidelines. In regard to site condition 1 above, the basic concern is to ensure that the concentrations of any radioactive materials that might be released are acceptably low in areas where people live. In regard to condition 2, the basic concern stems from the proposed EPA limit on the combined annual radiation dose that may be delivered to any member of the general public by the operation of the repository and the operation of any other facilities governed by either 40 CFR Part 190 or the proposed 49 CFR Part 191.

The proposed EPA postclosure standards are set forth in 40 CFR Part 191, Subpart B. Unlike the preclosure standards, which would establish maximum annual doses to individuals, the postclosure standards place limits on the quantity of radionuclides that could reach the accessible environment during the first 10,000 years after the permanent closure of the repository.

Although the numercial standards specified in the proposed 40 CFR 191, Subpart B, are cast in terms of the quantities of radionuclides that might be released rather than radiation doses, there is a correlation between the release limits and the health and safety of the public (47 FR 58196, Supplementary Information): compliance with the release limits specified in the proposed 40 CFR Part 191, Subpart B, should result in postclosure radiation risks no greater than the risks attributable to a quantity of unmined uranium ore equivalent to that required to produce the uranium fuel from which the wastes resulted.

Compliance with these standards is the basis for the performance of the repository and thus the guidelines for site selection. The evaluation of the potential concentrations of radionuclides at the boundary of the accessible environment is determined by performance-assessment modeling. These performance assessments will consider both the specific site characteristics and the effectiveness of engineered barrier systems. Furthermore, in accordance with the proposed 40 CFR 191.15, they will not assume that active institutional controls will reduce releases, and they will consider human intrusion and other unplanned events that may cause a release.

C. *Rationale for Program Guidelines.* In discharging its responsibilities for the safe disposal of radioactive wastes, the DOE must recognize and follow national policies concerning radioactive-waste disposal. Extending beyond the technical considerations of siting a safe permanent repository, they include

environmental, socioeconomic, and political considerations. These policies have been developed over the last 25 years in the course of meetings, discussions, studies, and debates between Federal, state, and local governments and participation by members of the public in meetings and hearings.

The primary national objective of radioactive-waste disposal is to isolate existing and future wastes in a manner that is safe and environmentally acceptable. In order to provide this permanent isloation, the DOE considered a number of different methods that could be used, evaluated their impacts in a programmatic environmental impact statement (1), and selected mined geologic repositories as the preferred strategy [46 FR 26677].

1. *Conduct of Site Investigations.* In beginning a process to identify suitable sites for geologic repositories, various starting points can be used. One can concentrate on specific host-rock types that appear to have the right characteristics for waste isolation, on lands already dedicated to handling nuclear materials, or on particular hydrogeologic provinces.

During the process leading to site nominations, it is important that site studies include a wide range of alternatives to increase the probability that the search will be successful. If detailed work is being performed in several rock types, for example, and one rock type turns out to be fundamentally unsuitable after extensive investigations, the program can readily choose another option.

Program policy therefore requires that multiple sites be investigated to increase the probability of successful siting.

2. *Consultation with States and Affected Indian Tribes.* The DOE recognizes that close consultation and cooperation with affected government units are required for the process of siting a geologic repository to be successful. Consequently, DOE policies and the Act spell out specific provisions to further this consultation and cooperation.

3. *Environmental Impact Considerations.* National policy under the National Environmental Policy Act (NEPA) and other public laws requires the DOE to consider the impact of its actions on the environment. The DOE policy is to adhere rigorously to such requirements, particularly as their application is specified in the Act.

4. *Regional Distribution.* Nuclear plants that generate electricity are located or being built throughout the country. Since the safe disposal of wastes that result from electricity production will likely require the construction of more than one repository, a regional distribution of repositories could provide a more equitable sharing of the impacts of the repository among the people benefitting from the generation of the electricity and from the goods and services produced by that electricity. Furthermore, the transportation of wastes from the location of their production or temporary storage also causes impacts that could be reduced by selecting the routes over which the wastes are transported to minimize risk.

5. *Schedule.* Research and development concerning the disposal of radioactive waste in geologic formations has been under way for about 25 years. During this time a great deal of technical and scientific knowledge about geologic disposal has been gained. The DOE believes that the basic scientific knowledge needed for the safe permanent isolation of radioactive waste is now available, although detailed investigations of specific sites, the design and engineering of facilities and equipment, and careful consideration of socioeconomic and environmental impacts must still be completed. Based upon this understanding, the Act specifies for the development of geologic repositories a time table and deadlines leading to the operation of the first repository in 1998. The DOE has modified its repository siting schedule to conform to the deadlines now prescribed in the Act.

D. *Rationale for the Technical Guidelines.* In selecting a site for a radioactive-waste repository that is safe and environmentally acceptable, it is necessary to consider a variety of geotechnical and environmental factors. The site must provide natural barriers for waste containment and isolation. These barriers should keep radionuclides from reaching people in unacceptable quantities by: (1) Maintaining the waste in its emplaced location for a given period of time (providing waste containment), (2) limiting radionuclide mobility through the geohydrologic environment to the accessible environment (providing isolation), and (3) making human intrusion difficult. The latter is achieved principally by locating the repository deep below the ground surface, well away from people and relatively inaccessible.

The site must contain a host rock suitable for developing the repository and containing the waste, and surrounding rock formations that can provide adequate isolation. Desirable hydrologic features include low rates of ground-water flow, long flow paths to the environment, and long-term stability. The important natural attributes of the host rock include low hydraulic conductivity, chemical characteristics that would impede radionuclide transport, and high thermal conductivity. Many of these attributes cannot be defined, a priori, in terms of acceptable or unacceptable conditions because the overall performance of the repository system depends on the interaction of many factors. It is, however, possible to indicate in many cases which attributes are favorable and which are unfavorable, and that is the objective of the technical guidelines presented in § 960.5–0.

During the course of site exploration and research carried out to date, many have suggested that the most objective guidelines or criteria would assign a priori numerical limits and numerical importance values (weights) to each criterion. This would clearly simplify the application of guidelines, since a numerical measure for each site feature could be tabulated and then an arithmetic total computed for site suitability. The simplicity of such an approach is misleading, however, since it would obscure the real contribution of each of the physical features of a site, acting in concert with others, to site safety or suitability. Different factors that affect different functions are not easily comparable. For example, an exact numerical tradeoff between a site with a relatively short ground-water travel time and a second site with marginally acceptable environmental impacts cannot reasonably be made. Any attempt to make a comparison must assign a relative importance to these two variables. Such importance weighting is of necessity judgmental and specifically dependent on the subjective values held by the person or persons making the comparison. To set numerical weights in these guidelines would be an arbitrary imposition on the values of the Federal and consulting State officials who must make the decisions in the future.

The paragraphs that follow explain the rationale behind the technical guidelines, which are presented in § 960.5–0.

1. *Site Geometry (Section 960.5–1).* The repository must be at a sufficient depth below the surface so that erosion and denudation processes will not uncover the repository within 10,000 years and its probable isolation will last much more than 10,000 years. The depth should also be sufficient to mitigate against the repository's being breached by human activities at the surface. The thickness and lateral extent of the host

rock should be sufficient to contain the underground repository and accommodate the effects that might be exerted on the geologic barrier by heat, radiation, and excavation. The actual extent will depend on the design of the repository and the rock type. The extent of the site should permit compliance with the requirements of the EPA regulations for the accessible environment.

2. *Geohydrology (Section 960.5–2).* If radioactive material is released from a repository, the most likely way for it to reach the accessible environment is through transport in the ground-water system. In order to evaluate this potential for release, it is necessary to characterize ground-water travel times, potentiometric surfaces, and path geometries. Recharge rates and ground-water residence times may also be useful in this regard. Travel times to the accessible environment in excess of 1,000 years are desirable; those longer than 10,000 years are very favorable.

The hydrologic regime must be such that it can be sufficiently characterized for the modeling of both present and future conditions. Future conditions may include those occurring at the surface, such as impoundments and glaciation, as well as subsurface variations due to ground-water withdrawl (or injection) or thermal flow induced by the heat generated by the waste.

Existing aquifer systems must be reasonably well isolated from the repository workings during operation and after closure. To ensure such isolation it is necessary to establish aquifer production rates and to evaluate the consequences for shaft construction and the effectiveness of sealing techniques.

The dissolution by ground water of soluble rocks in or near the repository must also be considered in evaluating the long-term integrity of the site. Local or regional dissolution should not breach the site in 10,000 years, and longer times are desirable.

3. *Geochemistry (Section 960.5–3).* The geochemical conditions at the site will determine the rate at which radioactive material is transported through the ground-water system if containment should fail. Important parameters—which include solubilities, sorption capacities, dissolution rates, the oxidation-reduction environment, and pH—must be quantified to develop realistic models and to estimate the concentration of radionuclides at the accessible environment.

The containment capabilities and lifetimes of the waste package will depend on the geochemical parameters in the repository, particularly in the host-rock environment. An understanding of the above geochemical parameters and the temperature history is necessary to address such issues as the corrosion of waste canisters, the lifetime of the waste package, and the effectiveness of other engineered barriers like backfills and seals.

4. *Rock Characteristics (Section 960.5–4).* The construction and safe operation of a repository may require that the general geology of the host rock and adjacent formations be characterized with regard to their physical and mineralogical nature. The presence of weak zones (stratigraphic or structural) will affect the design of a repository and its eventual sealing. The presence of fluids could present an operational hazard and conceivably an unacceptable site condition if the impact on system performance is too deleterious.

The host rock must also be understood with respect to repository-induced impacts. Phenomena like heat-induced fractures, the hydration and/or dehydration of mineral components, and brine migration will have to be evaluated for the actual host-rock enviroment in order to determine their effect on the performance of the geologic repository.

5. *Tectonic Environment (Section 960.5–5).* Both the operation and the long-term integrity of a geologic repository can be affected by tectonic phenomena at or near the site. Earthquakes can generate ground motions that will require special design specifications but can be accommodated if anticipated. Existing faults or potential new faults could adversely affect the performance of a repository if they short-circuit the geologic barrier between the repository and the accessible environment. Faults, however, are not necessarily detrimental, and a thorough understanding of any existing faults is required before their impact can be evaluated. Some existing faults may actually improve the hydrologic conditions, but they must be characterized well enough to incorporate them into the hydrologic model. Regional tectonics must be understood to evaluate the potential for, and the impacts of, any new faulting that may occur. Impacts on the hydrologic regimes as well as on the integrity of the repository must be considered. Rates of uplift or subsidence must be factored into the modeling of future ground-water systems as well. Past tectonic movement may have produced a very complicated structure. A simple structure is preferred for siting. (If the structure is too complex, it may be difficult to adequately characterize a site.) Igneous and volcanic activity in the recent geologic past (the past million years) must be identified to determine the probability of such phenomena affecting the site in the future. Existing intrusions like dikes or sills could present complications in the hydrologic model and consequently must be evaluated if they occur at the site. In situ stress fields must be considered in the construction and sealing of the repository.

6. *Human Intrusion (Section 960.5–6).* At sites with adequate geologic and hydrologic properties, human intrusion is the most probable way of breaching a repository. It is desirable both to reduce the likelihood of human intrusion and to select a site where the consequences of such intrusion are not unacceptable if they occur. Although human intrusion can never by ruled out over a period as long as 10,000 years, the potential for human intrusion can be reduced by siting in areas where known concentrations of valuable minerals are limited or by avoiding, to the extent practical, locations where prospective uses of underground formations may occur. Since these measures and administrative controls will reduce, but not eliminate, the risk of human intrusion, the site should be evaluated with such breaches in mind.

Besides these long-term safety aspects, consideration must also be given to the value of resources that could not be exploited if they occurred within a site. To ensure that no near-term violation of site intergrity will occur, the use of the site should be controlled through the operational and monitoring periods.

7. *Surface Characteristics (Section 960.5–7).* Various surface conditions at the site may affect the development, operation, and long-term performance of a geologic repository. The surface facilities should not be located where surface flooding could jeopardize repository operations. The current and future use of surface water (i.e., irrigation of reservoirs) should be considered in terms of potential impacts on the hydrologic regime. The terrain must be evaluated with respect to the construction and safe operation of a facility. A rugged terrain would increase the cost of construction and possibly the hazards of transportation.

Weather conditions must also be considered in siting because the construction and operation of a repository will add various pollutants to the atmosphere. The current airquality and weather data for the site must be evaluated to determine whether the

contribution of repository operations would be acceptable. Other attributes that must be taken into consideration are the presence and proximity of other activities and facilities. The presence of roads, railroads, and industrial or military installations may present various potential hazards to a repository, and vice versa.

8. *Population Density and Distribution (Section 960.5–8).* The density and the distribution of population are always important in site selection. A low population density in the area of the site will minimize exposure to hazards associated with potential accidents. It is also necessary to recognize the impacts that might accrue from the use of likely transportation routes.

The possible advantages of reducing waste transportation must be weighed against the safety margins provided by the environmental and geologic conditions of considered sites. It could very well be that acceptable sites may be found close to centers of waste production or storage, but if these sites are considerably more difficult to characterize and develop, then the benefit of shorter transportation routes may be outweighed by these difficulties. Consequently, DOE policy is to consider transportation and current waste locations as two of a large number of factors.

9. *Environmental Protection (Section 960.5–9).* Not only must the site ensure safe operation and long-term waste isolation, it must also be acceptable in terms of environmental impacts both now and in the future. All interactions with the environment must be considered, and the candidate repository site will be evaluated with respect to all applicable laws, regulations, and executive orders. Mitigation measures will be evaluated for the impacts anticipated at the site.

10. *Socioeconomic Impacts (Section 960.5–10).* The construction and operation of a repository could produce a considerable influx of people and money. The consequences may be both beneficial and adverse. The proper and timely recognition of these effects will allow the mitigation of undesirable consequences.

E. *Application of Guidelines.* The guidelines provide a set of standards against which a considered site or a larger geographical area can be judged with regard to its suitability for repository development and operations. These broadly stated guidelines encompass all factors potentially important to the containment and isolation of the waste (e.g., site geometry, geohydrology, geochemistry, tectonic environment, terrain, human intrusion) as well as the environmental and social acceptability of candidate sites. The criteria are directed toward the key objective in site selection: designating a site that will provide protection for the health and safety of the public and the environment.

Before potentially suitable sites can be nominated, such sites must be found through an exploratory screening process. "Site screening" describes a process in which a set of decisions are made sequentially to identify sites favorable for waste disposal.

The site-screening process is designed to ensure that major uncertainties are adequately resolved before proceeding with detailed site charaterization. Each step builds a base of understanding for steps that follow. However, only after detailed site characterization has been completed can a site's characteristics be shown to meet performance criteria and regulatory requirements. The DOE recognizes that "perfect" or "flawless" sites for repositories do not exist in nature and that possibly innumerable sites could be shown to be suitable. Since the study of all potential sites is unnecessary and would be prohibitively expensive, the DOE plans to concentrate its studies on only the more favorable sites. Screeing decisions to focus subsequent exploration on certain areas will be made to allow resources to be expended on places judged most likely, after full site characterization, to be demonstrably safe and acceptable under regulatory review. Thus, the screening process is not designed to identify all acceptable sites in the country; rather, it is intended to first identify at least five nominated sites, then three or more candidate sites recommended for site characterization, and finally the most preferred site for licensing and subsequent development.

Since adequate data may not exist to allow confident modeling of prospective sites until well into site characterization, it is not possible to rigorously apply many of the guidelines early in the site-screening process. Some conditions can be examined and may disqualify a site from consideration because they are clearly inadequate. Such clearly disqualifying conditions are stated where possible. Most conditions will, however, fall into an area where they can be declared as favorable or potentially adverse. The identification of favorable conditions does not guarantee that a site will be acceptable but increases the probability that it will be. On the other hand, the identification of a potentially adverse condition does not rule out a site but focuses attention on a condition which must be carefully examined in combination with other conditions at the site and which unless alleviated by these other conditions could lead to disqualification.

The suitability of a location cannot be established on the basis of only one or two characteristics, such as tectonics or geochemistry; nor can it be expected that perfect locations will be found, where every characteristic is ideal. Geologic systems are found as they are, not engineered, so each candidate location will have advantages and disadvantages that will be compared in narrowing the range of alternatives or, ultimately, in selecting sites. While one land unit might be considered less than favorable on the basis of tectonic factors alone, other characteristics like land use or geohydrology may be so favorable as to provide an adequate counterbalance.

A great many factors must be evaluated before a site can be identified and shown to be suitable through detailed study. Site screening usually begins by considering a limited number of factors over large land units to identify places that exhibit characteristics favorable for waste isolation. Further study of all but the more favorable land units is deferred indefinitely or until such time as intractable uncertainties arise at places undergoing further study. The screening process becomes increasingly rigorous as smaller land units are identified, additional factors are considered, and increasing data are acquired.

The size of the land unit being studied, and therefore the number of steps or surveys performed, is at least partially dictated by the size or expression of geographically discrete features that may affect the safety of the repository. Therefore, national, broadly regional, or fairly specific locations may be either a starting point or one of several steps in the screening. Investigative methods and data used in analyses will likewise depend on the particular factors important at the geographic scale of concern and the physical conditions and institutional concerns in a given area. Decisions to continue or discontinue the study of land units can be made during any of the survey steps.

Once a site is recommended and approved by the President, site characterization is undertaken by collecting and evaluating the necessary information about the physical, chemical, geological, biological, and socioeconomic environment. Detailed surface and subsurface studies will be performed at a small number of candidate sites. At this stage, all of the guidelines are employed as a

comprehensive set of standards against which suitability is measured.

F. *References*

1. U.S. Department of Energy, "Final Environmental Impact Statement—Management of Commercially Generated Radioactive Waste," DOE/EIS-0046F, Ocober 1980.

2. U.S. Department of Energy, "Program Objectives, Functional Requirements, and System Performance Criteria," NWTS-33(1), National Waste Terminal Storage Program, 1982.

3. U.S. Department of Energy, "Site Performance Criteria," NWTS-33(2), National Waste Terminal Storage Program, 1982.

4. National Research Council-National Academy of Sciences, "Geological Criteria for Repositories for High-Level Radioactive Waste," August 1978.

5. International Atomic Energy Agency, "Site Selection Factors for Repositories of Solid High-Level and Alpha-Bearing Wastes in Geological Formations," Technical Report No. 177, October 1977.

6. G. D. Brunton and W. C. McClain, "Geological Criteria for Radioactive Waste Repositories," Y/OWI/TM-47, Office of Waste Isolation, Union Carbide Corporation, November 28, 1977.

7. U.S. Department of Energy, "Final Environmental Impact Statement—Waste Isolation Pilot Plant," DOE/EIS-0026, October 1980.

8. U.S. Nuclear Regulatory Commission, "Advanced Notice of Rulemaking on Technical Criteria for Regulating Geologic Disposal of High-Level Radioactive Waste," 10 CFR Part 60, May 1980.

9. U.S. Nuclear Regulatory Commission, "Disposal of High-Level Radioactive Wastes in Geologic Repositories," 10 CFR Part 60, Subpart E (final draft), November 18, 1982.

10. U.S. Environmental Protection Agency, "Environmental Standards for the Management and Disposal of Spent Nuclear Fuel, High-Level and Transuranic Radioactive Wastes," 40 CFR Part 191 **Federal Register**, Vol. 47, pp. 58196–58206, December 29, 1982 (proposed rule).

11. U.S. Environmental Protection Agency, "Environmental Radiation Protection Standards for Nuclear Power Operations," 40 CFR Part 190.

