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4-29-77
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FRIDAY, APRIL 29, 1977

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Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
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DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/FDA			HEW/FDA

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

ATTENTION: For questions, corrections, or requests for information please see the list of telephone numbers appearing on opposite page.

federal register

Area Code 202 Phone 523-5240

Published daily, Monday through Friday (no publication on Saturdays, Sundays, or on official Federal holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C., Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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rules and regulations

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

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

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Department of Commerce

AGENCY: Civil Service Commission.

ACTION: Final Rule.

SUMMARY: This amendment extends the exception under Schedule B of 15 positions of Minority Business Opportunity Specialist, grades GS-9 through GS-15, in the Office of Minority Business Enterprise, with the provision that new appointments may not be made after December 31, 1977. These positions are excepted under Schedule B because it is not practicable to examine competitively for them.

EFFECTIVE DATE: April 29, 1977.

FOR FURTHER INFORMATION CONTACT:

Bill Bohling
202-632-4533

Accordingly, 5 CFR 213.3214(c)(1) is amended to read as follows:

§ 213.3214 Department of Commerce.

* * * * *

(c) *Office of Minority Business Enterprise.*

(1) Fifteen positions of minority business opportunity specialist at grades GS-9 through GS-15. This authority may not be used for new appointments after December 31, 1977.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-12341 Filed 4-28-77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Commerce

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment to the Schedule A exception is made to accurately reflect the current departmental organization of the marine vessel positions formerly under the Coast and Geodetic Survey, but now under the National Oceanic and Atmospheric Administration.

EFFECTIVE DATE: April 29, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3114(c)(1) is revoked and 5 CFR 213.3114(j)(3) is added to read as follows:

§ 213.3114 Department of Commerce.

* * * * *

(c) *Coast and Geodetic Survey.*

(1) [Revoked]

* * * * *

(j) *National Oceanic and Atmospheric Administration.* * * *

(3) All civilian positions on vessels operated by the National Ocean Survey.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-12342 Filed 4-28-77;8:45 am]

PART 213—EXCEPTED SERVICE

Federal Energy Administration

AGENCY: Civil Service Commission.

ACTION: Final Rule.

SUMMARY: Part 213 is amended to show that one position of Confidential Assistant for Legislation is excepted under Schedule C because the position is confidential in nature.

EFFECTIVE DATE: April 29, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3388(a)(4) is added as set out below:

§ 213.3388 Federal Energy Administration.

(a) *Office of the Administrator.* * * *

(4) One Confidential Assistant for Legislation.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-12343 Filed 4-28-77;8:45 am]

PART 213—EXCEPTED SERVICE

Small Business Administration

AGENCY: Civil Service Commission.

ACTION: Final Rule.

SUMMARY: Schedule A authority for positions of Community Economic-Industrial Planner in the Small Business Administration has been amended to prohibit new appointments after May 1, 1977, as vacancies in these positions can now be filled through competitive examination.

EFFECTIVE DATE: April 29, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3132(c) is amended to read as follows:

§ 213.3132 Small Business Administration.

* * * * *

(c) Positions of Community Economic-Industrial Planner, GS-7 through 12, when filled by local residents who represent the interest of the groups to be served by the Minority Entrepreneurship Teams of which they are members. No new appointments may be made under this authority after May 1, 1977.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-12344 Filed 4-28-77;8:45 am]

PART 213—EXCEPTED SERVICE

ACTION

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: Part 213 is amended to show that three positions of Staff Assistant to the Deputy Director are excepted under Schedule C because they are confidential in nature.

EFFECTIVE DATE: April 29, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling (202-632-4533).

Accordingly, 5 CFR 213.3359(j) is added to read as follows:

§ 213.3359 ACTION.

* * * * *

(j) Three Staff Assistants to the Deputy Director.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954-1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-12444 Filed 4-28-77;8:45 am]

PART 213—EXCEPTED SERVICE

Defense Department

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: Part 213 is amended to reflect a change in title from: Private Secretary to the Assistant Secretary of Defense (Legislative Affairs) to Private Secretary to the Assistant to the Secretary of Defense (Legislative Affairs): This change reflects the current title of the superior.