12. U.S. Nuclear Regulatory Commission, "Standards for Protection Against Radiation," 10 CFR Part 20.

III. Comment and Hearing Procedures

A. *Written Comments.* Interested persons are invited to participate in these proposed guidelines by submitting data, views, or arguments concerning the proposed guidelines. Comments should be submitted, in duplicate if possible, to the address given in the addresses section of this notice and identified on the envelope and document submitted with the designation "Guidelines for Siting Radioactive Waste Repositories." All written comments must be received by March 24, 1983 to ensure consideration.

All written comments received will be available for public inspection in the DOE Reading Room, Room 1E-190, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday. Any information or data considered by the person furnishing it to be confidential must be so identified. The DOE reserves the right to determine the confidential status of information or data and to treat it accordingly.

B. *Hearing Procedures.* The dates and locations of public hearings on the guidelines will be published in a subsequent **Federal Register** notice. The hearings will be scheduled no sooner than 15 days following such notice. Hearing procedures and requirements for persons wishing to make an oral presentation will be specified in that notice.

IV. Consultation With the Council on Environmental Quality, the Administrator of the Environmental Protection Agency, the Director of the Geological Survey, and Interested State Governors

As required by Section 112 of the Act, the DOE has entered into consultation with the Council on Environmental Quality, the Administrator of the Environmental Protection Agency, the Director of the Geological Survey, and interested Governors. The consultation period will coincide with the 45-day public review period.

V. Regulatory Flexibility Analysis

The DOE certifies that these guidelines will not have a significant economic impact on a substantial number of small entities, since they merely articulate the proposed considerations for the Secretary of Energy's recommendations to the President of proposed sites for repositories. Accordingly, no regulatory flexibility analysis is required under the Regulatory Flexibility Act, 5 U.S.C. 601 et seq.

VI. Compliance With the National Environmental Policy Act (NEPA)

The issuance of these guidelines is a preliminary decisionmaking activity pursuant to Section 112(e) of the Nuclear Waste Policy Act of 1982 and therefore does not require the preparation of an environmental impact statement pursuant to Section 102(2)(C) of NEPA or any other environmental review under Section 102(2) (E) or (F) of NEPA.

List of Subjects in 10 CFR Part 960

Environmental protection, Nuclear energy, Radiation protection, Nuclear materials, Waste treatment and disposal.

For the reasons set out in the preamble, and pursuant to the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.), the Energy Reorganization Act of 1974 (42 U.S.C. 5801 et seq.), the Department of Energy Organization Act of 1977 (42 U.S.C. 7101 et seq.), and the Nuclear Waste Policy Act of 1982 (Pub. L. 97-425, 96 Stat. 2201), Chapter III of Title 10 of the Code of Federal Regulations is proposed to be amended as follows.

Issued at Washington, D.C., January 28, 1983.

Donald Paul Hodel.

Secretary of Energy.

A new Part 960 is proposed to be added to Title 10, Code of Federal Regulations, reading as follows:

PART 960—GENERAL GUIDELINES FOR THE RECOMMENDATION OF SITES FOR NUCLEAR WASTE REPOSITORIES

Sec.

960.1–0 Applicability.
960.2–0 Definitions.
960.3–0 System guidelines.
960.3–1 Performance before permanent closure.
960.3–2 Performance after permanent closure.
960.4–0 Program guidelines.
960.4–1 Conduct of site investigations.
960.4–2 Consultation with States and affected Indian tribes.
960.4–3 Environmental impact considerations.
960.4–4 Regional distribution.
960.4–5 Schedule for the first repository.
960.4–6 Schedule for the second repository.
960.5–0 Technical Guidelines.
960.5–1 Site geometry.
960.5–1–1 Depth of underground facilities.
960.5–1–2 Thickness and lateral extent of the host rock.
960.5–2 Geohydrology.
960.5–2–1 Present and future hydrologic conditions.
960.5–2–2 Hydrologic modeling.
960.5–2–3 Shaft construction.
960.5–2–4 Dissolution features.
960.5–3 Geochemistry.
960.5–4 Rock Characteristics.
960.5–4–1 Physical properties.
960.5–4–2 Operational safety.
960.5–5 Tectonic Environment.
960.5–5–1 Faulting and Seismicity.

Sec.
960.5–5–2 Igneous Activity.
960.5–5–3 Uplift, subsidence, and folding.
960.5–6 Human Intrusion.
960.5–6–1 Natural resources.
960.5–6–2 Site ownership and control.
960.5–7 Surface characteristics.
960.5–7–1 Surface-water system.
960.5–7–2 Terrain.
960.5–7–3 Meteorology.
960.5–7–4 Offsite hazards.
960.5–8 Population density and distribution.
960.5–8–1 Population near the site.
960.5–8–2 Transportation.
960.5–9 Environmental protection.
960.5–10 Socioeconomic impacts.

Authority: Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.); Energy Reorganization Act of 1974 (42 U.S.C. 5801 et seq.); Department of Energy Organization Act of 1977 (42 U.S.C. 7101 et seq.); Nuclear Waste Policy Act of 1982 (Pub. L. 97–425, 96 Stat. 2201).

§ 960.1–0 Applicability.

These guidelines were developed in accordance with the requirements of Section 112 of the Act for use by the Secretary of Energy in evaluating the suitability of sites for radioactive-waste repositories and recommending such sites pursuant to that Act.

§ 960.2–0 Definitions.

As used in this part:

"Accessible environment" means the atmosphere, the land surface, surface waters, oceans, and the parts of the lithosphere that are more than 10 kilometers in any direction from the original location of any of the radioactive waste in a disposal system.

"Aquifer" means a zone of rock below the surface of the earth that readily transmits water and is capable of producing water as from a well.

"Capillary fringe" means a zone in which the pressure is less than atmospheric, overlying the zone of saturation and containing capillary interstices.

"Containment" means confinement of the radioactive wastes within prescribed boundaries (e.g., within a waste package).

"Disqualifying conditions" means a condition that, if present at a candidate site, would eliminate that site from further consideration; a single disqualifying condition is sufficient.

"Disturbed zone" means that portion of the controlled area whose physical or chemical properties have changed as a result of underground facility construction or heat generated by the emplaced radioactive waste such that the resultant change in properties may have a significant effect on the performance of the geologic repository.

"Engineered barrier" means manmade components of a disposal system designed to prevent the release of radionuclides into the geologic medium involved; such term includes the high-level radioactive waste form, high-level radioactive waste canisters, and other materials placed over and around such canisters.

"Fault" means a fracture in the earth's crust along which movement parallel to the fracture plane has displaced one side of the fracture relative to the other side.

"Faulting" means the tectonic process that results in displacement along a fault.

"Favorable condition" means a condition that, if present, will not necessarily qualify a site relative to a specific criterion but will enhance confidence that subsequent analysis will show that the criterion can be met.

"Geologic repository" means any system licensed by the NRC that is intended to be used for, or may be used for, the permanent deep geologic disposal of high-level radioactive waste and spent nuclear fuel, whether or not such system is designed to permit the recovery, for a limited period during initial operation, of any materials placed in such system. Such term includes both surface and subsurface areas at which high-level radioactive waste and spent nuclear fuel handling activities are conducted.

"Geologic setting" means the tectonic, geologic, hydrologic, and geochemical systems of a region in which a site is or may be located.

"Highly populated area" means the population center associated with a Standard Metropolitan Statistical Area.

"Host rock" means rock within which radioactive waste is emplaced for disposal.

"Hydrologic properties" means those properties of rocks and water, including their chemistry, that influence the flow of ground water.

"Igneous activity" means emplacement (intrusion) of molten rock material into solid rocks in the earth's crust or expulsion (extrusion) of such material onto the earth's surface or into its atmosphere or water bodies.

"Isolation" means inhibiting the transport of radioactive material in the subsurface so that the amounts and concentrations of this material entering the accessible environment will be kept within prescribed limits.

"Models" means conceptual definitions and associated mathematical representations that simulate the response of a repository system under natural or perturbed conditions. An example is a hydrologic model to predict ground-water travel or radionuclide transport from the waste-emplacement area to the accessible environment.

"Permanent closure" means final backfilling of the underground facility and the sealing of shafts and boreholes.

"Potentially adverse condition" means a condition that, if present, will not disqualify a site relative to a specific criterion but will require additional analysis, specific site characterization, or identification of compensating or mitigating factors before qualifying the site.

"Pre-waste-emplacement" means under conditions that exist before repository development.

"Qualifying condition" means a condition that, if met, indicates that a site is acceptable with respect to a specific criterion.

"Radioactive waste" means, for the purposes of these guidelines, high-level radioactive waste and spent nuclear fuel.

"Repository" means "geologic repository."

"Saturated zone" means that part of the earth's crust beneath the deepest water table in which all voids, large and small, are ideally filled with water under pressure greater than atmospheric.

"Site" means a surface location and the underlying rocks, including the underground facility and extending through a control zone from which incompatible activities will be restricted after permanent closure.

"System performance" means the total, integrated result of all acting processes and events caused by or affecting a repository.

"Tectonic" means of, pertaining to, or designating the rock structure and external forms resulting from the deformation of the earth's crust..

"Underground facility" means the underground structure, including mined openings and backfill materials, but excluding shafts, boreholes, and their seals.

"Unsaturated zone" means the zone between the land surface and the deepest water table; it includes the capillary fringe. Generally, water in this zone is under less than atmospheric pressure, and some of the voids may contain air or other gases at atmospheric pressure. Beneath flooded areas or in perched water bodies the water pressure locally may be greater than atmospheric.

§ 960.3–0 System guidelines.

The key objective in the siting and design of the repository system shall be the protection of public health and safety and the quality of the emvironment.

§ 960.3–1 Performance before permanent closure.

The repository operations area shall be sited and designed to comply with the limits established by the Nuclear Regulatory Commission in 10 CFR Part 20 and by the Environmental Protection Agency in the proposed 40 CFR Part 191, Subpart A, Emvironmental Standards for Management and Storage. A site shall be *disqualified* if during site investigation it becomes clear that the site, together with state-of-the-art engineered systems and controls, will preclude a repository at that site from complying with 10 CFR Part 20 and the proposed 40 CFR Part 191, Subpart A.

(a) *Favorable conditions.* (1) A combination of meteorological conditions and low population densities such that few, if any, members of the general public would be exposed to radiation due to emissions during repository operation.

(2) Absence of contributing radioactive releases from other nuclear facilities governed by 40 CFR Part 190 or the proposed 40 CFR Part 191 that would require consideration in accordance with 40 CFR Part 191.03.

(b) *Potentially adverse conditions.* (1) Presence of other nuclear facilities governed by the proposed 40 CFR Part 191 with actual or projected releases at or near the maximum value permissible under those standards.

(2) Proximity to populated areas that could be routinely affected by repository effluents considering prevailing meteorological conditions.

§ 960.3–2 Performance after permanent closure.

The site and engineered systems shall provide reasonable assurance that, after the permanent closure of the repository, credible postulated releases of radioactive materials to the accessible environment will not exceed the quantities of radioactive materials that may enter the environment as specified in the proposed 40 CFR Part 191, Subpart B, Environmental Standards for Disposal. A site shall be *disqualified* if the characteristics that influence radionuclide transport are too complex to allow reasonable confidence of compliance with the proposed 40 CFR Part 191.13 when considered in conjunction with state-of-the-art engineered systems, including those required under 10 CFR 60.113.

(a) *Favorable conditions* (1) Groundwater travel times to the accessible environment of more than 10,000 years.

(2) Geochemical conditions or groundwater volumetric flow limits that limit radionuclide releases.

(3) A geologic setting that is easily characterized or modeled with existing performance-assessment techniques.

(b) *Potentially adverse conditions.* Geologic setting, site geometries and characteristics, and radionuclide-transport characteristics that are extremely difficult to characterize and model.

§ 960.4–0 Program guidelines.

Program guidelines specify how the DOE will conduct its program to identify and select potential sites for the development of geologic repositories. The national policy for radioactive-waste disposal is primarily articulated in the Act and has resulted from several years of studies and discussions at the Federal, State, and local government level. Program guidelines are directions for implementing this national policy.

§ 960.4–1 Conduct of site investigations.

Studies to identify potential repository sites will consider several geologic media, different hydrogeologic settings, and lands already dedicated to the nuclear activities of the Federal Government. To the extent practicable, sites recommended for detailed characterization shall be in different geologic media.

§ 960.4–2 Consultation with States and affected Indian tribes.

The DOE shall provide to State officials and to the governing bodies of any affected Indian tribe timely and complete information regarding both plans and results concerning all phases of site evaluation, investigation, and characterization and the development of a geologic repository. Written responses to written requests for information from officials of affected states or Indian tribes will be provided within no more than 30 days. In performing any aspect of the geologic repository program, the DOE shall consult and cooperate with the governor and the legislature of an affected State and the governing body of an affected Indian tribe in an effort to resolve concerns regarding public health and safety, environmental, and economic impacts of any proposed repository. If requested, or after notifying states or Indian tribes that potentially acceptable sites have been identified within a State or tribal land, the DOE shall seek to enter into binding written agreements to specify procedures for consultation and cooperation with the affected State or Indian tribe.

§ 960.4–3 Environmental impact considerations.

Environmental impacts shall be given due consideration throughout the site-characterization and site-selection processes. The environmental assessments that accompany the nomination of sites shall include the following items as specified by Section 112 of the Act:

(a) An evaluation as to whether the site under consideration is suitable for site characterization under these siting guidelines;

(b) A preliminary evaluation as to whether the site under consideration would be suitable for a repository by comparison to those siting guidelines that can be invoked without the results of site characterization;

(c) An evaluation of the effects of site characterization activities on the public health and safety and the environment;

(d) A reasonable comparative evaluation of the site under consideration with other sites and locations that have been considered;

(e) A description of the decision process which led to the site being recommended;

(f) An assessment of the regional and local impacts of locating a geologic repository at the site being recommended.

A final environmental impact statement will be submitted in support of a decision to recommend a site to the President as suitable for the construction of a geologic repository. Written in accordance with Section 114(f) of the Act, this statement will be based on the requirements of the National Environmental Policy Act and will be the vehicle for evaluating the environmental acceptability of the recommended site in comparison to the available alternatives.

§ 960.4–4 Regional distribution.

After the selection of the first repository site, a major consideration in siting additional repositories shall be regional distribution. The DOE shall consider the advantages of regional distribution in the siting of repositories to the extent that technical, policy, and budgetary considerations permit.

§ 960.4–5 Schedule for the first repository.

The DOE shall nominate at least five sites determined suitable for site characterization and subsequently recommend to the President at least three of these nominated sites for detailed characterization as candidate sites. Not later than March 31, 1987, the President shall submit to the Congress a recommendation of one site from the three sites initially characterized that the President considers qualified for application for a construction authorization for a repository.

§ 960.4–6 Schedule for the second repository.

The DOE shall nominate at least five sites determined suitable for site characterization and subsequently recommend to the President at least three of these nominated sites for characterization as candidate sites. Not later than March 31, 1990, the President shall submit to the Congress a recommendation of a second site from any sites already characterized that the President considers qualified for a construction authorization for a second repository.

§ 960.5–0 Technical guidelines.

The technical guidelines provide a set of standards to be used in judging the suitability of a site for repository development and operation. The guidelines specify geotechnical, environmental, and socioeconomic factors for the qualification or disqualification of a potential site for a geologic repository, as well as conditions that would be considered favorable or potentially adverse in site evaluation.

§ 960.5–1 Site geometry.

The geologic repository shall be located in a geologic setting that physically separates the radioactive wastes from the accessible environment and has a volume of rock adequate for placement of the underground facility.

§ 960.5–1–1 Depth of underground facilities.

The site shall allow the underground facility to be placed at a minimum depth such that reasonably foreseeable human activities and natural processes acting at the surface will not lead to a projection of radionuclide releases greater than those discussed in § 960.3–2. The site shall be *disqualified* if site conditions do not allow all portions of the underground facility except the shafts to be at least 200 meters from the directly overlying ground surface.

(a) *Favorable conditions.* (1) Site conditions permitting the emplacement of waste at a minimum depth of 300 meters from the ground surface (10 CFR 60.122(b)(6)).

(2) A geologic setting where the nature and rates of the geomorphic processes that have been operating during the past million years would, if continued in the future, not affect or would favorably affect the ability of the geologic repository to isolate the waste (10 CFR 60.122(b)(1)).

(b) *Potentially adverse conditions.* A geologic setting that shows evidence of extreme erosion during the past million years (10 CFR 60.122(c)(17)).

§ 960.5–1–2 Thickness and lateral extent of the host rock.

The thickness and lateral extent of the host rock shall accommodate the underground facility and ensure that impacts induced by the construction of the repository and by waste emplacement will not lead to a projection of radionuclide releases greater than those discussed in § 960.3–2.

(a) *Favorable conditions.* The host rock is of sufficient extent to allow significant latitude in terms of depth, configuration, or location of the underground facility.

(b) *Potentially adverse conditions.* A volume of rock with physical properties adequate for the underground facility but laterally restricted to a small portion of the site.

§ 960.5–2 Geohydrology.

The geohydrologic regime in which the site is located shall be compatible with waste containment, isolation, and retrieval.

§ 960.5–2–1 Present and future hydrologic conditions.

The present and probable future geohydrologic regime of the site shall be capable of preventing radionuclide transport for the repository to the accessible environment in amounts greater than those discussed in § 960.3–2. The site shall be *disqualified* if the average prewaste-emplacement ground-water travel time along the path of likely radionuclide travel from the disturbed zone to the accessible environment is less than 1,000 years.

(a) *Favorable conditions.* (1) The nature and rates of hydrologic processes operating within the geologic setting during the past million years would, if continued in the future, not affect or would favorably affect the ability of the geologic repository to isolate the waste (10 CFR 60.122(b)(1)).

(2) For disposal in the saturated zone, hydrologic conditions that provide a host rock with a low horizontal and vertical permeability; a downward or predominantly horizontal hydraulic gradient in the host rock; and a low vertical permeability and low hydraulic potential between the host rock and the surrounding hydrogeologic units; or a pre-waste-emplacement ground-water travel time along the fastest path of likely radionuclide travel from the disturbed zone to the accessible environment that substantially exceeds 1,000 years (10 CFR 60.122(b)(2)).

(3) For disposal in the unsaturated zone, hydrogeologic conditions that provide a low and nearly constant moisture content in the host rock and the surrounding hydrogeologic units; or a water table sufficiently below the underground facility such that the capillary fringe does not encounter the host rock; or a laterally extensive low-permeability hydrogeologic unit above the host rock that would divert the downward infiltration of water beyond the limits of the underground facility; or a host rock with a high saturated permeability and an effective porosity that provides for free drainage; or a climatic regime in which precipitation is a small percentage of the potential evapotranspiration (10 CFR 60.122(b)(3)).

(b) *Potentially adverse conditions.* None specified.

§ 960.5–2–2 Hydrologic modeling.

The geohydrologic regime shall be capable of being characterized with sufficient certainty to permit modeling to show that present and probable future conditions would lead to a projection of radionuclide releases less than those discussed in § 960.3–2.

(a) *Favorable conditions.* Sites that have simple stratigraphic and hydrogeologic sequences and a lack of structural, tectonic, or crosscutting igneous features such that the geohydrology can be readily characterized and modeled with reasonable certainty.

(b) *Potentially adverse conditions.* (1) Potential for foreseeable human activites to adversely affect the ground-water flow system, such as ground-water withdrawal, extensive irrigation, the subsurface injection of fluids, underground pumped storage, military activities, or the construction of large-scale surface-water impoundments (10 CFR 60.122(c)(2)).

(2) Potential for natural phenomena like landslides, subsidence, or volcanic activity of such a magnitude that they could create large-scale surface-water impoundments that could change the regional ground-water flow system (10 CFR 60.122(c)(3)).

(3) Potential for the water table to rise sufficiently to cause the saturation of waste-emplacement areas in the unsaturated zone (10 CFR 60.122(c)(4)).

(4) Potential for structural deformation—such as uplift, subsidence, folding, or faulting—that may adversely affect the regional ground-water flow system (10 CFR 60.122(c)(5)).

(5) Potential for changes in hydrogeologic conditions that would increase the transport of radionuclides to the accessible environment, such as changes in the hydraulic gradient, average interstitial velocity, storage coefficient, hydraulic conductivity, natural recharge, potentiometric levels,

and discharge points (10 CFR 60.122(c)(6)).

(6) Potential for adverse changes in hydrologic conditions resulting from reasonably foreseeable climatic changes (10 CFR 60.122(c)(7)).

§ 960.5-2-3 Shaft construction.

The geohydrologic regime of the site shall allow the construction of repository shafts and maintenance of the integrity of shaft liners and seals.

(a) *Favorable conditions.* Absence of large highly transmissive aquifers between the host rock and the land surface.

(b) *Potentially adverse conditions.* Rock or ground-water conditions that would require complex engineering measures in the design and construction of the underground facility or in the sealing of boreholes and shafts (10 CFR 60.122(c)(21)).

§ 960.5-2-4 Dissolution features.

The site shall be such that any subsurface rock dissolution that may be occurring or is likely to occur would not lead to a projection of radionuclide releases greater than those discussed in § 960.3-2. The site shall be *disqualified* if it is shown that active dissolution fronts would cause significant interconnection of the underground facility to the site hydrogeologic system during the first 10,000 years.

(a) *Favorable conditions.* No evidence that the host rock within the operations area was subject to dissolution during the past million years.

(b) *Potentially adverse conditions.* Evidence of dissolution, such as breccia pipes or dissolution cavities (10 CFR 60.122(c)(11)).

§ 960.5-3 Geochemistry.

The site shall have geochemical characteristics compatible with waste containment, isolation, and retrieval. The site shall be such that the chemical interactions among radionuclides, rock, ground water, and engineered components would not lead to a projection of radionuclide releases greater than those discussed in § 960.3-2.

(a) *Favorable conditions.* (1) The nature and rates of the geochemical processes operating within the geologic setting during the past million years would, if continued in the future, not affect or would favorably affect the ability of the geologic repository to isolate the waste (10 CFR 60.122(b)(1)).

(2) Geochemical conditions that promote the precipitation or sorption of radionuclides; inhibit the formation of particulates, colloids, and inorganic and organic complexes that increase the mobility of radionuclides; or inhibit the transport of radionuclides by particulates, colloids, and complexes (10 CFR 60.122(b)(4)).

(3) Mineral assemblages that, when subjected to the expected thermal loading, will remain unaltered or will be altered to mineral assemblages with equal or increased capability to inhibit radionuclide transport (10 CFR 60.122(b)(5)).

(b) *Potentially adverse conditions.* (1) Ground-water conditions in the host rock—including chemical composition, high ionic strength, or oxidizing or reducing conditions and pH—that could increase the solubility or chemical reactivity of the engineered barrier systems (10 CFR 60.122(c)(8)).

(2) Geochemical processes that would reduce the sorption of radionuclides, result in the degradation of the rock strength, or adversely affect the performance of the engineered barrfer systems (10 CFR 60.122(c)(9)).

(3) For disposal in the saturated zone, ground-water conditions in the host rock that are not chemically reducing (10 CFR 60.122(c)(10)).

§ 960.5-4 Rock characteristics.

The site shall have geologic characteristics compatible with waste containment, isolation, and retrieval.

§ 960.5-4-1 Physical properties.

The site shall provide a geologic system that is capable of accommodating the geomechanical, chemical, thermal, and radiation-induced stresses that are expected to be caused by interactions between the waste and the host rock.

(a) *Favorable conditions.* None specified.

(b) *Potentially adverse conditions.* Potential for such phenomena as thermally induced fractures, hydration and dehydration of mineral components, brine migration, or other physical, chemical, or radiological phenomena that could lead to projections of radionuclide releases greater than those discussed in § 960.3-2.

§ 960.5-4-2 Operational safety.

The site shall be such that the construction, operation, and closure of underground areas will not cause undue hazard to repository personnel. The site shall be *disqualified* if the applicable safety requirements of the DOE and the NRC could not be met.

(a) *Favorable conditions.* None specified.

(b) *Potentially adverse conditions.* (1) Rock conditions that would require complex engineering measures in the design and construction of the underground facility or in the sealing of boreholes and shafts (10 CFR 60.122(c)(21)).

(2) Geomechanical properties that would not permit underground openings to remain stable until permanent closure (10 CFR 60.122(c)(22)).

§ 960.5-5 Tectonic environment.

The site shall be located in a geologic setting where the effects of current or reasonably foreseeable tectonic phenomena will not lead to a projection of radionuclide releases greater than those discussed in § 960.3-2.

§ 960.5-5-1 Faulting and seismicity.

The site shall be located in a geologic setting where faults that might affect waste isolation, if any, can be identified and shown to have hydrologic properties and seismic potentials that will not lead to a projection of radionuclide releases greater than those discussed in § 960.3-2.

(a) *Favorable conditions.* (1) The nature and rates of faulting, if any, operating within the geologic setting during the past million years would, if continued in the future, not affect or would favorably affect the ability of the geologic repository to isolate the waste (10 CFR 60.122(b)(1)).

(2) The nature and rates of faulting, if any, operating within the geologic setting during the past million years would, if continued into the future, have less than one chance in 10,000 over the next 10,000 years of leading to releases of radioactive waste to the accessible environment (proposed 40 CFR 191.13).

(b) *Potentially adverse conditions.* (1) Faults in the geologic setting that may adversely affect the regional ground-water flow system (10 CFR 60.122(c) (5)).

(2) Evidence of active faulting within the geologic setting during the past million years (10 CFR 60.122(c) (12)).

(3) Historical earthquakes that, if repeated, could affect the site significantly (10 CFR 60.122(c)(13)).

(4) Indications, based on correlations of earthquakes with tectonic processes and features (e.g., faults), that either the frequency of occurrence or the magnitude of earthquakes may increase (10 CFR 60.122(c)(14)).

(5) More frequent occurrences of earthquakes or earthquakes of higher magnitude than are typical of the region in which the geologic setting is located (10 CFR 60.122(4) (15)).

§ 960.5-5-2 Igneous activity.

The site shall be located in a geologic setting where centers of igneous activity during the past million years, in any, can be identified and shown to have no

effects that will lead to a projection of radionuclide releases greater than those discussed in § 960.3–2.

(a) *Favorable conditions.* (1) The nature and rates of igneous processes within the geologic setting during the past million years would, if continued into the future, not affect or would favorably affect the ability of the geologic repository to isolate the waste (10 CFR 60.122(b)(1)).

(2) The nature and rates of igneous activity, if any, in the geologic setting during the past million years would, if continued into the future, have less than one chance in 10,000 over the next 10,000 years of leading to releases of radioactive material to the accessible environment (proposed 40 CFR 191.13).

(b) *Potentially adverse conditions.* (1) The presence in the geologic setting or intrusive dikes, sills, or stocks that may adversely affect the regional ground-water flow system (10 CFR 60.122(c)(5)).

(2) Evidence of igneous activity within the geologic setting during the past million years (10 CFR 60.122(c)(16)).

§ 960.5–5–3 Uplift, subsidence, and folding.

The site shall be located in a geologic setting where significant uplift, subsidence, or folding, if any, that has occurred during the past million years can be identified and shown to have hydrologic, seismic, and erosional implications that will not lead to a projection of radionuclide releases greater than those discussed in § 960.3–2.

(a) *Favorable conditions.* (1) The nature and rates of uplift, subsidence, and folding within the geologic setting during the past million years years would, if continued into the future, not affect or would favorably affect the ability of the geologic repository to isolate the waste (10 CFR 60.122(b)(1)).

(2) The nature and rates of tectonic deformation in the geologic setting during the past million years would, if continued into the future, have less than one chance in 10,000 over the next 10,000 years of leading to releases of radioactive material to the accessible environment (proposed 40 CFR 191.13).

(b) *Potentially adverse conditions.* (1) The occurrence in the geologic setting of folds that may adversely affect the regional ground-water flow system (10 CFR 60.122(c)(5)).

(2) Evidence of active uplift, subsidence, or folding within the geologic setting during the past million years (10 CFR 60.122(c)(12)).

§ 960.5–6 Human intrusion.

The site shall be located to reduce the likelihood that past, present, or future human activities would cause unacceptable impacts on meeting the isolation guidelines discussed in § 960.3–2.

§ 960.5–6–1 Natural resources.

The site shall be such that the exploration history or relevant past use of the site or adjacent areas can be determined and can be shown to have no unacceptable impact on meeting the isolation guidelines discussed in § 960.3–2. The site features shall make human intrusion unlikely or, in combination with engineered systems, mitigate the consequences of intrusion to within the limits discussed in § 960.3–2.

(a) *Favorable conditions.* Natural-resource concentrations that are not significantly greater than the average condition for the region.

(b) *Potentially adverse conditions.* (1) The presence of naturally occurring materials, whether identified or undiscovered, within the site in such form that (i) economic extraction is currently feasible or potentially feasible during the foreseeable future or (ii) such materials have greater gross value or net value than the average for other areas of similar size that are representative of, and located in, the geologic setting (10 CFR 60.122(c)(18)).

(2) Evidence of subsurface mining for resources within the site (within 10 CFR 60.122(c)(19)).

(3) Evidence of drilling within the site for any purpose other than repository-site characterization (10 CFR 60.122(c)(20)).

§ 960.5–6–2 Site ownership and control

The site shall be located on land for which the Federal Government can obtain ownership, control access, and obtain all surface and subsurface rights required under 10 CFR 60.121 to ensure that surface and subsurface activities at the site will not lead to a projection of radionuclide releases greater than those discussed in § 960.3–2.

(a) *Favorable conditions.* Present ownership and control of land and rights as required by 10 CFR 60.121.

(b) *Potentially adverse conditions.* Land-use conflicts involving land dedicated by the Federal Government for potentially incompatible purposes.

§ 960.5–7 Surface characteristics.

The site and its surrounding area shall be such that surface characteristics or conditions can be accommodated by engineering measures and can be shown to have no unacceptable effects on repository operation and waste isolation as discussed in §§ 960.3–1 and 960.3–2.

§ 960.5–7–1 Surface-water systems.

The site shall be such that the surficial hydrologic system, both during expected climatic cycles and during extreme natural phenomena, will not cause unacceptable impacts on repository operation or waste isolation as discussed in §§ 960.3–1 and 960.3–2.

(a) *Favorable conditions.* None specified.

(b) *Potentially adverse conditions.* (1) Potential for foreseeable human activities to adversely affect the ground-water flow system, such as extensive irrigation or the construction of large-scale surface-water impoundments (10 CFR 60.122(c)(1)).

(2) Potential for flooding the underground facility, whether through the occupancy and modification of flood-plains or through the failure of existing or planned man-made surface-water impoundments (10 CFR 60.122(c)(2)).

§ 960.5–7–2 Terrain.

The site shall be located in an area where the surface terrain features do not unacceptably affect repository operation.

(a) *Favorable conditions.* Generally flat terrain.

(b) *Potentially adverse conditions.* Road and rail access routes that encounter steep grades, sharp switchbacks, slope instability, or other potential sources of hazard to incoming waste shipments.

§ 960.5–7–3 Meteorology.

The site shall be located where anticipated meteorological conditions would not result in the projection of unacceptable effects on repository operations.

(a) *Favorable conditions.* None specified.

(b) *Potentially adverse conditions.* None specified.

§ 960.5–7–4 Offsite hazards.

The site shall be such that present and projected effects from nearby industrial, transportation, and military installations and operations, including atomic energy defense activities, can be accommodated by engineering measures and can be shown to have no unacceptable impacts on repository operation.

(a) *Favorable conditions.* Siting on lands already committed for DOE nuclear reservations.

(b) *Potentially adverse conditions.* (1) The presence of nearby potentially hazardous facilities.

(2) Siting close enough to an atomic energy defense facility to compromise or

interfere with the use of that facility for defense purposes.

§ 960.5-8 Population density and distribution.

The site shall be located to limit the potential risk to the population. The site shall be so located that risk to the population from repository operation does not exceed system-performance guidelines. A site shall be *disqualified* if it would fail to comply with EPA's standard for radiation doses received by members of the public as a result of the management and storage of these wastes (proposed 40 CFR Part 191, Subpart A).

§ 960.5-8-1 Population near the site.

The site shall be located away from population concentrations and urban areas. A site shall be *disqualified* if any surface facility of a repository would need to be located in a highly populated area or adjacent to an area one mile by one mile having a population of not less than 1,000 individuals.

(a) *Favorable conditions.* Remoteness from population centers (10 CFR 60.122(a)(7)).

(b) *Potentially adverse conditions.* A population density and distribution such that projected releases could result in the exposure of many people.

§ 960.5-8-2 Transportation.

The cost and other impacts of transporting radioactive waste to a repository shall be considered in selecting the repository sites. Consideration shall be given to the proximity of locations where radioactive waste is currently generated or temporarily stored and the transportation and safety factors involved in moving such waste to a repository.

(a) *Favorable conditions.* Ability to select transportation routes that minimize risk to the general population.

(b) *Potentially adverse conditions.* Site locations requiring the concentration of transportation routes through highly populated areas.

§ 960.5-9 Environmental protection.

The site shall be such that a repository can be constructed and operated in a manner that provides reasonable assurance that the environment will be adequately protected, for this and future generations. The site shall be located so as to reduce the likelihood and consequences of potential environmental impacts, and these impacts shall be mitigated to the extent reasonably achievable. A site shall be *disqualified* if a repository would result in an unsatisfactory adverse environmental impact that threatens the health or welfare of the public or the quality of the environment and cannot be mitigated. A site shall be *disqualified* if it is located within the boundaries of a significant nationally protected natural resource, such as a National Park, National Wildlife Refuge, or Wilderness Area, and its presence conflicts irreconcilably with the previously designated use of the site.

(a) *Favorable conditions.* (1) Ability to meet all procedural and substantive environmental requirements applicable to the site, at the Federal, State, and local level, with assurance and within time constraints.

(2) Adverse environmental impacts, to present and future generations, can be avoided or reduced to an insignificant level through the application of reasonable mitigating measures.

(b) *Potentially adverse conditions.* (1) Probable conflict with applicable Federal, State, or local environmental requirements.

(2) Significant adverse environmental impacts that cannot be avoided or minimized.

(3) Proximity to, or direct adverse environmental impacts of the repository or its support systems on, a component of the National Park System, the National Wildlife Refuge System, the Wild and Scenic River System, the National Wilderness Preservation System, or National Forest Land.

§ 960.5-10 Socioeconomic impacts.

The location of the site shall be such that any significant adverse social and/or economic impacts on communities and regions resulting from repository construction, operation, and decommissioning or the transportation of radioactive waste to the site can be accommodated by reasonable mitigation or compensation.

(a) *Favorable conditions.* (1) Locally available labor.

(2) Potential for repository-related increases in local employment, increases in business sales, increases in government revenues, or improvements in community services.

(b) *Potentially adverse conditions.* (1) The existence of, or the potential for, a lack of the necessary labor force or a lack of local suppliers.

(2) A projected substantial decrease in community services due to repository development.

(3) Conditions where the development, construction, operation, or decommissioning of a repository may require any purchase or acquisition of water rights that will have a significant adverse effect on the present or future development of the area.

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Part III

Environmental Protection Agency

State and Local Assistance

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Ch. I

[SWH-FRL 2286-2]

State and Local Assistance

AGENCY: Environmental Protection Agency.

ACTION: Rule-related document.

SUMMARY: This document establishes policies and procedures for financial assistance to States for the purposes of section 3012 of the Resource Conservation and Recovery Act (RCRA). The fiscal year 1983 Appropriations Act for the Environmental Protection Agency provided $10,000,000 from the Fund authorized by the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) for the purposes of carrying out section 3012 of RCRA. This document identifies activities that may be paid for with these funds and establishes the formula for allocating funds among the States.

DATE: The requirements for this program are effective February 7, 1983.

FOR FURTHER INFORMATION CONTACT: Lucy Sibold, Hazardous Site Control Division, Office of Emergency and Remedial Response, (WH-548-E), Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, Phone 202-382-3999.

SUPPLEMENTARY INFORMATION:

State and Local Assistance for Hazardous Waste Site Inventories Under 3012 of RCRA

Background

The purpose of this document is to set forth policies governing financial assistance to States for assessment and inspection of hazardous waste sites under section 3012 of the Resource Conservation and Recovery Act, ("RCRA") 42 U.S.C. 6933. Section 3012 of RCRA provides for State programs to develop inventories of hazardous waste storage and disposal sites. The State inventories are to contain information on the location of the sites; the amount, nature and toxicity of the hazardous waste at the sites; name and address of the owners of the sites; an identification of the types or techniques of waste treatment and disposal used at the site; and information concerning the current status of the sites. States may receive financial assistance to implement this program.

Section 3012 was added by the 1980 amendments to RCRA, but no appropriation was made until September 30, 1982. The Appropriations Act for the Environmental Protection Agency ("EPA" or "the Agency"), Public Law 97-272, provided $10,000,000 from the Hazardous Substance Response Trust Fund (the Fund) for purposes of carrying out section 3012 of RCRA. The Conference report for the Appropriations Act states:

> The committee of conference is aware that in many areas delays have been experienced in the discovery, investigation and evaluation of hazardous waste sites. This $10,000,000 is a one-time, nonrecurring appropriation to assist States in completing the site survey and inspection process. Since this will not be a continuing program, the conferees expect the Agency to allocate these funds to the States as expeditiously as possible, without establishing unduly complex administrative mechanisms or requirements. H. Rep. 97-891, 97th Cong. Sess. 2 (September 29, 1982), p.8.

It is our view that Congress, in considering the issue of hazardous waste site inventories in the context of the CERCLA appropriation and providing support for such inventories from the Fund, intended the section 3012 activities to benefit the purposes of both RCRA and CERCLA. Closely coordinating these activities will ensure such result.

EPA believes that the procedures described here are the most expeditious process for making funds available to the States. Section 3012(c) of RCRA provides that "[g]rants under this section shall be allocated among the several States by the Administrator based upon such regulations as he prescribes to carry out the purposes of this section." EPA has therefore determined that the requirements described in this document implement this section of RCRA. To quickly allocate funds, these policies and procedures are being promulgated in final form without proposal. Because the appropriation is one-time and non-recurring, the requirements will not be included in the Code of Federal Regulations. The following topics will be addressed:

- The role of section 3012 funds in the Superfund Program
- The process for providing financial assistance to States
- Allowable costs and activities under section 3012
- The allotment formula for distribution of money among the States
- The rationale for not requiring a cost share for section 3012 funds
- Certain aspects of the procedures for review and approval of applications
- Regulatory Impact and Paperwork Reduction

I. Role of Section 3012 Funds in the Superfund Program

The Fund established pursuant to section 221 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, Pub. L. 96-510, ("CERCLA" or "Superfund") is the source of funds for financial assistance under section 3012. CERCLA establishes a program for response to releases or threats of releases of hazardous substances, pollutants or contaminants from vessels or facilities. Several sections of CERCLA provide for discovery, assessment, inspection and investigation of hazardous waste disposal sites:

- Section 105 requires that the National Oil and Hazardous Substances Contingency Plan ("NCP") (40 CFR Part 300 et seq., 47 FR 31180, July 16, 1982) be revised to include procedures and standards for responding to releases of hazardous substances, pollutants and contaminants, and requires specifically that the NCP include "methods for discovering and investigation facilities at which hazardous substances have been disposed of or otherwise come to be located."
- Section 104(b) authorizes investigations, monitoring, surveys, testing and other information gathering to identify the existence and extent of a release or threatened release, the source and nature of the hazardous substances, pollutants or contaminants present, and the extent of danger to public health, welfare or the environment.
- Section 103(c) requires notification of the existence and location of facilities at which hazardous substances have been stored, treated or disposed of, and which are not presently permitted or accorded interim status under section 3005 of RCRA.
- Section 103(a) requires the person in charge of a vessel or facility to notify the National Response Center immediately when there is a release of a hazardous substance in an amount equal to or greater than the reportable quantity for the substance.