EFFECTIVE DATE: April 29, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling (202-632-4533).

Accordingly, 5 CFR 213.3306(a)(2) is amended to read as follows:

§ 213.3306 Department of Defense.

(a) *Office of the Secretary.* * * *

(2) One Private Secretary to the Deputy Secretary of Defense and one Private Secretary to each of the following: Director of Defense Research and Engineering; the Principal Deputy Director of Defense Research and Engineering; the Deputy Directors of Defense Research and Engineering (Tactical Warfare Programs), (Strategic Systems), (Research and Technology); the Director, Advanced Research Project Agency; the Assistant Secretaries of Defense (Manpower and Reserve Affairs), (International Security Affairs), (Public Affairs), (Installations and Logistics), (Comptroller), (Program Analysis and Evaluation), (Intelligence) and the Assistant to the Secretary of Defense (Legislative Affairs); the General Counsel, the Assistant to the Secretary of Defense (Atomic Energy); and the Military Assistants to the Secretary of Defense.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954-1958 Comp. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-12443 Filed 4-28-77;8:45 am]

PART 213—EXCEPTED SERVICE

Labor Department

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment changes the title of the position of Staff Assistant to the Secretary of Labor to Secretary to the Secretary of Labor because this title more accurately reflects the duties of the position.

EFFECTIVE DATE: April 29, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling (202-632-4533).

Accordingly, 5 CFR 213.3315(a)(1) is amended to read as follows:

§ 213.3315 Department of Labor.

(a) *Office of the Secretary.*

(1) One Private Secretary, one Secretary, two Special Assistants, one Confidential Assistant, and two Staff Assistants.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-12442 Filed 4-28-77;8:45 am]

Title 9—Animals and Animal Products

CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 82—EXOTIC NEWCASTLE DISEASE; AND PSITTACOSIS OR ORNITHOSIS IN POULTRY

Area Released From Quarantine

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this amendment is to release a portion of Medina County in Ohio from the areas quarantined because of exotic Newcastle disease. Surveillance activity indicates that exotic Newcastle disease no longer exists in the area quarantined. No areas remain under quarantine in the State of Ohio.

EFFECTIVE DATE: April 26, 1977.

FOR FURTHER INFORMATION CONTACT:

Dr. M. A. Mixson, USDA, APHIS, Veterinary Services, Federal Building, Room 7348, Hyattsville, MD 20782 301-436-8073).

SUPPLEMENTARY INFORMATION: This amendment excludes a portion of Medina County in Ohio from the areas quarantined because of exotic Newcastle disease under the regulations in 9 CFR Part 82, as amended. Therefore, the restrictions pertaining to the interstate movement of poultry, mynah and psittacine birds, and birds of all other species under any form of confinement, and their carcasses and parts thereof, and certain other articles from quarantined areas, as contained in 9 CFR Part 82, as amended, will not apply to the excluded area.

Accordingly, Part 82, Title 9, Code of Federal Regulations, is hereby amended in the following respects.

§ 82.3 [Amended]

In § 82.3, paragraph (a)(4) relating to the State of Ohio is deleted.

(Secs. 4-7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791-792, as amended; secs. 1-4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 13, 132 (21 U.S.C. 111-113, 115, 117, 120, 123-126, 134b, 134f); 37 FR 28464, 28477; 38 FR 19141.)

The amendment relieves certain restrictions no longer deemed necessary to prevent the spread of exotic Newcastle disease, and must be made effective immediately to be of maximum benefit to affected persons. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and unnecessary, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 22nd day of April 1977.