The CERCLA process for assessment and inspection of sites involves a sequence of successively more detailed studies of sites, to determine the hazards which they pose, if any. One of the most important products of this process is the National Priorities List ("NPL") proposed December 30, 1982; (47 FR 58476) of at least 400 sites that is required under section 105(8)(B) of CERCLA. This screening process is

described in detail in Subpart F of the NCP, which establishes policies and operating procedures for response to releases of hazardous substances under Superfund (40 CFR 300.61 et seq.). Specific steps include:

(1) *Discovery of releases:* Section 300.63 of the NCP identifies different methods for discovery of releases, including notifications received under section 103(c) of CERCLA, investigations by governmental authorities, notifications by permit holders, and other sources. Currently, approximately 15,000 potential uncontrolled hazardous waste sites have been listed in EPA's CERCLA inventory, which is contained in the Emergency and Remedial Response Information System (ERRIS).

(2) *Preliminary assessment:* Preliminary assessments provide the preliminary data and evaluations necessary to determine what actions should be taken next: additional investigation, emergency action, or no further action (40 CFR 300.64). Preliminary assessments may involve:

- Identification of the source and nature of the release, including the hazardous substances present and the pollutant dispersal pathways,
- Evaluation of the potential hazard posed by the site, including types of receptors and facility management practices, and
- Determination of the existence of responsible parties, and of non-Federal parties ready, willing and able to respond.

All of the sites in ERRIS are receiving or will receive preliminary assessments, to identify sites that may pose a significant threat to public health, welfare or the environment.

(3) *Site inspection:* Site inspections are undertaken to assess the nature and extent of the release and to provide sufficient data to determine priority for Fund-financed response (40 CFR 300.66(b) and (c)).

(4) *National Priorities List:* Sites are evaluated according to the Hazard Ranking System in the NCP. The NPL was proposed on December 30, 1982 (47 FR 58476), and will be updated on a quarterly basis (40 CFR 300.66(e)).

As noted above, the conference report on Pub. L. 97-272 indicates that section 3012 funds are intended to assist States in completing the site assessment and inspection process. To assure that the funds are used most effectively, EPA will not establish separate requirements for inventory of sites under section 3012 of RCRA, but will instead use section 3012 funds to support the ongoing process for discovery, assessment, and inspection of sites under CERCLA.

II. The Process for Providing Financial Assistance to States

The process for providing financial assistance involves the following actions:

(1) EPA has developed an allocation formula, and specific allotments for each State.

(2) EPA has identified activities that are allowable under section 3012 and priorities for use of section 3012 funds.

(3) States will prepare financial assistance applications and work programs that identify the activities they will undertake with section 3012 funds. EPA has prepared guidance to provide additional information to States concerning allowable activities.

(4) EPA will evaluate State applications for funds and work programs to determine that the activities identified by States are allowable under section 3012 and these policies and procedures, and that they are consistent with the outlined priorities. EPA will then complete negotiation of cooperative agreements with the States.

(5) If all funds are not obligated after the first round of awards of financial assistance, then notice will be given to the States and the remaining funds will be distributed based on a second round of applications.

III. Allowable Activities and Priorities

This section briefly identifies the broad categories of allowable activities, describes the priorities for use of section 3012 funds, describes the rationale for identifying these activities and priorities, and discusses how the States and EPA will identify specific tasks to be conducted with these funds.

Allowable activities: The allowable State activities are preliminary assessments, site inspections, responsible party searches, inventory completion, and collection of further information to characterize problems at selected sites. Preliminary assessments and site inspections are the highest priorities for use of section 3012 funds.

Preliminary assessments and site inspections: The highest priority for use of section 3012 funds is to assess and inspect sites currently included in the ERRIS inventory, to determine whether they in fact pose a hazard. States are not restricted to sites currently included in the ERRIS inventory, but the sites must be entered into ERRIS before a State carries out assessments and inspections using section 3102 funds.

Preliminary assessments and site inspections may also be needed for other purposes. They may be necessary to determine whether sites should be included on the NPL. Although the proposed NPL was published for comment on December 30, 1982, the process for listing sites on the NPL is ongoing. The Agency anticipates that the NPL will be updated on a quarterly basis, and results of these assessments and inspections should be reflected in these quarterly updates where applicable. Even after site inspections that are adequate for purposes of scoring sites for the NPL are completed, additional site inspection followup work may be necessary.

There are other, lower priorities for use of 3012 funds in the area of preliminary assessments and site inspections. It may be appropriate in some situations to gather all information necessary to score particular sites for inclusion on the NPL through application of the Hazard Ranking System. (See the NCP, 40 CFR 300.66(d), and the accompanying preamble.) It may also be appropriate in some circumstances to perform site inspection followups, as discussed in the previous paragraph.

Discovery and inventory completion: Inventory completion involves supplementing the ERRIS inventory with additional sites which have not been brought to the attention of EPA. When the States inform EPA of such sites, they will be formally entered into ERRIS. States should bring these sites to the attention of EPA Regional offices, in order to complete the inventory of the sites which need preliminary assessments.

Considerable effort has already been devoted to discovery of sites. EPA believes that it is necessary to place principal emphasis on State and Federal efforts to further assess and investigate sites actually known to exist, in order to determine priority sites for Fund-financed cleanup and enforcement action. Therefore, preliminary assessments, site inspections and inventory completion should be considered higher priority activities. Investigations to identify sites not known to exist should generally be given lower priority.

Responsible party searches and other state enforcement costs: Section 3012 authorizes funds to identify the owners of hazardous waste disposal sites, and gather information concerning the amount, nature and toxicity of hazardous waste at these sites. Responsible party searches are encompassed within this language. They are normally conducted as part of preliminary assessments. However, other enforcement-related costs, including costs for litigation, are not allowable.

Reimbursement: Section 3012(c) of RCRA states that "[t]he Administrator may make grants to any State which has conducted an inventory program which effectively carried out the purposes of this section before the date of the enactment of the Solid Waste Disposal Act Amendments of 1980 to reimburse such State for all, or any portion of, the costs incurred by such State in conducting such program." Thus, the statute provides for reimbursement for work performed prior to enactment of section 3012 in October 1980.

Section 3012 funds will not be used for reimbursement. The language of section 3012 authorizes, but does not require, reimbursement. The legislative history of Public Law 97-272 indicates that the purpose of the appropriation is to assist States in completing the site survey and inspection process. It is our view that reimbursement does not further that objective. Rather, the limited funds that are available should be used toward work that remains to be done.

Identification of specific activities for States: States are not required to conduct the full range of allowable activities identified, and EPA does not anticipate that all States will undertake this full range of activities. The priorities for use of funds discussed above are not mandatory, but are included to indicate the activities which EPA believes are most crucial to successful implementation of CERCLA. States may propose other activities, within the scope of the allowable activities identified by section 3012 and this document, and those activities may be funded, if the States provide an adequate justification for different priorities. EPA has prepared guidance which provides more detailed information on allowable activities.

EPA is not prescribing uniform activities for States to conduct with these funds. The resources available to States, the extent of the activities within States, and the actions needed for each State vary considerably, and any attempt at uniformity across the States would be inappropriate. This document simply identifies types of activities appropriate for section 3012 funds, and their priorities. Specific tasks will be identified in the course of negotiating cooperative agreements. EPA is providing additional guidance that describes in some detail the specific actions involved in conducting preliminary assessments and site inspections.

Other sources of funds besides section 3012 are also available for conducting these activities, and related activities are ongoing under other programs. Work programs and cooperative agreement applications should be developed carefully to minimize overlap and duplication. For example, the Remedial/Field Investigation Team (REM/FIT) contracts recently awarded by EPA provide contractor resources to perform preliminary assessments and site inspections, and much site assessment and inspection work will be conducted by these contractors. States and EPA are also undertaking enforcement and inspection activities for certain hazardous waste sites under the RCRA Subtitle C Hazardous Waste Permit program. In developing work programs and negotiating cooperative agreements, States will have the flexibility to tailor the use of section 3012 funds to their specific needs, and to reevaluate the respective roles of the States and REM/FIT contractors in conducting this work. States should meet with EPA regions to identify areas of potential overlap and develop arrangements to minimize such overlap. Other details of the process of applying for financial assistance and negotiating cooperative agreements are discussed in Parts VI and VII.

IV. Allotment Among the States

Section 3012(c) provides that "[g]rants under this section shall be allocated among the several States by the Administrator based upon such regulations as he prescribes to carry out the purposes of this section." The allotments are, for the most part, proportional to the number of sites included for each State in the ERRIS inventory as of January 17, 1983. All States with more than 20 sites in the inventory qualify for the minimum allotment of $25,000. Certain territories have fewer than 20 sites in ERRIS, and are not given an allotment. In such instance, EPA determined that application for and approval of financial assistance would consume an inordinate amount of effort for the amount of money that would be made available. These territories remain eligible for Federal assistance from the REM/FIT contracts. The allotments for each State are set forth in Table I.

The ERRIS inventory of hazardous waste sites contains the name, address, and physical location of nearly 15,000 sites, as well as information on the status of response action at each site. ERRIS was compiled from several less comprehensive data bases in use within EPA, and is being continually updated. Although relatively new, it is the most complete national listing of hazardous waste sites available.

The Agency considered applying the existing formula used for allocations under section 3011 of RCRA. Section 3011 of RCRA provides for allocations among the States which take into account the extent to which hazardous waste is generated, transported, treated, stored and disposed of within such State, the extent of exposure of human beings and the environment within such State to such waste, and other factors that the Administrator deems appropriate. The RCRA formula assigns the following weights: population—40%, amount of hazardous waste—40%, number of generators—15%, land area—5%.

The Agency believes that the RCRA section 3011 allocation formula is not appropriate for the activities contemplated under section 3012. The section 3011 formula is designed to reflect costs associated with operation of a regulatory program, rather than the number of inactive hazardous waste sites. A formula based on the number of sites already included in the ERRIS inventory established under CERCLA will more accurately reflect the need for funds, because the priorities for use of this money are preliminary assessments and site inspections for sites identified in ERRIS. The Agency believes that the addition of other factors, such as waste volume, would complicate the development of actual allotments and possibly lead to delays in providing funds.

EPA also considered an approach for allotment that was not strictly tied to the number of sites in ERRIS. Under this alternative, if a particular State's percentage of sites in the ERRIS inventory would result in an allotment of less than $100,000, then no allotment would be provided for that State. The funds not allocated to a particular State would have been available to any State, depending on the State's and EPA's determination of the State's needs, and other competing needs for funds. EPA rejected this approach because it determined that the $100,000 "threshold" was too high. Many States with a substantial number of sites would not have qualified for an allotment.

V. Cost Share

EPA's General Grant Regulations require that recipients of EPA assistance share project costs by contributing not less than five percent of allowable project costs (40 CFR 30.720). Through a class deviation which will be published in the **Federal Register**, EPA will waive this requirement for section 3012 cooperative agreements. No State cost share will be required.

The Agency considered several cost-sharing alternatives, including the 75/25 split that is required by the RCRA 3011 regulations, and the 90/10 cost share

that is applicable to CERCLA State remedial program costs under the Fund. Preliminary assessments and site inspections that are conducted by EPA are not currently subject to cost sharing requirements under CERCLA. In addition, the Agency believes that any cost share would be difficult for States to obtain, particularly in light of the relatively short time frame in which financial assistance must be made. Activities funded under section 3012 can be undertaken more quickly if a cost share is not required.

These funds may not be used as the State's cost share for any CERCLA actions that require a State cost share.

VI. Procedures for Providing Financial Assistance to States

The procedures governing financial assistance under section 3012 are, for the most part, set forth in 40 CFR Part 30, EPA 's General Grant Regulations. Certain additional requirements are discussed below. The Agency intends to keep the conditions which States must meet to qualify for funding to the minimum necessary for effective program management. Reporting requirements are limited to those in 40 CFR Part 30. EPA has decided to issue these policies and procedures, rather than amend the State and Local Assistance Regulations because the section 3012 program is not a continuing environmental program governed under 40 CFR 35.100.

Section 3012 provides for "grants" to the States. However, under the Federal Grant and Cooperative Agreement Act (Public Law 95–224), EPA is to select the legal instrument that best reflects the relationship between EPA and the States. In this program, EPA will have substantial involvement in the development and implementation of the State's activities. Consequently, cooperative agreements are to be used.

Work Programs

EPA anticipates that work programs will be developed with early and full consultation between States and EPA. EPA is not specifying uniform activities that must be performed by all States. Based on the current status of site assessment work, EPA and the States may specify activities that are not identical to the priorities outlined in Part III. In the course of negotiating cooperative agreements, EPA or a State may identify different high priority activities needed for that particular State. For example, it may be necessary for some States to update or complete site inventories before work on preliminary assessments or site inspections can be undertaken.

Approval Process

Applications should be reviewed by the EPA Regional Administrators, and after this preliminary review is completed, formally submitted to the Administrator. Without such review, an application will not be regarded as complete. In reviewing applications for financial assistance, EPA will consider whether the application complies with EPA regulations including 40 CFR Part 30, whether achievement of the proposed outputs is feasible in light of the applicant's past performance, organization, resources and procedures; and whether the activities may overlap with other ongoing State or Federal activities. If the initial application cannot be approved, EPA will negotiate the necessary changes with the applicant. EPA will not wait for the 90 day time period set out in Part VII for submitting applications to expire before it begins to process applications. EPA intends to process applications as soon as possible after receiving them.

Budget Period

The funds appropriated under section 3012 will be available for obligation by EPA until the end of fiscal year 1984 (September 1984). Although there is no requirement to complete all work with the funds by this date, States should plan to complete preliminary assessments and site inspections by the end of fiscal year 1984.

Reallocation

If any funds are not obligated in the first round of awards, they will be made available for a second round of applications. EPA will provide notice in the **Federal Register** concerning the allotment of these funds.

VII. Regulatory Impact and Paperwork Reduction

Under Executive Order 12291, EPA is required to determine whether a regulation is major, and therefore subject to the Executive Order requirement of a Regulatory Impact Analysis. We have determined that this rule-related document is not major, because it will not have a substantial impact on the Nation's economy or large numbers of individuals or businesses. There will be no major increase in costs or prices for consumers, individuals, industries, or Federal, State or local governments. The document was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. These procedures add no reporting requirements to those already required under EPA's General Grant Regulations. Those regulations are currently being revised and will be submitted shortly to OMB for review under the Paperwork Reduction Act. Therefore, a separate clearance for this document by OMB under the Paperwork Reduction Act is not required.

These policies and procedures are, effective February 7, 1983. This document has been published as a final rule-related document, without notice and comment procedures, because of the need to provide funds expeditiously, and because the Administrative Procedures Act does not require notice and comment rulemaking for policies and proecdures relating to financial assitance.

Dated: January 25, 1983.

Anne M. Gorsuch,

Administrator.

Summary: Financial Assistance to States for Inventory of Hazardous Waste Sites

1. Purpose and Applicability

This document sets forth policies and procedures for financial assistance from the Hazardous Substance Response Trust Fund (the Fund), 42 U.S.C. 9631, to States to develop hazardous waste site inventories under section 3012 of the Resource Conservation and Recovery Act (RCRA). It identifies allowable activities and the allocation of funds among the States. EPA regulations governing financial assistance, including 40 CFR Parts 30, 32 and 33, apply to awards under section 3012.

2. Allowable Activities

The following activities are eligible for financial assistance from the Fund under section 3012 and shall be carried out pursuant to the National Oil and Hazardous Substances Contingency Plan, 40 CFR 300, *et. seq:*

a. Discovery of releases of hazardous substances, pollutants or contaminants ("releases"). The process for conducting discovery of releases is described in 40 CFR 300.63.

b. Preliminary assessments of releases. The process for conducting preliminary assessments is described in 40 CFR 300.64.

c. Inspection and investigation of releases. The process for conducting these inspections and investigations is described in 40 CFR 300.66 (b) and (c).

d. Identification of persons who may be liable under section 107 of CERCLA for costs of response or for damages attributable to releases.

3. State Allotments

State allotments are based on the number of sites which have been identified for each State in the Emergency and Remedial Response Information System (ERRIS) as of January 17, 1983. Allotments for each State are set forth in Table I. No State with less than 20 sites qualifies for an allotment. Any State with more than 20 sites qualifies for at least $25,000. The State allotment does not entitle the State to an award in that specific amount. The allotment is a ceiling for the award which will be based on the State's work program and application.

4. Process for Providing Financial Assistance

a. State application: Any State which seeks financial assistance shall submit a completed application for assistance to the Administrator within 90 calendar days of publication of this document. The application must meet the requirements of 40 CFR Part 30, and include a proposed work program.

b. Work Program: The work program must specify the outputs that the State intends to produce with the funds requested, provide a schedule for accomplishing these outputs, and identify agencies responsible for producing these outputs. The work program should briefly describe any other State activities to assess and investigate hazardous waste sites in ERRIS that are currently underway, and arrangements to assure that activities for which funds are sought under section 3012 will not duplicate ongong activities.

c. EPA action on application: The Administrator will review each completed application and should approve or disapprove it, or provide the State with written notice of the status of the application, within 60 days of receipt.

d. Reallotment: EPA will provide public notice and solicit a second round of applications for the purposes of obligating any section 3012 funds that are not obligated on the basis of the allotment in Table I.

5. Cost Share

No State cost share is required: EPA will provide one-hundred percent of the approved allowable work program costs.

Table I: State Allotments

The first column is a list of States organized by EPA region. The second column identifies the number of sites each State has in ERRIS (the Emergency and Remedial Response Information System, which is EPA's inventory of sites) as of January 17, 1983. The third column indicates the allotment for each State.

State	Number of sites	Allotment
Connecticut	197	$128,000
Maine	67	43,000
Massachusetts	321	208,000
New Hampshire	54	35,000
Rhode Island	46	30,000
Vermont	20	25,000
New Jersey	663	430,000
New York	1,028	667,000
Puerto Rico	138	88,000
Delaware	61	40,000
Maryland	143	93,000
Pennsylvania	748	486,000
Virginia	231	150,000
West Virginia	153	99,000
Alabama	392	254,000
Florida	260	169,000
Georgia	534	347,000
Kentucky	244	158,000
Mississippi	233	151,000
North Carolina	628	408,000
South Carolina	111	72,000
Tennessee	573	372,000
Illinois	543	353,000
Indiana	435	282,000
Michigan	624	405,000
Minnesota	198	129,000
Ohio	764	496,000
Wisconsin	202	131,000
Arkansas	227	147,000
Louisiana	293	190,000
New Mexico	144	93,000
Oklahoma	406	263,000
Texas	1,043	677,000
Iowa	299	194,000
Kansas	261	169,000
Missouri	426	277,000
Nebraska	169	110,000
Colorado	239	155,000
Montana	79	51,000
North Dakota	31	25,000
South Dakota	40	26,000
Utah	101	66,000
Wyoming	65	42,000
Arizona	140	91,000
California	860	558,000
Hawaii	72	47,000
Nevada	113	73,000
Alaska	93	60,000
Idaho	107	69,000
Oregon	159	103,000
Washington	402	261,000
Total		9,996,000

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February 7, 1983

Part IV

Department of Transportation

National Highway Traffic Safety Administration

Consumer Information Regulations; Uniform Tire Quality Grading; Final Rule

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 575

[Docket No. 25; Notice 52]

Consumer Information Regulations; Uniform Tire Quality Grading

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule.

SUMMARY: This notice suspends, on an interim basis, the treadwear grading requirements of the Uniform Tire Quality Grading Standards (UTQGS). No change is made in the requirements of grading the traction and temperature resistance performance of new tires except for a minor change in the format for molding those grades on tires.

The UTQGS treadwear grading requirements are intended to aid consumers in assessing the value of new tires in terms of relative treadwear performance. This suspension is being adopted because available information and analysis indicate that the treadwear grades are apparently not only failing to aid many consumers, but also are affirmatively misleading them in their selection of new tires. The unreliability of the treadwear grades arises from unacceptable and unreasonable variability in test results and assigned grades.

The agency is also amending Part 575 to change the format for molding grades on the sidewalls of new tires. The new format, which would include traction and temperature resistance grades but not treadwear grades, must be used on new tires produced in molds manufactured after August 8, 1983. The agency expects and directs that manufacturers will cease printing tire labels and consumer information materials which include treadwear grades described or characterized as having been determined by or under the UTQGS procedures of the United States Government.

As a result of the amendments adopted by this notice, consumers will cease to be misled by unreliable treadwear grade information. In addition, the costs of implementing the treadwear grading program will no longer be imposed on the manufacturers and consumers.

DATES: The suspension of the existing requirements relating to treadwear grades, and the new alternative provision specifying the format for the molding of only traction and temperature resistance information on new tires (§ 575.104 (i)(1) and (i)(2)(i)) are effective February 7, 1983. The provision requiring use of the new format (§ 575.104(i)(2)(ii)) is effective for tires produced in molds manufactured on or after August 8, 1983.

FOR FURTHER INFORMATION CONTACT: Joseph Innes, Office of Market Incentives, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590; (202–426–0846).

SUPPLEMENTARY INFORMATION: Section 203 of the National Traffic and Motor Vehicle Safety Act requires the Secretary of Transportation to prescribe a "uniform quality grading system for motor vehicle tires." As explained in that section, this system is intended to "assist the consumer to make an informed choice in the purchase of motor vehicle tires." The uniform tire quality grading standards (UTQGS) became effective April 1, 1979, for bias tires; October 1, 1979, for bias belted tires; and April 1, 1980, for radial tires. UTQGS requires manufacturers and brand name owners of passenger car tires to test and grade their tires according to their expected performance in use with respect to the properties of treadwear, traction and temperature resistance, and provide consumers with information regarding those grades.

Treadwear Testing and Grading Process

This notice focuses on the treadwear grades. Unlike grades for the properties of traction and temperature resistance, the treadwear grades have never been intended to promote safety. Their essential value has always been to aid consumers in selecting new tires by informing them of the performance expectations of tread life for each tire offered for sale, so that they can compare on a common basis the relative value of one tire versus another. Although these grades are not intended to be used for predicting the actual mileage that a particular tire will achieve, the relevance and effectiveness of the grades depends directly on the accuracy of the projections of tread life derived from tests and assigned by grades.

The grades are based on a tire's projected mileage (the distance which it is expected to travel before wearing down to its treadwear indicators) as tested on a single, predetermined course laid out on public roads near San Angelo, Texas. Each treadwear test consists of 16 circuits of the approximately 400 mile long course. A tire's tread depth is measured periodically during the test. Based upon these measurements, the tire's projected mileage is calculated. A tire's treadwear grade is expressed as the percentage which its projected mileage represents of a nominal 30,000 miles. For example, a tire with a projected mileage of 24,000 would be graded "80," (i.e., 24,000 is 80 percent of 30,000 miles), while one with a projected mileage of 39,000 would be graded "130," (i.e., 39,000 is 130 percent of 30,000, rounded).

Because the measured treadwear upon which grades are based occurs under outdoor road conditions, any comparison between candidate tire performances must involve a standardization of results by correction for the particular environmental conditions of each test. To do this, the treadwear performance of a candidate tire is measured in all cases in conjunction with that of a so-called "course monitoring tire" (CMT) of the same construction type. The treadwear of the standardized CMT's is measured to reflect and monitor changes in course severity due to factors such as road surface wear and environmental conditions. The actual measured treadwear of the candidate tire is adjusted on the basis of the actual measured treadwear on the CMT's run in the same convoy, and the resulting adjusted candidate tire treadwear is used as the basis for assigning the treadwear grade.

To promote their uniformity, the CMT's are selected from a single production lot manufactured at a single plant, under more stringent quality control measures (set by contract with NHTSA) than would otherwise apply to production tires.

Each test convoy consists of one car equipped with four CMT's and three or fewer other cars equipped with candidate tires of the same construction type. Candidate tires on the same axle are identical, but front tires on a test vehicle may differ from rear tires as long as all four are of the same size designation. After a two-circuit break-in period, the initial tread depth of each tire is determined by averaging the depth measures in each groove at six equally spaced locations around the circumference of the tire. At the end of every two circuits (800 miles), each tire's tread depth is measured again, the tires are rotated on the car, and wheel alignments may be readjusted as needed to fall within the ranges of the vehicle manufacturer's specifications. At the end of the 16-circuit test, each tire's overall wear rate is calculated from the nine measured tread depths and their corresponding mileages after break-in by using a regression line technique.

Part 575 requires that the treadwear grading information be disseminated in three ways. First, the actual grade must be molded onto the sidewall of each tire. Second, the grade and an explanation of the treadwear grading process must appear on a paper label affixed to the tire tread. Third, the grade and the same explanation must be included in materials made available to prospective purchasers and first purchasers of new motor vehicles and tires.

Agency's Recent Actions.

The basis and validity of the UTQGS has been a longstanding source of controversy and uncertainty within the agency and among interested parties. In view of the manifest potential conflict between the clear desirability of a valid, effective program to enable more informed consumer choice in the marketplace and the potential for serious adverse effect on the marketplace of an inadequate or potentially misleading programmatic result, the agency responded to its own enforcement uncertainties, described more fully below, by reviewing the current state of knowledge concerning the UTQGS, and addressing the specific sources of variability already identified.

Variability due to treadwear test procedures. In response to longstanding concerns about the variability and unreliability of the treadwear test results and grades and about the underlying causes of these problems, the agency conducted a review in May 1982 of treadwear test procedures being used by the tire testing companies in San Angelo. That review confirmed the existence of numerous uncontrolled sources of potential variability in treadwear test results. The potential cumulative effect of those sources would produce test result variability approaching the unacceptable magnitude long asserted by many tire manufacturers. The high level of test result variability could result in tires with better actual treadwear performance being graded as inferior to tires with worse actual performance, or vice versa.

The review did not, however, address in detail the relative significance of the various sources of variability. That question and the ultimate question of whether the identified sources of variability can be sufficiently controlled so as to bring the overall amount of variability down to an acceptable level can be answered only after extensive research and testing.

Among the sources of variability discussed in the review were the weight scales intended to assure the proper loading of the cars used in the testing convoys, errors or inconsistencies introduced by variations in the amount of force applied to the probes used to measure tread depth and tendencies of measuring personnel to "search" for tread depth measurements consistent with expected rates of treadwear, discrepancies in the level of the training of technicians, fairly wide tolerances on critical alignment settings, unquantifiable variations in vehicle weights and weight distribution and suspension modification, and variations in driver techniques and in weather conditions on the course.

Each of the specific identified sources of such variability is discussed in detail below.

Variability due to grade assignment practices. Following the initial implementation of UTQGS, the agency sent a special order to the tire manufacturers to obtain information regarding their practices for translating treadwear test results into grades. The response indicated wide variation within the industry regarding those practices. Some manufacturers evaluated data by applying statistical procedures to estimate the percentage of their production which would equal or exceed a particular grade. Other manufacturers did not use such a procedure, relying instead on business and engineering judgment in assigning grades. The agency tentatively concluded that these differing practices created the substantial likelihood that different manufacturers, although faced with similar test results, would assign different grades to their tires. Accordingly, NHTSA issued a notice of proposed rulemaking requesting comment on a standardized process for translating test results into grades (46 FR 10429, February 2, 1981). Commenters generally criticized the proposed process, particularly for its failure to account properly for undergrading. The agency is continuing its efforts aimed at developing a uniform procedure for translating test results into treadwear grades. However, until this problem is resolved, the unreliability of treadwear grades is compounded by the fact that the relationship between test results and assigned grades is not a constant one from manufacturer to manufacturer.

Variability inherent in the nature of tire structure. A potential for an unquantified degree of variability is inherent in the differences between seemingly identical (i.e., in terms of brand, line, size and manufacturing lot) tires. The potential arises from the complex combination of a variety of factors, including the materials, designs and manufacturing procedures, that go into the production of tires. The materials include the rubber composition and various reinforcing materials such as rayon, steel, polyester, etc., which themselves are developed from complicated manufacturing processes. The design of a tire includes such factors as the cross section shape, the orientation and structure of the reinforcing materials, the tread design and the construction (bias, bias-belted or radial). The manufacturing procedures include the processes employed during manufacturing and the conditions such as temperatures and times of vulcanization. Separately and together, these variables can have a significant effect on tread life.

In the production of tires, the manufacturers use a variety of techniques in an attempt to control all of these variables and to achieve a consistent level of quality and performance for their different products. The success of these efforts varies from tire line to tire line, lot to lot, and from manufacturer to manufacturer. The complexity of the entire process will inevitably lead to some variation in performance, including treadwear performance between nominally identical tires.

Notice of Proposed Rulemaking

Based on the assertions and submissions of the tire manufacturers and the agency's review of the test procedures and of its own enforcement data, the agency tentatively concluded in July 1982 that treadwear grading under UTQGS should be suspended pending completion of research regarding the extent to which the sources of variability could be isolated and reduced. Accordingly, it issued a notice of proposed rulemaking to obtain both written comments and oral testimony on suspending treadwear grading (47 FR 30084, July 12, 1982) and to schedule a public meeting August 12, 1982. The agency stated that it was issuing the proposal principally to avoid the dissemination of information potentially misleading to consumers and secondarily to minimize the imposition of unwarranted compliance costs on industry and consumers. The agency noted its concern that the treadwear grading was not only failing to achieve its statutory goal of informing consumers, but also affirmatively misleading them.

In defending UTQGS against earlier judicial challenges, NHTSA had taken the position that the treadwear test procedure was adequately specified to ensure that test result variability was limited to acceptable levels. See *B. F. Goodrich v. Department of*

Transportation, 541 F. 2d 1178 (6th Cir. 1976) (hereinafter referred to as *"Goodrich I"*); and *B. F. Goodrich v. Department of Transportation*, 592 F. 2d 322 (6th Cir. 1979). For example, the agency had stated in the *Goodrich I* litigation that variables in the testing procedure are controlled and taken into account, principally through the selection of a single test course and the use of CMT's. With respect to certain potential sources of variability, the agency stated that their effects on treadwear testing and grading would be minimal. The agency indicated in its suspension proposal that it could no longer make the same representations. These statements have been further undermined by information now available to the agency.

The notice summarized the material relied upon by the agency in making its tentative conclusions, including the information and arguments submitted by the tire manufacturers. Firestone Tire and Rubber Company, for example, found that treadwear test results could vary up to 30 percent even for CMT tires, which are specially manufactured for maximum homogeneity. That company also pointed out several possible causes of the variability, including variability in test vehicles and driver techniques as well as deficiencies in the details of the test procedures themselves. General Tire and Rubber Company reported additional sources of variability, including vehicle wheel alignment, weight distribution and test course environmental factors. B. F. Goodrich Company stated that differences in tire tread composition between candidate tires being tested and the CMT's could be a major source of variability. As a group, the tire manufacturers generally contended that the variability of the test results is too great to permit meaningful treadwear test grading or compliance testing. The agency's own preliminary research confirms this conclusion and supports the need for the suspension.

The proposal also discussed the agency's enforcement data and described at length the review conducted by NHTSA of the treadwear testing companies. The agency emphasized that the list of sources of variability mentioned in the review was not exhaustive, but intended merely to be illustrative of the types of possible sources and of the difficulties which exist in seeking to establish a treadwear test procedure that could produce valid, repeatable results. The agency found that the combination of the examined sources represented a potential for test result variability of serious dimensions. Each potential source of variability was described and the potential effect of them on test results was estimated. For example effects of ±34 or 35 points were estimated for two sources of variability and ±14 points for another.

Summary of Comments on Proposal

Written comments and oral testimony were received from a variety of sources, although the most detailed ones were from tire manufacturers. While there was a division of opinion regarding the merits of the proposal, most commenters favored the suspension. Proponents of the suspension included tire manufacturers, several tire manufacturers' associations, tire dealers, a motor vehicle manufacturer, some consumers, and a public interest group. Proponents agreed with the agency's statement that the treadwear test results and grades were so variable and unreliable as to confuse and mislead consumers. They also listed again the factors that they thought were causing the variability. Some proponents suggested that the problems are so serious that simple suspension was inadequate. They urged that the agency go further and rescind the treadwear provisions altogether.

Opponents of the proposed suspension included one tire manufacturer, a tire dealer, a public interest group, a county consumer protection agency, and a number of consumers. The tire manufacturer argued that the treadwear grade information was sufficiently correlated with actual differences in tire performance to be helpful to those consumers who use that information. It acknowledged that there was variability in the treadwear test results and differences in the grade assignment practices, but contended that these problems could be satisfactorily controlled through further identified changes in UTQGS. The manufacturer argued that even if there were difficulties in enforcing the current treadwear requirements, the overall value of the comparative treadwear information justified retention of the requirements while the enforcement problems were addressed. The public interest group argued that NHTSA was ignoring its statutory mandate, as interpreted by that group, in contemplating a suspension of treadwear grading. That opponent argued further that the agency had artificially narrowed the options under consideration in this rulemaking proceeding.

Two tire testing companies submitted detailed comments regarding their testing practices. They generally argued that the problems discussed in the agency's review of testing companies did not apply to them. One asserted further that the suspension would have a severe economic impact in the San Angelo, Texas area, where treadwear tests are conducted. The San Angelo Chamber of Commerce concurred in that assessment.

Summary of Suspension Decision

NHTSA has decided to suspend the treadwear provisions of UTQGS because available information and analysis indicate that the treadwear grades are apparently not only failing to aid many consumers, but are also affirmatively misleading them in their selection of new tires. The capacity of these grades to mislead consumers arises principally from variability in treadwear test results unrelated to actual differences in measured or projected performance, and secondarily from differences among manufacturers in their translation of test results into grades. In its proposal, the agency identified some of the wide variety of uncontrolled sources of variability in the insufficiently specific treadwear test procedures. The agency has been able to quantify the effect of only some of those sources. Other sources are believed to exist and continue to be discovered. Indeed, the tire manufacturer opposing the suspension reported only last November its discovery of a "major unreported source of variability." (Letter from R. H. Snyder, Uniroyal Tire Company, to Raymond Peck, NHTSA Administrator, November 12, 1982, Docket 25, Notice 47, No. 090.)

In their comments to the agency, the opponents of the suspension did not controvert the premise of the agency that there is substantial variability in test results and that there are specific identified sources of much of that variability. The tire manufacturer opposing suspension conceded that test result variability and differences in grading practices can be so large as to result in changes between the order in which tires are ranked based on test results and the order in which they are ranked based on grades. Indeed, comparisons of the agency's own compliance test data and grades assigned by the tire manufacturers indicate that these ranking changes occur with some frequency and can be substantial. Moreover, the opponents did not deny that there were significant problems with enforcing the treadwear requirements of Part 575 as they are now written.

Where the rank order of measured performances or assigned grades

changes, it is clear that only one of such differing results can in fact be objectively correct and valid. Any such change in ranking thus represents a clear and present danger that grades can be affirmatively misleading. Resulting purchasing decisions based on such incorrect grades are not merely wrong, but represent instances in which the government-created program of consumer assistance through the dissemination of objective comparative information has in fact affirmatively misled the consumers which are intended to be assisted.

Although the sources of variability may ultimately be controllable to the extent that the variability and unreliability derived from treadwear test results and grades are reduced to lower, more acceptable levels, considerable research must be completed before that is even a possibility. Even if such research were now complete, it is not clear at this point how much of the current test-derived variability and unreliability could be eliminated. Much of the necessary research has already been initiated. When the research is completed, the agency will address the question of whether the problems can be reduced to the point that it can begin considering whether to reinstate the UTQGS treadwear system.

Rationale for Suspension Decision

Magnitude of the Overall Variability and Reliability Problem

Available data demonstrate that the treadwear test results can vary substantially and that the treadwear grades assigned by the manufacturers are unreliable for the purposes of comparing tires. Data submitted by the tire manufacturers indicate that subjecting tires of a particular type and line to the same tests on separate occasions produces differences in test results of up to 80 points. The agency's own compliance test data include examples of significant test result variability.[1]

Moreover, in addition to test result variability, the process of assigning grades can and demonstrably has introduced other unacceptable levels of uncertainty as far as the consumer is concerned. Treadwear grades are often not a reliable indicator of the relative tread life of tires because the order in which tires are ranked on the basis of test results can differ significantly from the order in which they are ranked on the basis of grades. The magnitude of these crossovers (i.e., changes in rank) can be substantial, as is shown in a graph which B. F. Goodrich constructed by plotting the agency's enforcement data against the grades assigned by the tire manufacturers for the same tires. (This is the same graph shown on page III–2 of the agency's regulatory evaluation for this rulemaking action and is similar to one prepared by Uniroyal.) Goodrich's graph includes information on radial ply tires primarily, although it also covers tires of other construction types. There are numerous examples in the graph of tires whose test results fell within a 10 point range, but whose assigned grades were spread over an 80 to 100 point range. Some tires had average test results which were 10 points below those of other tries, but were assigned grades as much as 60 or 70 points higher. Some tires assigned the same grade had average test results that were scattered over a 100 point range. These phenomena are not restricted to a particular portion of the graph, but exist throughout, from the left side where bias ply and bias belted tires predominate to the right side where radial ply tires predominate.

The magnitude and pervasiveness of the crossovers and grading quirks means that the treadwear grades have the capacity for more than simply confusing consumers about the relative performance of tires exhibiting nearly the same performance. The possibility exists for confusion even between some tires in the lower third percentile and some tires in the upper third percentile of treadwear performance. Thus, whether a prospective purchaser seeking the particular size (i.e., diameter) of tire appropriate for his or her vehicle is looking at the entire spectrum of construction types, or is focusing on a single construction type only, there is a significant possibility that the person may be mislead about the relative performance of tires. The possiblity is greatest in the latter case, since the smaller the difference in actual performance between tires under consideration, the greater the probability that test variability and crossovers will cause the grades of those tires to be misleading about the relative performance of those tires. The ranges in grades for particular construction types are not very large when compared with the magnitude of the problems created by test variability and crossovers. Treadwear grades typically range from 60–120 (a 60 point range) for bias ply tires of all sizes, 90–150 (a 60 point range) for bias belted tires of all sizes, 120–200 (an 80 point range) for 13 inch diameter radial ply tires, and 160–220 (a 60 point range) for 13 inch diameter radial ply tires, and 160–220 (a 60 point range) for 14 inch radial ply tires, and 170–220 (a 50 point range) for 15 inch radial ply tires. The ranges for radials are particularly relevant since radials account for most original equipment tires on new cars and a substantial majority of replacement tires for used cars.

It is considered especially significant that the occurrence of such rank changes is not uncommon. For examples for each of a majority of the tires in Goodrich's graph, other tires could be found in the graph which had a lower assigned grade but which, based on compliance test results, exhibited superior performance.