NOTE—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

E. A. SCHILF,
Acting Deputy Administrator, Veterinary Services.

[FR Doc.77-12102 Filed 4-28-77;8:45 am]

PART 82—EXOTIC NEWCASTLE DISEASE; AND PSITTACOSIS OR ORNITHOSIS IN POULTRY

Area Released From Quarantine

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this amendment is to release a portion of San Bernardino County in California from the areas quarantined because of exotic Newcastle disease. Surveillance activity indicates that exotic Newcastle disease no longer exists in the area quarantined. No areas remain under quarantine in the State of California.

EFFECTIVE DATE: April 26, 1977.

FOR FURTHER INFORMATION CONTACT:

Dr. M. A. Mixson, USDA, APHIS, Veterinary Services, Federal Building, Room 748, Hyattsville, Md. 20782, 301-436-8073.

SUPPLEMENTARY INFORMATION: This amendment excludes a portion of San Bernardino County in California from the areas quarantined because of exotic Newcastle disease under the regulations in 9 CFR Part 82, as amended. Therefore the restrictions pertaining to the interstate movement of poultry, mynah and psittacine birds, and birds of all other species under any form of confinement, and their carcasses and parts thereof, and certain other articles from quarantined areas, as contained in 9 CFR Part 82, as amended, will not apply to the excluded area.

Accordingly, Part 82, Title 9, Code of Federal Regulations, is hereby amended in the following respects.

In § 82.3, paragraph (a)(3) relating to the State of California is deleted.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132; (21 U.S.C. 111–113, 115, 117, 120, 123–126, 134b, 134f); 37 FR 28464, 28477; 38 FR 19141.)

The amendment relieves certain restrictions no longer deemed necessary to prevent the spread of exotic Newcastle disease, and must be made effective immediately to be of maximum benefit to affected persons. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and unnecessary, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 26th day of April, 1977.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

E. A. SCHILF,
Acting Deputy Administrator,
Veterinary Services.

[FR Doc.77–12295 Filed 4–28–77;8:45 am]

Title 10—Energy

CHAPTER II—FEDERAL ENERGY ADMINISTRATION

PART 211—MANDATORY PETROLEUM ALLOCATION REGULATIONS

Entitlement Program Amendments for Initial Acquisitons for Strategic Petroleum Reserve

AGENCY: Federal Energy Administration (FEA).

ACTION: Final rule.

SUMMARY: This rule provides that firms selling imported crude oil to the Federal Government for storage in the Strategic Petroleum Reserve (SPR) shall receive entitlement issuances under FEA's domestic crude oil allocation (entitlements) program for the crude oil sold as if such imported crude oil had been processed in a domestic refinery. The entitlements so issued will reduce the Federal Government's purchase price for the imported crude oil to a price roughly equivalent to the weighted average cost of crude oil for domestic refiners.

EFFECTIVE DATE: April 25, 1977.

FOR FURTHER INFORMATION CONTACT:

Deanna Williams (FEA Reading Room), 12th and Pennsylvania Avenue, NW., Room 2107, Washington, D.C., 202–566–9161.

Allen Hoffard (Media Relations), 12th and Pennsylvania Avenue, NW., Room 3104, Washington, D.C. 20461. 202–566–9833.

Michael E. Carosella (SPR Program Office), 1726 M Street, NW., Room 330, Washington, D.C. 20461. 202–634–5500.

Doris Dewton (Entitlements Program Office), 2000 M Street, NW., Room 6128H, Washington, D.C. 20461. 202–254–8660.

Michael Paige or Craig Bamberger (Office of General Counsel), 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461. 202–566–9565.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On February 5, 1977, FEA issued a proposal providing for conforming amendments to its entitlements program to implement the purchase authority for the SPR (42 FR 8382, February 10, 1977). The proposal basically contemplated that a class of suppliers would participate in the entitlements program in connection with sales of crude oil for the SPR and that the value of entitlements earned for deliveries to the SPR would constitute an adjustment to the Federal Government's payment obligation, but not to the contract purchase price.

Title I, Part B of the Energy Policy and Conservation Act (EPCA), enacted on December 22, 1975, set forth requirements for the FEA to acquire up to one billion barrels of crude oil and refined petroleum products for storage in the SPR. On December 14, 1976, FEA submitted to Congress an SPR Plan detailing FEA's proposals for designing, constructing, and filling the storage and related facilities of the SPR. The Plan was resubmitted on February 16, 1977 to correct a technical oversight. This Plan, which took effect on April 18, 1977, provides for the storage of 150 million barrels of crude oil by December 22, 1978, 325 million by December 22, 1980, and 500 million by December 22, 1982. To meet these goals, FEA will commence crude oil acquisition activities in the immediate future, as described below.

In the SPR Plan, FEA stated its intention to propose use of the authorities granted in the Emergency Petroleum Allocation Act of 1973, as amended (EPAA), to allow the Government to obtain the benefits of domestic crude oil price controls for imported crude oil for the SPR to the same extent that refiners receive such benefits under the entitlements program for processing imported crude oil. The plan also provided that a final choice among several options being considered by FEA, including amendments to the entitlements program, would be made following completion of the review process, including consideration of the requirements of the National Environmental Policy Act of 1969.

DISCUSSION OF COMMENTS

FEA received 29 written comments on the February 5 proposal, including three late comments. All of these comments were considered in FEA's formulation of the rule promulgated hereby. Of the comments submitted 25 opposed adoption of the proposal, and four comments either supported adoption of the proposal or did not express a position. In opposing use of the entitlements program, most firms stated that it was more appropriate to fund the acquisitions of crude oil for the SPR entirely from the U.S. Treasury's general revenues, and not partially to subsidize these acquisitions by increasing costs for consumers of petroleum products. It was also suggested that Federal royalty oil or production from the Naval Petroleum Reserves could be used to supply the SPR. A further reason advanced in opposition to adopting the entitlements program amendments was that the subsidy of the Federal Government's purchases would perhaps constitute one reason for not proceeding with decontrol of domestic crude oil prices in 1979.

Although the vast majority of firms commenting on the proposal did not support use of the entitlements program to lower the Federal Government's acquisition costs for SPR crude oil, FEA believes that its proposal in this regard is appropriate for adoption for the following reasons. First, FEA does not believe that it is equitable to require the Federal Government to purchase imported crude oil on a basis any different than a domestic refiner or, more generally, consumers of petroleum products produced from imported crude oil. The entitlements program effectively reduces the crude oil acquisition costs of refiners with respect to their purchases of imported crude oil, and FEA believes that the Federal Government, and thus taxpayers generally, should receive at least as favorable treatment in this regard as domestic refiners and their customers. Furthermore, as to imports of finished product not refined domestically, the entitlements program also provides for a reduction in the cost of imported residual fuel oil for consumers on the East Coast and of the cost of naphtha imports for petrochemical feedstock use in Puerto Rico. Since the acquisitions for the SPR will significantly benefit domestic refiners and their customers if any serious shortage should occur in the future, FEA believes that it is equitable to require a minor portion of the current acquisition costs to be borne by petroleum consumers rather than by the Federal Government and taxpayers generally. Second, section 4(a) of the EPAA requires the President to "promulgate a regulation providing for the mandatory allocation of crude oil", and that the regulation "shall apply to all crude oil * * * produced or imported into the United States." FEA has consistently taken the position that such regulation applies to the Federal Government, both in its capacity as a petroleum purchaser and seller. In general, FEA believes that the establishment of the SPR and the effective allocation to the Federal Government of the benefits of domestic price-controlled crude oil through the entitlements program are consistent with and further the objectives set forth in section 4(b)(1) of the EPAA. In addition, use of the allocation authority under the EPAA as provided for in this final rule is consistent with the legislative policy behind the establishment of

the SPR, as set forth in the EPCA. Section 159(f) of the EPCA grants the Administrator of the FEA authority to acquire petroleum products (which is defined to include crude oil) by purchase, exchange or otherwise. Section 160(b) of the EPCA sets forth the objectives to be applicable to acquisitions for the SPR, and the first listed of these objectives is the minimization of the cost of the SPR, which objective would be furthered by use of the entitlements program to reduce the Federal Government's acquisition costs.