Although the agency recognizes that the graphs submitted by Goodrich and Uniroyal reflect, in part, manufacturer-to-manufacturer differences in grade assignment procedures and not just variability in test results, the agency considers the analyses made using the graphs to be significant since they point out the extent to which consumers may in fact be misled by treadwear grades. In its analysis, Uniroyal calculated a correlation coefficient of 0.763 for the two variables (test results and grades),[2] and a similar rank order correlation. The coefficient of 0.763 implies that only about 58 percent (the square of the correlation coefficient) of the variation in tire treadwear grades can be explained by actual differences in treadwear performance. The agency estimates that as many as 10 of the 40 percentage points of unexplained variability may be due to differences in grade assignment practices.[3]

[1] The agency believes that the enforcement data are a particularly significant source of information since the data comprise the most complete set of test results available. They reflect consistent application of test procedures under the direction of a single party, the agency, under circumstances involving the greatest incentive of any interested party to minimize variability in data, the exigencies of the certainty required for enforcement purposes. In fact, to attempt to resolve doubts as to variability, the agency has in fact refined its enforcement test procedures to a greater extent than is required by Part 575. For example, all enforcement tests are conducted by a single contractor, eliminating the influence of differences between test facilities. Highly accurate electronics scales are used to determine wheel loads. Very precise wheel alignment equipment is used. That equipment has been operated by the same skilled technicians for all compliance tests since mid-1981. Thus, NHTSA believes that statements regarding test variability which are based on these enforcement data could tend only to understate the variability experienced by others in testing tires and assigning grades.

[2] Using a slightly different data base, B. F. Goodrich calculated a correlation coefficient of 0.78 between the agency's enforcement test results and assigned grades.

[3] While the argument has been made that this aspect of variability should not be taken into account because it is entirely within the control of

In reaching its decision that currently documented levels of variability are unreasonable and cannot sustain retention of the UTQGS treadwear grading requirements in their present form, the agency has been guided by two principal conclusions: first, the rank order of test results and the rank order of assigned grades can and do change with repeated testing under currently allowable procedures. This result has also taken place when the agency's own, far more carefully controlled compliance efforts are the basis for the test.

Second, the levels of certainty and predictability which the agency expected would be achieved over time and which the agency so represented to the courts which have upheld UTQGS against charges of unacceptable uncertainty, have not been achieved in fact.

At a minimum, the agency concludes that such a level of potential rank order change, under applicable test procedures, is unacceptable. The agency also concludes that unless the level of certainty previously asserted by the government in litigation can be verified to exist, the continued integrity of the process is undermined to a separate and unsupportable degree.

Agency research is thus primarily directed to the determination of the degree to which these effects can be eliminated.

Specific Sources of Variability

The agency's proposal described a variety of potential sources of variability in the treadwear test results based on a review of testing being done in San Angelo. The tire manufacturers supporting the suspension, and the commenting tire testing companies generally agreed that many of such sources contributed to test result variability. While some commenters, especially two testing companies describing in detail their own testing practices, disputed the magnitude of the variability that could be caused by several of the sources, it remains uncontroverted that the sources identified in the proposal are potential contributors to variability.

One such testing company objected to the inference it drew from the proposal that the agency believed that the testing companies as a group were to blame for the variability in the test results. That company also stated its belief that the proposal unfairly criticized the practices of testing companies as though all such companies followed identical practices. The agency recognizes, and reaffirms its conclusions, that the primary source of test variability lies in the shortcomings of the test procedures themselves. Further, it rejects any implication that the testing companies were improperly following such procedures.

The agency emphasizes that the list of sources in the proposal was not exhaustive. The proposal specifically noted that the list was included for illustrative purposes only. It was recognized that additional research would likely reveal other sources, of the indisputable and undisputed levels of variability. Indeed, the record of comments has provided information regarding several previously unmentioned sources of variability, e.g., tire/wheel rim width combinations and the effect of rubber's high coefficient of thermal expansion on tire groove depth measurement.

The following specific sources of variability have been confirmed by the agency as a result of the current rulemaking proceeding.

Problems of instrumentation: Scales. Some testing companies use scales that are designed for weighing objects up to 20,000 pounds. Scales are rarely accurate below 10 percent of their maximum measuring capacity. Since the loads being weighed for UTQGS purposes are less than half that level, the potential for inaccurately loading the tires on the test cars is obvious. This problem is compounded by the inability of many such scales to provide readings more precise than at 5 pound intervals. The combination of these factors could lead to significant potential measurement errors.

Using a ratio of 1:4 between changes in load and changes in treadwear, the agency stated in its proposal that a 20 to 30 pound error in measuring a 700 to 800 pound load could cause test results errors of ±20 to 34 points in a tire with a treadwear grade of 200. The two tire testing companies submitting detailed comments stated that their own scales are regularly calibrated, and that maximum weighing errors of not more than 10 pounds could be expected under such circumstances. One of the companies also argued that the ratio between load changes and treadwear changes is actually closer to 1:1. The agency cannot now determine with certainty the correct ratio between changes in tire load and changes in treadwear. Even assuming such actual ratio may be lower than 1:4, the agency believes that scale miscalibration is a factor that can potentially contribute significantly to variability in treadwear test results.

Tread depth probes. Tire testing companies currently measure tread depth by means of either mechanical gauges with dial indicators or electronic devices which translate probe displacement into a voltage reading in mils or thousandths of an inch. NHTSA's tests of measurement devices produced measurement errors of between 3 and 5 mils for electronic probes and up to 10 mils for mechanical gauges, with the magnitude of error appearing to depend on the amount of pressure placed on the probe. Variations in pressure can be caused by differences in strength or technique among personnel or even by the gradual effect of fatigue on a given technician. The resulting measurement differences on tires graded from 160 to 200 can cause treadwear grading errors of ±2 to 3 points. The two tire testing companies argued that measurement errors of 10 mils were in fact difficult to achieve and would not normally be expected to occur. The agency concurs that the typical such error would be expected to be less than 10 mils, but concludes that variation in the pressure placed on the probes remains one of the potential sources which collectively have produced high levels of test variability.

Electronic probes are subject to other sources of measurement error. The lack of temperature compensation in some of the electronic probes can cause drifts in both the zero reading and the gain. One tire testing company did note that its electronic probes are attached directly to a computer, and asserted that they are capable of measuring accurately over a wide range of temperatures. While such drift can be corrected for in such a process, the agency has determined that such corrections are not in fact routinely sought or made by testing companies in general. Further, any change in probe force at the bottom of the groove for tires with varying hardness will generate different tread depth readings depending on the spring constant, the amount of deflection used in the design, and the shape of the tip on the electronic probe. The use of uncalibrated springs produces additional measurement differences.

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the grading manufacturer, the agency is not able to conclude from the data before it that any actually assigned grade is without basis in test data. In implementing the statute to determine whether the sanctions imposed by the statute and agency regulation should be applied to given manufacturers, the agency has been forced to conclude that all assigned grades so reviewed have been reasonable, based on agency and manufacturer supporting data. Under such circumstances, the agency finds that the overwhelming policy purpose of the UTQGS to inform consumers of comparative tire data, in a meaningful way (i.e., one that is valid, reasonably accurate, and objectively verifiable for enforcement purposes) in order to affect their tire purchase decisions, requires that this uncertainty also be taken into account.

Wheel alignment equipment and procedures. The agency has determined that treadwear is very sensitive to wheel alignment, much more so than had previously been understood by interested parties. One of the two tire testing companies agreed with this proposition. B. F. Goodrich supported this proposition by asserting that 1/32 of an inch increase in toe-in can decrease tread life by 15 to 30 percent. Since Part 575 permits the wheels to be aligned anywhere within the vehicle manufacturers' specified range of acceptable alignments, differences in toe-in are possible. Armstrong Rubber Company cited various vehicle manufacturer specifications which had a minimum-to-maximum range of from 1/32 to 1 1/32 of an inch.

The comments on the proposal reveal that the use of different toe-in settings for a given vehicle can and do occur. Some testing companies align wheels to the minimum toe-in setting within the acceptable range while others align to the mid-point of the range. Indeed, practices of the two commenting tire testing companies vary in precisely this fashion, with one aligning to the minimum point and the other to the mid-point.

Differences in wheel alignment may also occur as a result of differences in the frequency of wheel alignment and in the skill of the technicians who perform the alignments. The two tire testing commenters asserted that they use accurate alignment equipment and well-trained personnel. Assuming this to be true for these particular companies, however, does not remove wheel alignment as a potential source of variability even with respect to their testing. As noted above, the wheel alignment practices of these two companies vary significantly. Further, for these as well as the other tire testing companies, the problem of maintaining the alignment equipment in proper adjustment is a formidable one. Although all testers have suitable alignment equipment, their success in using it to achieve accurate results depends on the skill of the technicians operating it, the calibration of the equipment and the frequency of alignment during a test.

Problems of measurement. The agency believes that several measurement problems contribute to variability as well. Observed but currently unquantifiable measurement errors occur as a result of information feedback during testing, i.e., access by measuring personnel to the previous day's tread depth measurements and resulting conscious or unconscious bias to parallel or duplicate those measurements. The agency also believes error to be caused by the documented practice of some testing companies to establish an absolute level of coefficient of variation, i.e., the degree of variability among the separate measurements of depth in the same groove around the circumference of the tire. Some technicians tend to "hunt" for groove depths as uniform as possible around the circumference of the tire, on the understandable but not factually supportable or recognizable assumption that such variation should be minimized.

One tire testing company indicated in its comments that it took steps to avoid these sources of variability. Even assuming this company is fully successful in that effort, the agency believes that such problems exist for other testing companies, and would compromise the success of the program unless all companies were equally successful.

Problems with vehicle maintenance and use. The agency continues to believe that factors relating to the test cars produce substantial variability. One of these factors is the wide variation found in the approaches of the testing companies to achieving a proper vertical load on a tire. Some testing companies allow the weight to be placed forward of the front wheels, rearward of the rear wheels or even on the vehicle exterior. In addition, some but not all companies place heavy deer guards on the front of their test cars. [4]

The overloading of some test cars also produces unquantifiable effects on treadwear test results. Some testing companies load their cars to whatever weight is required to achieve the appropriate load level for a test tire. As a result, the gross vehicle weight rating for the specific cars themselves may be exceeded, necessitating the use of special springs or shims to reestablish normal ride height. Such heavy loads can cause the cars to bottom out, while the variations in springs create differences in roll stiffness and weight transfer among vehicles of the same type.

Each of the practices introduce changes in the handling characteristics of the cars and in different polar moments of inertia, between and among wheels, vehicles and the entire test fleet. These factors would produce different rates of tire wear as the cars corner, accelerate or decelerate.

[4] Some tire testing companies stated that weight is removed from their cars to compensate for the deer guards. However, the agency did not observe any accurate means of weight compensation.

The two commenting tire testing companies indicated that they attempt to control these sources of variability. However, there is no evidence that those efforts are fully successful, and agency observations indicates that the other companies are not in practice as careful as those two companies.

Problems with drivers and weather conditions. The agency found in its review that drivers of the test cars varied significantly in their skill and driving techniques. These differences are reflected in the frequency and severity of accelerations and decelerations. Further, the agency believes that adverse weather conditions may affect driving techniques and thereby treadwear. One tire testing company indicated that it carefully sought to limit these sources of variability. However, not all testing companies have adopted the same measures. In addition, adverse weather conditions cannot be controlled.

CMT tread composition. Most CMT's do not currently have tread composition similar to that of most candidate tires. As a result, a substantial question has been raised as to whether the use of the CMT measurements in fact validly compensate for environmental effects upon candidate tire wear. The last two lots of radial CMT's contained about 30 percent natural rubber. Most tires produced in the U.S. do not contain any natural rubber, while some Japanese tires contain substantial quantities of it. The presence of a significant percentage of natural rubber in CMT's is important since natural rubber is more sensitive to temperature changes than the current tread compounds used in tires, and in general wears at a faster rate in hot weather than the current materials do. Thus, where the CMT in use contains a large percentage of natural rubber and the candidate tires do not, candidate tires graded in hot weather would be expected to have higher grades than those graded in cool weather.

The significance of CMT tread composition appears to be borne out by a report from B. F. Goodrich. That company stated that candidate tires made of compounds similar to that of the CMT's received more consistent ratings than those whose compounds were less similar. B. F. Goodrich's analysis indicates also that the latter tires can receive different relative rankings.

Wheel rim width. Armstrong asserted in comments that the tolerance permitted on rim widths to be used with a given size of tire is a significant source of variability. The agency lacks any corroborative information with respect

to this previously unrecognized problem, but will address the issue as another potential source of variability as efforts continue to complete research on treadwear testing variability.

Grade assignment practices. There are significant differences among the tire manufacturers in the procedures they use to translate treadwear test results into grades. These differences arise partially from the differing degree of conservation that the various manufacturers exercise in selecting a grade for a group of tires so as to ensure that the performance of all tires in the group exceed that grade as required by Part 575 (See discussion above).

Uniroyal Petition

On January 21, 1983, Uniroyal petitioned the agency to make three significant changes to the treadwear test procedures. These changes involve a new procedure for running CMT's, the rotation of candidate tires through each wheel position in a four-car convoy, and a doubling of the break-in period.

The agency has completed its preliminary review of this petition and, in view of the pendency of the current proceeding, has also taken it into account as if it were a supplementary filing to the docket.[5]

Under the Uniroyal petition, CMT's would no longer be run in the same convoys as candidate tires, but in a separate convoy using CMT's exclusively. The CMT's would be rotated through each position in the CMT convoy. This procedure is claimed to substantially reduce vehicle and driver related sources of variability, while reducing costs. However, its validity depends upon the accuracy of Uniroyal's conclusion that the course environment factors measured by the CMT process do not produce rapidly changing treadwear effects, i.e., that the course environment effect on treadwear changes slowly, if at all.

Similarly, the rotation of candidate tires through each position in the test convoys is claimed by Uniroyal to greatly reduce driver and vehicle related variability for those tires. All vehicles in a convoy would be nominally identical. No front wheel drive vehicles could be used due, according to Uniroyal, to "load distribution problems." Uniroyal does not state how it would deal with the problem of declining number of rear wheel drive models being produced, and the difficulty in matching all tire lines with the limited number of those models.

Finally, Uniroyal found that the break-in effect for new tires occurred beyond the 800 mile period currently specified in the regulations. It stated that establishing a longer period would provide a more accurate estimate of treadwear rates.

NHTSA regards Uniroyal's petition as further evidence of the necessity for suspending the treadwear provisions of UTQGS while the agency conducts research and testing to determine the feasibility of reducing variability to more acceptable levels. Uniroyal has revealed yet another previously unidentified factor, barometric pressure, apparently capable of contributing significantly to the variability of test results. Although Uniroyal has proposed several changes which it believes would substantially reduce certain sources of variability, it does not suggest how other factors identified in its petition are to be addressed.

Those factors are barometric pressure, temperature and wet road surfaces. Uniroyal supplied information indicating that the manner in which temperature differences affect treadwear is more complicated than previously supposed. While some compounds wear more rapidly as temperature increases, Uniroyal reported the example of a tire which wore more rapidly as temperature decreased. Further, the degree of temperature effect was substantial. While Uniroyal's testing showed that one family of tires was only slightly affected by an eight degree average temperature difference, that same difference caused a 20 percent change in wear rate for another family of tires. Further, Uniroyal noted that wet road surfaces could significantly affect the rate of treadwear and admitted that some allowance must be made for this phenomenon, but didn't indicate how that might be accomplished.

Much of the work done by Uniroyal in support of its proposal is similar to the agency's ongoing research, and it may be that the agency's efforts will lead to the development of test procedures similar to those suggested by Uniroyal. However, Uniroyal's work does not obviate the need for NHTSA to complete its own research and testing and make its own judgments about the changes that might be made to the test procedures. The agency cannot now conclude that Uniroyal proposal would reduce test variability to acceptable levels. Much more research and testing would be necessary before the agency could even consider proposing to adopt those or any other significant changes.

Not only would the agency need to address the significance of the failure of Uniroyal's proposals to address certain sources of variability, but it would also need to examine the implications of Uniroyal's proposals which in some cases go well beyond those suggested by Uniroyal in its petition. For example, Uniroyal's proposal for rotating candidate tires through each of 16 wheel positions on test convoys would necessitate a doubling of the mileage driven by treadwear testing convoys from 6,400 miles to 12,800 miles (16×800). The additional expense and time necessary to conduct such extended testing would be substantial.

Further, although Uniroyal urges the making of substantial and fundamental changes to the treadwear test procedures and the theory underlying those procedures, it argues, without providing the basis for that argument, that there would not be any necessity for retesting all tires in accordance with the modified procedures. Uniroyal apparently contemplates a marketplace in which some tires that were tested and graded under the existing, inadequate procedures are offered for sale side-by-side with others that are tested under new, revised procedures. Thus, Uniroyal would allow the continued dissemination of misleading treadwear information.

In the agency's judgment, the need to make these types of substantial and fundamental changes would render wholesale retesting and suspension unavoidable. The inescapable conclusion from the necessity of making these changes is that the grades generated under the existing procedures are unreliable and should not be presented to the public as a basis for choosing between alternative tires. Further, since the grades that would be assigned to a particular tire if tested under the current and new procedures would differ, the grades would be inherently incompatible. As a matter of responsibility to the consumer and of fairness, the agency could not contemplate the simultaneous use of two fundamentally different yardsticks to measure the treadwear performance of tires.

To avoid this situation, all tires would have to be retested and regraded. To provide time for the completion of these activities and to ensure that substantial numbers of tires graded under the existing procedures are not still in the marketplace when the tires graded under the new ones are introduced, a

[5] The disposition at this time of the pending notice of rulemaking does not, of course, affect the pendency of this petition before the agency, since only a suspension of the UTQGS is involved. The petition will thus be treated both as a comment to the current proposal and as a petition directed toward the modification of the suspended portion of the UTQGS and a request for their reinstatement as so modified.

suspension of the treadwear testing requirements would be necessary.

Inadequacy of Alternatives

NHTSA considered several alternative courses of action in reaching its decision. In addition to suspending the treadwear grading provisions of Part 575, the agency considered rescinding them. NHTSA also considered retaining the provisions intact while it conducted its research and attempted to determine whether modifications to the test procedures and grade assignment practices could reduce variability to acceptable levels for UTQGS purposes.

Rescission. Several commenters argued that the problems with the treadwear grading program were so substantial and intractable that rescission of the treadwear provisions was the only appropriate step for the agency to take at this time. While the agency believes that the problems now identified with respect to the UTQGS treadwear ratings are extensive and serious, that some of them can be addressed only after substantial research, and that some or all may not be fully solved even then, it is convinced there is a substantial possibility that its planned research could eventually lead to amendments that would reduce identified treadwear test result variability to acceptable levels. For example, if the agency were able to develop an appropriate procedure for rotating all tires among the cars in a test convoy, the contribution of vehicle and driver effects to test result variability might be greatly reduced. Similarly, the agency's development and adoption of statistical procedures that would bring uniformity to the translation of test results into grades might contribute significantly to reliable treadwear grading.

In such a case, any remaining variability could more confidently be able to be considered attributable to the inherent complexity of tires themselves. At that stage, a failure to attain significant improvements in the repeatability or reproducibility of tests might well force the agency to the conclusion that no grading system based on measured and projected treadwear could be possible.

Precisely because of the levels of uncertainty now understood to exist as a result of test result variability, however, the agency is not now able to assess whether or not this will likely be the case. Absent some further evidence on this point, and taking into account the positive benefits to the consumer and the orderly working of the market place which a properly functioning UTQGS treadwear system would produce, the agency is unwilling to rescind the program of treadwear rating entirely at this time.