As to the more technical aspects of the proposal, most firms commenting supported the second alternative method of payment in the proposal, i.e., payment in full at the time of delivery to the Federal Government, less the estimated entitlement value. Except for these comments as to the preferred method of payment, very few other comments on the workability of the February 5 proposal were submitted. One firm did comment, however, that refiner-buyers under FEA's Mandatory Crude Oil Allocation (Buy/Sell) Program should not be permitted to purchase under that program and at the same time deliver crude oil for the SPR. FEA intends to consider that particular comment in its current separate proceeding for reevaluation of the Buy/Sell Program.

DESCRIPTIONS OF INITIAL SOLICITATIONS

The solicitations for the first 10,000,000 barrels, which will be limited to imported crude oil, will be issued in the period April to June 1977 by the Defense Fuel Supply Center, and will be structured as follows. Two million barrels are expected to be procured in one or more purchases for prompt delivery in July, August and possibly September 1977, depending on the availability of SPR storage facilities. The balance of 8,000,000 barrels, for deliveries commencing in August and possibly September 1977, de- August and continuing throughout 1977, are expected to be acquired separately. It is anticipated that the first solicitation will require the submission of proposals by the end of May, and that initial source selection will be completed by August 1977.

Under the procedures contemplated by the amendments adopted hereby, payment from the Government of the contract price, less $3 per barrel, would be due upon acceptance of crude oil delivered for the SPR and submission of appropriate documentation. Eligible firms would then have their SPR deliveries reflected in the entitlement notice published in the month following acceptance. The $3 per barrel balance of the purchase price will be due by the end of the month following the month in which the related SPR delivery acceptance was made, assuming that appropriate documentation has been submitted, and payment would be made partly by the Federal Government and partly by entitlement issuances.

For example, if a firm delivered crude oil for the SPR in July, and the contract price was $13 per barrel, the first $10 per barrel of the purchase price would become due and be paid in the normal course, or for prompt payment discount. Since the delivery would be reflected in the entitlement notice published in August, entitlements (the value of which is estimated to range between $2 and $3 per barrel) would be received by August 31. The balance of the $3 (after subtracting the per barrel entitlement value) would also be due from the Government on August 31.

To insure for purposes of the procurement that firms receive full payment within a definite time frame, payment by the Government of the entire $3 per barrel balance of the purchase price would be due in any event by the end of the month following the month of delivery if the particular firm's SPR delivery was not reflected in an entitlement issuance. In addition, if an entitlement seller did not receive its full amount of entitlement revenues within two months following the end of the month of the related SPR delivery, the unpaid balance of the purchase price would then become due from the Government. In this latter case, if the Federal Government is required (for whatever reason) to pay to any firm such amounts representing entitlement revenues not received, and that firm thereafter received the related entitlement revenues, that firm could be required to purchase entitlements in one or more entitlement notices in subsequent months of a dollar value equal to the amounts received by it and not refunded or credited to the Government, over and above its contract sales price with the Government.

AMENDMENTS ADOPTED

FEA expects that the amendments adopted hereby will be in effect only for the first procurements, the solicitations for which are expected to issue shortly, and that the entitlements program will later be amended to provide for entitlement adjustments for sales of both domestic and imported crude oils for the SPR. These first solicitations will provide for submission of offers with respect to imported crude oil only (including previously imported crude oil), although subsequent procurements may provide also for sales of domestic crude oil. A major factor behind FEA's decision to limit these first procurements to imported crude oil was that the treatment of sales of domestic crude oil under both the entitlements program and FEA's price regulations is much more complex, and FEA could not complete the required evaluation of these issues prior to the first solicitations. Comments on the entitlements program issues related to acquisitions of domestic crude oil will be requested in the proposal setting forth conforming amendments to the price regulations for sales to the SPR, which proposal is being issued concurrently herewith. FEA believes that it is appropriate to proceed with the amendments adopted hereby without receiving further comments, since certain of the more complex regulatory problems associated with sales of domestic crude oil for the SPR are not present if only imported crude oil is the subject of the procurement. It should be noted, however, that certain aspects of the proposed changes to the price regulations will be directly related to the formulation of offers for these first solicitations. Therefore, firms submitting offers should evaluate the final price rules in formulating their offers.

AMENDMENTS PROVIDING FOR ENTITLEMENT ISSUANCES

To implement the procedures described above, the entitlements program is amended to add a new § 211.67(d)(6), which provides for inclusion within the volume of a refiner's crude oil runs to stills of the volumes of imported crude oil delivered by that refiner and accepted by the Federal Government for storage in the SPR. These volumes would be an adjustment to a refiner's crude oil runs based on the actual volumes delivered to and accepted by the Government for the SPR in the month following the crude runs that are so adjusted. Thus, July 1977 SPR deliveries would be reported by August 5, 1977 as an adjustment to June 1977 crude runs. Similarly, for firms other than refiners a new § 211.67(d)(7) provides that deliveries of imported crude oil for the SPR renders these firms eligible for entitlement issuances on the same basis as is provided for refiners.

RECAPTURE PROVISION

As described above, if a firm that delivers imported crude oil for the SPR does not receive the related entitlement issuance by the end of the month following the month in which delivery is made, the Federal Government would then be required to pay the full $3 per barrel balance of the purchase price. If a firm that receives the appropriate entitlement issuance and is a net entitlement seller does not receive all or any portion of the related entitlement revenues within two months following the close of the month in which its SPR delivery was accepted, the unpaid balance of the purchase price for that delivery would then become due from the Government. In this event, § 211.67(d)(6) and (7) permit recapture in succeeding months' entitlement notices of any entitlement revenues for SPR deliveries received after such payment has been made by the Government, where these revenues have not been refunded or credited to the Government.

REPORTING REQUIREMENTS

FEA is also hereby adopting reporting requirements for firms delivering crude oil for the SPR that are eligible for entitlement issuances with respect to those deliveries. Under a new § 211.66(k), each such firm is required to report to FEA, by the fifth day of each month, its SPR deliveries for the immediately preceding month that are accepted by the Federal Government. FEA will prepare and make available a reporting form for this purpose to be filed by domestic refiners and

other eligible firms for their SPR deliveries.

ELIGIBLE FIRMS

The amendments adopted hereby provide that the firms eligible for entitlement issuances for their SPR deliveries include domestic refiners, as well as any other firm that sells crude oil to the Federal Government for the SPR.

ECONOMIC IMPACT EVALUATION

The proposal has been received in accordance with Executive Order 11821, issued November 24, 1974, and has been determined to be of a nature that requires an evaluation of its inflationary impact. Notice is hereby given that, pursuant to Executive Order 11821, the FEA has prepared an economic impact evaluation of the proposed amendments set forth in this proposal. Single copies of the preliminary economic impact evaluation may be obtained from the FEA Office of Communications and Public Affairs, Room 3138, or the FEA National Energy Information Center, Room 1416, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461, between 8 a.m. and 4:30 p.m., e.s.t., Monday through Friday, except Federal holidays. Interested parties may comment on this analysis by submitting their comments in accordance with the procedures for filing of written comments to be set forth in the proposal for conforming changes to FEA's price regulations for SPR sales.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-163, as amended, Pub. L. 94-385; E.O. 11790, 39 FR 23185.)

In consideration of the foregoing, Part 211 of Chapter II, Title 10 of the Code of Federal Regulations, is amended as set forth below, effective immediately.

Issued in Washington, D.C., April 25, 1977.

ERIC J. FYGI,
Acting General Counsel.

1. Section 211.67 is amended by adding new subparagraphs (6) and (7) to paragraph (d) to read as follows:

§ 211.67 Allocation of domestic crude oil.