Continue treadwear grading and make improvements in treadwear grading process as they are developed. While conceding that there are variability problems, several commenters argued that the treadwear grades are still sufficiently useful to warrant their retention. They argued further that the agency should simply proceed to make available changes to the treadwear testing procedures and adopt other changes as they are developed. One commenter argued that if the treadwear grading information were more accurate than the information which previously existed in the marketplace, the agency was obligated to continue treadwear grading.

NHTSA believes that the critical issue is in this case not merely whether the treadwear grading provisions are currently fulfilling their statutory objective, that of assisting consumers to make informed choices in purchasing new tires, but of equal or greater importance whether such provisions may to the contrary be affirmatively frustrating the achievement of that objective. As interpreted by the 6th Circuit Court of Appeals, the UTQGS provisions in section 203 of the Act do not contemplate "theoretical perfection" in providing such assistance. *Goodrich I,* at 1189. It calls only for "reasonably fair and reasonably reliable grading procedures." *Id.* The agency believes that this is an appropriate statement of the principal underlying test of certainty which the procedures should satisfy. Procedures which fail to meet that test will tend inappropriately to increase the sales of some tires and decrease those of other tires through inaccurately representing the relative performance of either or both.

In the agency's view, it appears that the current procedures fail to meet that reasonableness test on several counts. Such procedures are not reasonably reliable because of the excessive magnitude of the overall variability.

Moreover, the grades produced under the treadwear grading procedures are not merely imperfect, they appear to be affirmatively misleading.

These problems are not minor. They do not affect only those tires which differ moderately in performance. As noted above in the discussion of the overall variability and reliability problem, the rank reversals produced by the procedures can be substantial and are not uncommon. Tires which are significantly superior to others in performance may be graded significantly below those tires, and vice versa. Tires whose test results show performance differences of up to 100 points may be assigned the same grade.

Thus, while some consumers might be aided in choosing between some tires, particularly those with very substantial differences (greater than 100 points) in treadwear performance, there appears to be a significant likelihood that consumers choosing among closer performing tires will be misled. The agency believes that most consumers fall into the latter category. As noted above, the threshold considerations of tire size and tire construction type should lead most persons considering the purchase of a new tire to look at a universe of potential candidate tires for purchase whose treadwear grades differ by significantly less than 100 points. Accordingly, it appears that the treadwear grading procedures are neither reasonably fair to the tire manufacturers nor reasonably reliable in guiding those consumers who will in fact be purchasing tires for a given vehicle.

The agency believes that the unreasonableness of the level of reliability of the current treadwear grading procedures is compounded by the possibility that many of the identified sources of variability, and thus the overall level of variability, might eventually be able to be significantly reduced, after a period of research and testing, at costs that are not prohibitive.

The agency regulatory evaluation discusses a wide range of possible changes that the agency believes could ultimately reduce test-induced variability to more acceptable levels. Among these are requirements for calibration of alignment equipment, tighter specifications for alignment, load distribution, tire-rim width matchings and CMT composition, prohibition against information feedback, standardization of equipment calibration and tread measurement procedures, limitations on driver acceleration rates and cornering techniques, limitations on tire temperature during tread depth measurement, standardization or elimination of deer guards, standardized statistical procedure for grade assignment, and rotation of candidate and CMT's tires among test cars. The actions which appear at this point to hold the greatest potential for improving the reliability of the grades are adoption of the grade assignment procedure, rotation of the tires, more precise specification of wheel alignment, and specification of the composition of CMT's.

The relative importance of many of these factors is currently unknown. As a result, it is not possible to determine or assess what actual result in improved repeatability may be achievable, and how or at what level such an improved result might be determined to be acceptable. However, the agency believes that together such factors contribute substantially to the variability of treadwear test results and unreliability of the resulting grades. The agency's research efforts are expected to provide information about the relative importance of individual sources of variability and the degree to which each source can be controlled.

The agency expects that its research and testing will also provide an indication of the cost of implementing controls on these factors. Based on the costs of the current procedures, the agency has no current basis for concluding whether the costs associated with effective controls would be reasonable either separately or collectively. The current cost of treadwear testing is an average of $.09 per tire. Based on indications from Goodyear that the retail markups for manufacturing costs may be 100 percent, that testing cost would have an $.18 retail price effect, against a retail price of $40 to $70 for a new tire. Thus, for example, a doubling of testing expenses would bring the retail price effect of testing costs up to an average of only $.36 per tire, a presumptively reasonable economic impact in and of itself.

As to the suggestion that the agency immediately commence to make changes in the treadwear testing procedures and make other changes as they are developed, the agency emphasizes that its research and testing have not proceeded sufficiently to enable it to determine either precisely how to define and implement the individual changes or which of those changes will make enough of a contribution to reducing overall variability to warrant adoption. The agency does not believe that the few currently acknowledged options would make a significant change in the overall level of variability. Identifying the range of necessary and appropriate changes will require iterative testing, given the interplay of the many sources of variability.

The issue of adopting an appropriate statistical procedure to standardize the assignment of grades bears special mention. Although the agency has already proposed such a procedure (46 FR 10429, February 2, 1981), commenters on that proposal pointed out a variety of shortcomings, particularly with respect to its failure to properly account for undergrading. No commenter in the present rulemaking proceeding has suggested that the procedure as proposed in February 1981 be adopted at this time. The agency is continuing its analysis of the extent and nature of the changes which might be made to the proposal.

The agency does not agree with the suggestion by a public interest group that the mere possibility that the current treadwear grading information may be better than pre-UTQGS information on treadwear would justify continuation of treadwear grading during the period of any further review. In NHTSA's judgment, it is not clear whether and to what extent the UTQGS treadwear information would in fact be superior to any or all information previously available for distinguishing between tires on the basis of expected tread life. To the degree that the UTQGS system is arguably superior in format and direct comparability among tire lines or manufacturers, however, such apparent advantage derives entirely from those aspects of the system which the agency has found to be most flawed: the accuracy and validity of the UTQGS value as expressed in the grade. Stated differently, it is precisely that aspect of the UTQGS which distinguishes it from market claims of manufacturers which also introduces the clear probability that false information is being disseminated by or under the auspices of the government itself. The probable objective falsity of at least some of the information now being disseminated through UTQGS converts the clarity and apparent simplicity of the UTQGS reporting format from an asset to its most damaging liability. Fully cognizant of the view expressed by this commenter that some information, or a less than perfect-functioning system, is better than no information or no system at all, the agency cannot agree. The agency concludes that the government has a superior duty not to participate in such an effort to the probable detriment of consumers, who have every reason to demand, and must necessarily be expected to assume, that such participation implies and connotes, a higher level of certainty that the agency can now find in this well-intentioned effort. Given the shortcomings of the UTQGS system as now understood, price differentials and information voluntarily supplied by the manufacturers as to probable treadwear performance may be as useful to consumers as the current grades.[6]

After weighing the possible benefits of the current grades against the potentially extensive problems created by those grades in their effects on consumers and tire manufacturers NHTSA concludes that the appropriate course of action is suspension pending completion of its research and testing program.

The agency believes that continuing to require the tire manufacturers to comply with the treadwear grading requirements in the interim is not appropriate, because of the above discussed impossibility of enforcing those requirements in an objective way. NHTSA noted in its proposal that the wide variability in its compliance test results prevented the agency from concluding with any certainty whether tires were incapable of achieving the grades assigned to them. Commenters on the proposal did not controvert the agency's statements on this point.

In the agency's opinion, requiring the tire manufacturers and consumers to continue to bear the costs of treadwear testing during the time necessary to complete the research and testing concerning test procedure improvements would be unreasonable and unwarranted since the treadwear grading program is apparently neither reasonably fair to the tire manufacturers nor reasonably reliable as a guide to consumers. Although the cost per tire is not large, those costs total approximately $10 million annually.

Amendments Adopted by This Notice

This notice adopts several amendments relating to the treadwear grading provisions of Part 575. Most important, it adopts a suspension of those provisions effective upon the date that this notice is published in the **Federal Register.** On that date, manufacturers will no longer be required to submit treadwear grading information to this agency or to disseminate it to consumers through moldings on the side of new tires, paper labels on the treads of new tires or consumer information materials. The only information that would be required to be submitted or disseminated on or after that date would

[6] To compound the agency's dilemma on this point, the number of consumers potentially aided by treadwear grading information, and thus the number of consumers potentially misled by an invalid result, is apparently fairly limited. According to information submitted by Uniroyal at the public meeting, only 30 percent of consumers surveyed by them even knew about the UTQGS information, after their promotional efforts, and only 60 percent of those consumers stated they would plan to use that information in making their next tire purchase. Thus, only 18 percent of consumers are potentially benefited, or potentially misled, by the treadwear information.

be traction and temperature resistance grading information.

The agency believes that is ample justification for an immediate effective date. The suspension relieves a restriction and will aid in ending as quickly as is reasonably practicable the possibility that consumers will be misled by the treadwear grading information.

The agency is not requiring that manufacturers immediately cease disseminating treadwear information already printed or embodied on tires or tire molds, through the means formerly required by Part 575. Such a requirement would be impracticable. The greatest problem is associated with the molding of treadwear information on the tires. Discontinuation of that practice would necessitate making changes to the molds being used to produce new tires. Specifically, the manufacturers would have to fill in the indentations used to print the word "TREADWEAR" and the appropriate grade on the sidewall of each new tire. The total cost to the tire industry of making those changes to all molds would be approximately $11 million. Instead of requiring that all molds be changed simultaneously, the agency is requiring that all tires produced in molds manufactured after August 8, 1983, use a format which provides for the molding of only traction and temperature resistance grades on new tires.

Although the manufacturers could cease printing labels and consumer information materials containing treadwear information almost immediately, they are confronted with the problem of existing inventories of labels and materials containing that information. The agency has decided to allow the manufacturers to exhaust those inventories. The agency expects that after the effective date of this suspension, the labels and materials printed and used by the manufacturers to comply with the UTQGS provisions of Part 575 will not contain that information. The continued printing of labels and materials that set forth the treadwear grades without revealing the suspension of the treadwear requirements, or the absence of any participation by the government in procedures to use similar tests or measurement systems as a basis for warranties or other forms of representation as to treadwear expectancy, would be doubly misleading, i.e., it could be misleading as to the relative performance of tires, but also would be misleading as to the current existence of a government sanctioned system for grading treadwear.

The agency believes that the publicity given this notice will minimize the likelihood that consumers will be misled as a result of the continued molding of treadwear information on some new tires and the continued dissemination for a relatively short period of treadwear information by means of labels and other materials. Probable media coverage of the agency's conclusions in taking this action should reduce the extent of any consumer reliance on them. Further, consumers would be even less likely to rely on the grades after the existing inventories of those labels and materials are exhausted. After then, only the grade would appear on the tire. There would not be any explanatory information concerning the development or meaning of the grade. As the molds are replaced, even the treadwear grade would disappear from the tire, during the pendency of this suspension.

Status of Research

As NHTSA noted in its proposal, it has begun several research activities aimed at reducing the variability of treadwear test results. The agency is proceeding diligently to complete these activities. One program discussed above would attempt to establish the relationship between treadwear, tire inflation pressure, and load. The program to develop this relationship is partially completed, with final results expected by the end of February. If such a relationship could be established, it could aid future research to determine the effects of rotating tires through all positions in test car convoys. Rotating tires in this fashion would tend to minimize the variability that is caused by differences in vehicles and in driver techniques. A contract to test the validity of the rotation concept is expected to be awarded by late spring of this year.

Another program is aimed at establishing the effect of reducing tolerances on permitted test vehicle loading configurations, wheel alignment, driver techniques, and tread depth measurement techniques. A contract for this program is expected to be awarded soon.

A third program will attempt to quantify the individual sources of treadwear test variability through a statistical analysis of existing enforcement data. This research program has already begun and should be completed by the end of February.

Research planned for the future includes an attempt to achieve greater accuracy in test equipment, to specify test vehicle maintenance procedures, and to account for differences in the testing and tread depth measurement environment. A contract for this work is expected to be awarded by late summer of this year.

Impact Analyses

NHTSA has determined that this rulemaking proceeding does not involve a major rule within the meaning of Executive Order 12291. However, this action is significant under Department of Transportation regulatory policies and procedures. A regulatory evaluation has been prepared and placed in the rulemaking docket for this action. A free copy of that document can be obtained from the agency's Docket Section at the address stated above.

Pursuant to the Regulatory Flexibility Act, the agency has considered the impact that this rulemaking action will have on small entities. I certify that this action will not have a significant economic impact on a substantial number of small entities. Therefore, a regulatory flexibility analysis is not required. The agency has concluded that few, if any, manufacturers and brand name owners of passenger car tires are small entities. The agency has concluded further that there will be a small positive impact on these entities in terms of reduced testing costs and elimination of possible market distortion caused by inaccurate grades. Suspension of treadwear grading will result in a cost savings to tire manufacturers and brand name owners of approximately $10 million per year.

This action will lead to employment reductions in San Angelo where the treadwear test course is located. The San Angelo Chamber of Commerce has estimated that roughly 500 jobs with the tire testing companies would be lost. Further, one of the testing companies indicated that:

> A disruption of treadwear testing over a nine to twelve month period while research is in progress will destroy existing test organizations in the San Angelo area and will require an expensive start-up period should testing resume again.

However, those companies are generally small subsidiaries of larger entities. The effects on those larger entities will not be significant. The Chamber estimates further that another 400–500 jobs could be lost in retail and commercial services in the San Angelo area due to reduced spending by the testing companies and the families of their former employees.

The effects of this action on tire prices will not be great enough to significantly affect the tire sales of tire dealers or the

tire purchases of small organizations and governmental units.

The agency has also considered the environmental impacts of this action. While cessation of treadwear testing on the test course may have some beneficial effects on the environment in terms of reduced fuel consumption and reduced air and noise pollution, NHTSA has concluded that the environmental consequences of this action will be of such limited scope that they clearly will not have a significant effect on the quality of the human environment.

List of Subjects in 49 CFR Part 575

Consumer protection, Labeling, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

PART 575—CONSUMER INFORMATION REGULATIONS

In consideration of the foregoing, 49 CFR 575.104 is amended as follows:

1. Section 575.104 of Part 575 is amended by adding the following new paragraph (i) as follows:

§ 575.104 [Amended]

* * * * *

(i)(1) *Suspension of treadwear grading.* Effective February 7, 1983, the requirements of this part regarding treadwear grades and information about those grades and the treadwear grading process are suspended. Tires manufactured on or after that date are not required to comply with those requirements.

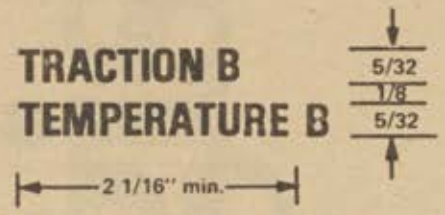
(2)(i) Effective February 7, 1983, each tire manufacturer or brand name owner shall use one of the methods described in Figure 1 or in Figure 6 for molding grading information on the sidewall of each tire.

(ii) Effective August 8, 1983, each tire manufacturer or brand name owner shall use one of the methods described in Figure 6 for molding grading information on the sidewall of each tire produced in a mold manufactured after that date.

2. Section 575.104 is amended by adding the following new figure at the end of the section.

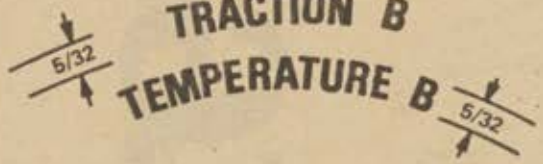
BILLING CODE 4910-59-M

OPTION 1

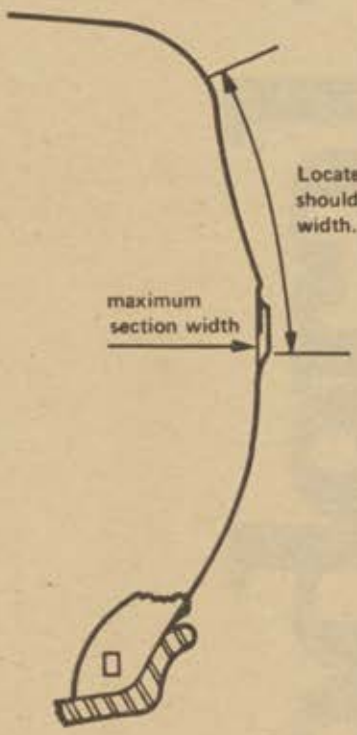


SAMPLE
Quality Grades

OPTION 2



OPTION 3



Note: The quality grades shall be in "Futura Bold, Modified, Condensed or Gothic" characters permanently molded (.020 to .040 deep) into or onto the tire as indicated.

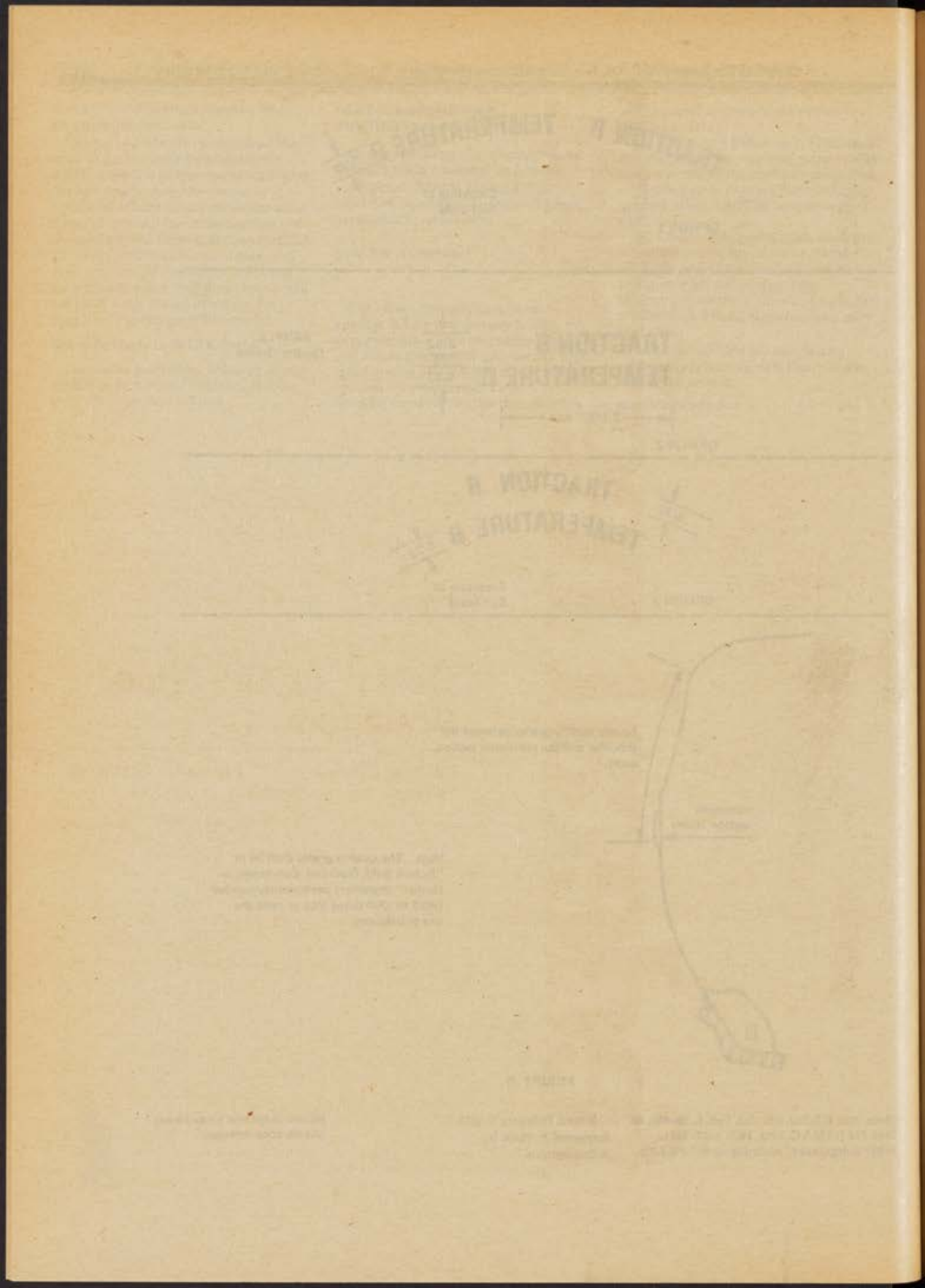
FIGURE 6

(Secs. 103, 112, 119, 201, 203, Pub. L. 98-563, 80 Stat. 718 (15 U.S.C. 1392, 1401, 1407, 1421, 1423); delegation of authority at 49 CFR 1.50)

Issued: February 1, 1983.