* * * * *

(d) *Adjustments to volume of crude oil runs to stills.* * * *

(6) The volume of a refiner's crude oil runs to stills in a particular month for purposes of the calculations in paragraph (a)(1) of this section and the calculations for the national domestic crude oil supply ratio (without giving effect to the provisions of paragraph (e) of § 211.67) shall include the total number of barrels of imported crude oil delivered to and accepted for delivery by the United States Government in the following month for storage in the Strategic Petroleum Reserve mandated by Title I, Part B, of the Energy Policy and Conservation Act (Pub. L. 94-163); *provided, that,* If any entitlement issuance under this subparagraph (the revenues from which were either received by that refiner or served to reduce that refiner's entitlement purchase obligations under paragraph (b) of this section) is in duplication of payments made by the United States Government pursuant to the related contract or contracts for acquisition of that imported crude oil, that refiner shall be required to purchase entitlements pursuant to one or more succeeding entitlement notices equal in value to the entitlements so issued, unless such payments made by the United States Government have been refunded or credited to the United States Government. For purposes of this subparagraph (6), a refiner shall mean any firm that owns, operates or controls the operations of a refinery located in the United States, as defined in the Emergency Petroleum Allocation Act of 1973, as amended (Pub. L. 93-159).

(7) Notwithstanding any other provisions of this section, any firm other than a refiner (as defined in subparagraph (6) above) shall be eligible for entitlement issuances on the same basis as a refiner under subparagraph (6) above of this paragraph (d) with respect to deliveries of imported crude oil accepted by the United States Government for storage in the Strategic Petroleum Reserve mandated by Title I, Part B, of the Energy Policy and Conservation Act (Pub. L. 94-163); *provided, that,* If any revenues attributable to an entitlement issuance under this subparagraph received by that firm are in duplication of payments made by the United States Government pursuant to the related contract or contracts for acquisition of that imported crude oil, that firm shall be required to purchase entitlements pursuant to one or more succeeding entitlement notices equal in value to the amount of such entitlement revenues so received, unless such payments made by the United States Government have been credited or refunded to the United States Government.

* * * * *

2. Section 211.66 is amended by the addition of a new paragraph (k) to read as follows:

§ 211.66 Reporting requirements.

* * * * *

(k) *Special report for Strategic Petroleum Reserve deliveries.* On or prior to the fifth day of each month immediately following a month in which the United States Government has accepted a refiner's or other firm's delivery of crude oil for storage in the Strategic Petroleum Reserve mandated by Title I, Part B, of the Energy Policy and Conservation Act (Pub. L. 94-163), that refiner or other firm shall file with the FEA a report that sets forth the following information:

(1) The volume of imported crude oil so accepted for delivery in the immediately preceding month by the United States Government.

(2) The volume of domestic crude oil so accepted for delivery in the immediately preceding month by the United States Government, specifying the respective portions of that volume that are old oil, upper tier crude oil, stripper well crude oil (as defined in Part 212 of this chapter), and other domestic crude oils the first sale of which is exempt from the provisions of Part 212 of this chapter.

(3) Such other information as the FEA may request.

[FR Doc.77-12256 Filed 4-26-77;10:04 am]

Title 14—Aeronautics and Space

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER A—ECONOMIC REGULATIONS

[Regulation ER-936, Amendment and Reissuance of Part 239]

PART 239—REPORTING DATA PERTAINING TO FREIGHT LOSS AND DAMAGE CLAIMS BY CERTAIN AIR CARRIERS AND FOREIGN ROUTE AIR CARRIERS

Reduction of Reporting Requirements

Adopted by the Civil Aeronautics Board at its office in Washington, D.C.