Raymond A. Peck, Jr.,
Administrator.

[FR Doc. 83-3289 Filed 2-3-83; 2:39 pm]
BILLING CODE 4910-59-C



federal register

Monday
February 7, 1983

Part V

Office of the Vice President

Federal Regulation of Financial Services; Request for Comments

OFFICE OF THE VICE PRESIDENT

Federal Regulation of Financial Services

AGENCY: Office of the Vice President.

ACTION: Request for comments.

SUMMARY: The Task Group on Regulation of Financial Services is undertaking a study of the problems of the existing system of Federal regulation of financial institutions and services. Within a period of approximately nine months the Task Group intends to complete its review of the current regulatory system and to make a report to the President concerning any desirable areas for change.

In order to gather the information necessary for this study and to encourage public participation in the process all interested parties are being invited today to present their views on the issues discussed below, or on any other relevant issues they may wish to bring to the attention of the Task Group.

DATE: Comments must be received by March 14, 1983.

ADDRESS: Interested parties are invited to submit two copies of written data, views, or arguments concerning the problems of the existing Federal regulatory structure and suggesting alternatives to the Task Group on Regulation of Financial Services, Room 1060, Department of the Treasury, 15th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20220.

FOR FURTHER INFORMATION CONTACT: Richard C. Breeden, Deputy Counsel to the Vice President (202–456–6445).

SUPPLEMENTARY INFORMATION: On December 13, 1982, Vice President George Bush announced the formation of a Task Group on Regulation of Financial Services, charged with reviewing the Federal government's regulatory structure for finanical institutions and proposing any desirable legislative changes to the existing system.

The Vice President of the United States is Chairman of the Task group. Other members are the Secretary of the Treasury (Vice-chairman); the Attorney General; the Director of the Office of Management and Budget; the Chairman of the Council of Economic Advisers; the Assistant to the President for Policy Development; the Chairman of the Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, Federal Home Loan Bank Board, National Credit Union Administration, Securities and Exchange Commission and Commodity Futures Trading Commission; and the Comptroller of the Currency.

Need for Regulatory Relief and Reorganization

The current system of Federal regulation of financial institutions and services is highly complex, and the type and nature of regulatory requirements vary significantly among different types of institutions and the products they may offer. This situation has developed as a result of an historic series of piecemeal changes to the system. As the financial system itself became more complex with the appearance of new types of financial intermediaries, markets and products, the regulatory system became correspondingly more complex with the creation of new agencies or the expansion of historic agency responsibilities.

Although each part of the current system may have been created in response to specific problems or perceived needs, recent trends in the financial system as a whole have highlighted problems with the current regulatory structure. These include:

1. *Differential Treatment.* As many types of institutions and the products which they offer have become more similar and come into increasingly direct competition with one another, differences in regulatory controls are much more likely to influence artificially the behavior of savers, investors of consumers. In some cases, such as interest rate limitations, the effect of differences in regulatory controls may be so great as to induce significant shifts of consumer behavior, and thereby to alter materially the opportunities of the competing institutions. In addition to altering competitive advantages artificially, differences among regulatory agencies which may have common or overlapping jurisdiction can prevent transactions which might overwise occur or sharply increase non-productive everhead in order to comply with conflicting government policies. Finally, to the extent that historic types of institutions become more similar, there may be less justification for continuing to maintain entirely separate regulatory agencies.

2. *Excessive Regulatory Controls.* In some areas particular regulatory requirements, whether created by statute or regulations, may impose costs which far exceed any public benefits derived therefrom. For example, depository institutions are currently required to obtain regulatory approval in advance before conducting certain types of ordinary corporate activities, such as opening or closing offices, forming holding companies or engaging in types of activities which are expressly permitted. Such requirements could be repealed or modified simply to require notice to the appropriate regulatory authority. The current system may also impose inordinately burdensome record-keeping or information collection requirements, excessive or ambiguous disclosure obligations and many other highly detailed controls which result in substantial costs to borrowers, savers or investors. Excessive regulatory controls may exist both with respect to types of transactions as well as basic operations of certain types of institutions.

3. *Overlap and Duplication.* In some areas the jurisdictions of regulatory agencies may in fact overlap so that institutions may be forced to adhere to multiple sets of operating requirements, accounting or record-keeping policies and reporting obligations, as well as being subjected to multiple examinations or supervisory reviews. Such duplication may consume significant employee and officer time, as well as require unnecessarily large expenditures for internal or external professional services.

4. *Agency Responsiveness.* For a variety of reasons significant delays may occur in obtaining regulatory approval for otherwise permissible transactions or activities. For example, delays may be created because of confusion as to whether a given agency has jurisdiction, or in resolving opposing viewpoints of two or more agencies which possess concurrent jurisdiction. Such delays may represent a significant burden for institutions which seek to respond to competitive developments, take advantage of business opportunities or reduce activities in a given area. In addition to raising the costs of individual transactions significantly, general regulatory policies of an agency may also raise the cost of normal operations through unnecessary paperwork or other similar requirements in particular areas. The costs of delays and reporting requirements may have a disproportionately severe impact on smaller institutions.

5. *Difficulties in Management of Shared Responsibilities.* The existing allocation of agency responsibilities frequently requires that several agencies cooperate when addressing certain financial institution issues. Problems of failing institutions, the regulation of bank holding companies and their subsidiaries, mergers and acquisitions, efforts to develop inter-agency uniformity in examinations and the deregulation of interest rate controls are all cases in point. Problems of inter-agency coordination may unnecessarily

delay favorable resolution of such issues, imposing needless costs on the institutions and their customers and undermining confidence in the financial system.

6. *Overlap and Conflict between State and Federal Requirements.* Because of the dual system for chartering and supervising depository institutions, Federal controls over state-chartered entities may represent an unnecessary layer of regulation and an area where greater deference could be given to state regulatory responsibilities.

Previous Reorganization Proposals

Since the late 1930s numerous proposals have been put forward by both governmental bodies and private groups for reorganization of the Federal agencies regulating commercial banks and other depository institutions. For example, in 1949 the Commission on Organization of the Executive Branch of Government (the Hoover Commission) suggested that: (1) The Office of the Comptroller of the Currency (OCC) more properly belonged under the Federal Reserve Board than in the Treasury Department; (2) the functions of the Federal Deposit Insurance Corporation (FDIC) should be transferred to the Federal Reserve System (FRS); and (3) all Federal bank supervision should be combined, preferably in the FRS. In 1961, the Commission on Money and Credit recommended that the supervisory functions of the OCC and the FDIC be transferred to the FRS. In 1971, the Hunt Commission recommended that: (1) An "Administrator of National Banks" assume the OCC's supervisory responsibilities; (2) an "Administrator of State Banks" assume the supervisory responsibilities of the FRS and the FDIC; and (3) a "Federal Deposit Guarantee Administrator" assume the FDIC's insurance responsibilities. In 1975, the FINE Study recommended combining the supervisory and examination functions of the FDIC, FRS, OCC, the Federal Home Loan Bank Board (FHLBB) and the National Credit Union Administration (NCUA) into a single "Federal Depository Institutions Commission." In 1981, legislation (S. 1721) was proposed which would have consolidated the FDIC, the Federal Savings and Loan Insurance Corporation (FSLIC) and the National Credit Union Share Insurance Fund (NCUSIF) into one Federal deposit insurance fund. Finally, the Futures Trading Act of 1982 (H.R. 5447) largely resolved a jurisdictional dispute over financial futures between the Securities and Exchange Commission and Commodity Futures Trading Commission. The Act codified an agreement reached a year earlier between the two Commissions on a range of issues which, among other things, clarified the statutes administered by the agencies and set forth procedures enhancing cooperation between the agencies.

The reorganization proposals enumerated above, although by no means exhaustive, suggest the scope and nature of the proposals for Federal regulatory reorganization to date. While these proposals have generally centered on depository institutions, ongoing developments in the financial services markets suggest that this restricted focus is no longer appropriate, as depository and non-depository institutions have come to take on similar powers and compete in the same markets.

Traditional Arguments For and Against Reorganization

Arguments For: Proponents of reorganization have based their case on a variety of considerations, among which the following have frequently been cited:

1. Elimination of the duplication of activities among the several agencies will permit cost savings and enhance operating efficiency for the private sector.

2. Having fewer agencies would clearly fix responsibility for regulation of financial institutions and provide a focal point for Administration, Congressional, and public concerns regarding regulatory policy.

3. Agency reorganization would facilitate the handling of problem institution cases, which frequently require extensive coordination among several regulatory agencies.

4. Reorganization would remove inconsistencies in the regulation of bank holding companies and their subsidiary banks. Under the existing system, the FRS regulates all bank holding companies, while one of the other agencies usually has responsibility for the banking subsidiaries. Thus, it is difficult for a single agency to get a complete picture of the relationship between holding company and subsidiary, and the institution as a whole is subjected to at least two different sets of rules and regulators.

5. The existing division of responsibilities among agencies permits differential treatment of different institutions, giving rise to inequities. The several agencies have differed among themselves in their policies toward mergers and in their supervisory practices and requirements. According to some observers, the multi-agency structure tends to foster a "competition in laxity" as one agency or another seeks to maintain or increase it share of regulated institutions by adopting a more permissive regulatory posture.

Arguments Against: Arguments against reorganization have generally centered on the following themes:

1. Creation of fewer agencies would tend to concentrate power within a reduced number of government entities, raising the danger of arbitrary or inflexible behavior. Agency pluralism may be useful, since it subjects the regulators to checks and balances. A related commonly-voiced concern is that concentrating Federal regulation would tend to favor Federally chartered institutions over state-chartered institutions, thus undermining the "dual banking system" and "states rights." The power of a single Federal regulator, chartering and supervising all national institutions and regulating all Federally insured state-chartered institutions, would quickly dwarf that of state regulatory authorities even for state-chartered institutions.

2. Agency diversity increases the chances that innovative approaches to policy problems will emerge. The exchange of ideas resulting from different approaches to similar problems and sometimes even competition among regulators to achieve basic regulatory innovations may be superior to the single agency approach. A sole regulator, not subject to challenge from other agencies, might tend to be entrenched, conservative and shortsighted. In addition, there is a danger that its regulatory policies would tend to favor the type of institution making up the bulk of its regulatees.

3. The existing structure in any case works quite well despite its apparent cumbersomeness. Coordination among the agencies has improved, and little more of consequence could be achieved through consolidation or other extensive reorganization. Potential cost savings through consolidation are minimal.

4. Recent major legislative changes should be absorbed before structural changes in the regulatory system are considered.

The Impact of Deregulation of Financial Institutions

Deregulation of financial institutions is bringing about changes both in the functions of the regulatory agencies and in the structure of the country's financial system. At the same time, significant private sector innovations—such as the development of financial conglomerates which may offer credit, real estate, brokerage and insurance services,

among others—also call into question the appropriateness of the current Federal regulatory structure. While the precise details of the future cannot be known, it is reasonable to expect three broad sets of changes to be particularly relevant to questions of agency structure.

First, most restrictions on prices and products offered by depository institutions will end. As a result, many if not all of the legal distinctions between the traditional categories of these institutions will disappear, although individual institutions may continue to specialize.

Second, the distinctions between depository and other financial services institutions will continue to erode, as depositories increasingly enter activities traditionally limited to investment banking, brokerage and insurance firms and vice-versa.

Third, depository institutions will continue to expand their geographic scope of operations through increased electronic services, expansion of subsidiary activities and expanded inter-state branching as a result of merger and acquisition activity.

The foregoing changes will tend to intensify the problem of inequities arising from the current differential treatment of financial institutions. They will also cause increasingly severe problems of conflicting regulatory policies and duplication as more and more institutions become subject to multiple regulatory agencies. Without modification, however, the current system may be unable to resolve the conflicts and inequities which have already occurred among financial institutions, and such problems can only be expected to worsen over time.

In sum, ongoing and prospective changes in the regulatory and economic environments appear to strengthen the traditional arguments for agency reorganization, transfers of regulatory authority or elimination of regulatory controls on particular activities. In a deregulated environment characterized by more diversified institutions, there may be a much greater need for a system which can flexibly accomodate new products and services and technological developments, while at the same time providing consistency and uniformity in agency treatment of financial institutions. Under these circumstances, greater coherence among regulatory agencies and a more precise definition of agency responsibilities may be much more important to the overall integrity and efficiency of financial markets than has previously been the case.

Comments: In order to gather information pertinent to this study the Task Group on Regulation of Financial Services invites representatives of the financial services industries, the broader business community, governmental and community bodies and interested members of the general public to present their views. Two copies of written comments on the issues discussed above, and other relevant concerns, would be appreciated. The following outline of issues and options may be helpful to respondents, although it should not be considered exhaustive of the possibilities the Task Group or respondents to this notice may consider.

Problems, Issues and Options of Financial Regulatory Agency Structure

I. Goals of Financial Regulation

The goals and purposes underlying the regulation of financial institutions, instruments, and markets in the United States have been identified by various observers to include the following:

1. Assuring safety and soundness of financial institutions, and of the financial system as a whole, both to protect individual depositors and to avoid or limit secondary effects of a failed institution.

2. Avoiding conflicts of interest, fraud, and consumer abuses.

3. Promoting orderly markets to encourage savings and capital formation and to support macro-economic stability.

4. Avoiding excessive concentrations of economic and financial resources.

Should these goals be reappraised in light of emerging realities in the marketplace?

Has the evolution of the financial system changed the weight that public policy should place on these goals? Are there additional goals that should receive new attention in the framing of government regulatory policies and in organizing the financial regulatory agencies? Would other less costly regulatory approaches achieve these or alternative goals?

II. Assessment of the Existing Structure

1. *Differential Treatment.*—Are there differences in policies and procedures among the several regulatory agencies which result in differential treatment of institutions engaged in similar activities or which, absent unnecessary restrictions, would engage in similar activities? Are there overlapping responsibilities which may give rise to significant jurisdictional or policy conflicts among agencies or create dual jurisdictions with actual or potential conflict in operating requirements?

2. *Excessive Regulatory Controls.*—What specific regulatory or legislative controls or other requirements, procedural or substantive, could be eliminated, reduced or modified to reduce overall costs, increase efficiency or promote better services for consumers? What does compliance with current regulatory requirements cost on an annual basis, as a percentage of operating expenses or in absolute dollars? Give as much detail as possible concerning the costs of compliance with particular statutes or regulatory programs.

3. *Overlap and Duplication.*—Are there unnecessary costs and inefficiencies entailed by the performance of similar or identical functions by different regulatory agencies? What specific areas of duplication result in higher costs, excessive paperwork or record-keeping or reduced competitive activity?

4. *Agency Responsiveness.*—Does the complexity of the existing structure cause confusion or undue delay in completing transactions or otherwise impose unnecessary costs or burdens on the institutions and public which must deal with the agencies? In what specific areas do current regulatory controls result in unnecessary delays in completing ordinary transactions?

5. *Management of Shared Responsibilities.*—Do different agencies work together effectively in areas where their statutory responsibilities require such cooperation—as in regulating bank holding companies and their subsidiaries, administering securities margin regulations or handling problem institution cases? Do current inter-agency coordinating groups, such as the Depository Institutions Deregulation Committee (DIDC) and Federal Financial Institutions Examination Council (FFIEC) reduce or increase costs and efficiency? Do inter-agency agreements such as that between the Securities and Exchange Commission and the Commodity Futures Trading Commission offer a means of resolving jurisdictional tensions in other areas?

6. *State and Federal Requirements.*—In which areas do Federal controls over state-chartered entities represent an unnecessary layer of regulation?

7. What aspects of the current regulatory system are most important to preserve?

III. Reform Issues and Options

1. *Reorganization of Depository Regulators.*—If reorganization is called for, what agencies should be included or excluded and what regulatory functions should any such agency or agencies

perform? Should reorganization result in a new regulatory authority lodged in one of the existing agencies or in a newly created one? If the latter, what form should the new agency take, how should it be administered and how should it be integrated, if at all, with other parts of the government? If reorganization results in a reduction of the current number of agencies, which should be the surviving regulatory agencies and what should be the scope of their authorities? Is regulation by function feasible instead of regulation by institutions? Finally, if a substantial reorganization of structure is desirable, should changes be introduced in stages, or in one comprehensive measure?

2. *Organizational Issues Pertaining to Non-Depository Regulators.*—What reorganization, consolidation or coordination would be desirable between the regulatory agencies dealing with securities trading, commodity futures trading and/or depository institutions? Does the current system adequately identify agency responsibilities and priorities in the event of conflicting rules or policies among such agencies?

3. *Deposit Insurance.*—Should any or all of the three Federal deposit insurance funds be consolidated? Please indicate the reasons for or against merging the funds. Is it appropriate to consider the Securities Investor Protection Corporation in this regard? What is the appropriate role for the deposit insurance agencies in the regulation of depository institutions and their holding companies?

4. *Coordinating Mechanism.*—Apart from or in addition to agency reorganizations, could increased regulatory effectiveness be obtained through the creation or elimination of interagency committees? Alternatively, could the current system be improved by transferring particular responsibilities to different agencies or by designating primary agencies in particular areas in the event of conflict? Should enforcement of consumer protection laws continue to be divided among agencies, or centralized in one consumer-oriented agency, e.g., the Federal Trade Commission (FTC)?

5. *Elimination of Regulatory Overlap and Conflict.*—To what extent can the problems of the existing structure be rectified without new organizational arrangements—for example, through statutory changes designed to define more clearly the respective areas of responsibility of the different agencies? Should depository institution regulators have authority over mergers and acquisitions by regulated institutions, and if so to what extent?

6. *Monetary Authority Regulatory Role.*—What involvement in regulation of financial institutions is necessary to execute responsibilities for monetary policy, to act as the lender of last resort and to provide a framework for stability of the overall system? What information and experience with the ongoing activities of institutions is required to fulfill these roles and can this information or experience be obtained other than by direct regulation of banks and holding companies?

7. *Securities Regulation Issues.*—To what extent should the current system for establishing margin requirements and practices be changed? What changes would be desirable in current laws and regulations governing investment companies and investment advisors to reduce costs to consumers or to harmonize such regulation with pooled investment media maintained by insurance companies or depository institutions? In what other ways should current regulatory controls over securities issuers, underwriters or markets be reduced?

8. *Additional Regulatory Relief Possibilities.*—Apart from or in addition to agency reorganization, what current regulatory or statutory restrictions on financial institutions or their holding companies should be eliminated or modified to reduce direct and indirect costs to consumers, to improve the services available to the public or for any other reason? (Please be specific.) What safeguards against conflicts of interest, harmful intra-company transactions or unsafe practices by depository institutions and their holding company affiliates would be preferable to current regulatory controls, reporting requirements and examinations? Could improved public disclosure replace certain agency reporting and regulatory requirements?

IV. Other

Dated: February 3, 1983.

Richard C. Breeden,

Deputy Counsel to the Vice President.

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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.) Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

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DOT/MA	LABOR		DOT/MA	LABOR
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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.

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