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This rule amends and reissues the Board's rules for reporting freight loss and damage claims by reducing the reporting requirements prescribed therein to one simplified form to be filed semi-annually. In addition, this rule eliminates the applicability of this report to certificated supplemental air carriers, air freight forwarders, and commuter air carriers. This means that this rule will now only apply to certificated route air carriers and to foreign route air carriers engaged in scheduled air services. The new report will provide users of the form with the number and dollar amounts of Claims Received and Claims Paid, the Total Freight Revenues, and a Ratio of Claims Paid to Revenues for the domestic and international operations.

DATES: Effective: April 21, 1977. Adopted: April 21, 1977.

FOR FURTHER INFORMATION CONTACT:

Raymond Kurlander, Director, Bureau of Accounts and Statistics, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428 (202-673-5270).

SUPPLEMENTARY INFORMATION: In EDR-315, dated December 17, 1976 (41 FR 55891, December 23, 1976) the Board gave notice that it was considering amendment of Part 239 of its Economic Regulations by: (1) Eliminating two report schedules; (2) reducing the number of carriers required to file the reports; (3) redefining certain terms and requirements; and (4) proposing several other changes intended to reduce the reporting requirements or improve the data reported. In addition the Board also solicited comments on whether or not reporting under Part 239 should be reduced in filing frequency or eliminated entirely.

Thirteen comments were received in response to the rulemaking notice: six were received from certificated carriers; two were received from foreign carriers; three were received from trade associations; one was received from a cooperative shippers association; and one was received from the Department of Transportation.[1]

Three of the comments favored the elimination of Part 239 in its entirety, one expressed opposition to any reporting reduction at all and one, DOT, supported report reductions but did not specify what data the Board should collect. A majority of the respondents supported report reductions which would eliminate all but the minimum amount of data necessary to permit the Board to monitor freight losses.

Upon consideration of the comments received, the Board has decided to reduce the filing requirements in Part 239 to a simplified one page report to be filed semi-annually in lieu of the four quarterly schedules and one annual schedule now required, and to make the new report applicable only to certificated route air carriers and to foreign route air carriers performing scheduled operations. Thus, the new report will not be required of supplemental air carriers, air freight forwarders, and commuter air carriers. The comments offered three different alternatives to be considered: (1) The retention of Part 239 with proposed modifications, (2) the elimination of Part 239 in its entirety, or (3) the development of a new Part 239 report which collects the minimum amount of data needed to conduct a monitoring activity. The alternatives are discussed under separate captions which follow.

Retention of Part 239 With Proposed Modifications

As indicated previously, EDR-315 included several proposed modifications intended to reduce the reporting requirements or improve the data reported. Only the Shippers National Freight Claim Council (SNFCC) expressed opposition to any reduction in Part 239 reporting requirements or the filing frequency. The DOT expressed support for any modifications of Part 239 that would reduce the reporting burden placed on carriers so long as such reductions would not impair DOT's ability to fulfill its responsibilities under Executive Order 11836.[2] The DOT response was very general, however, and did not indicate the specific information DOT needed to meet its responsibilities under the Executive Order. As a result, the DOT comment left open the question of which, if any, of the reporting requirements could be eliminated. Without specific identification of DOT's data needs[3] the Board has no alternative but to reduce the reporting burden in light of its own needs and in order to be in consonance with the President's policy of reducing burden and similarly in consonance with that of the Commission on Federal Paperwork and the General Accounting Office.

It was also noted that no law enforcement body in the Federal, state, or local government expressed an interest in retaining the reporting requirements now in place or, for that matter, the scaled down reporting requirements which were proposed in EDR-315.

As to the Board's needs for detailed data, it should be remembered that EDR-315 took into account the possibility that some of the data received on Schedule C might be needed as a result of the *Liability and Claims Rules and Practices Investigation*, Docket 19923, et al. In this connection, the Board recently issued Order 77-3-61, dated March 10, 1977, wherein there was no expressed need for the detailed Schedule C data. In that order the Board, noting that carriers are always free to propose appropriate tariffs, expressed an intention to rely on carrier cost experience to justify any changes in rates as a result of the liability and claims rules now in force. In addition, the Board also declined to impose a rule which would require disposition of claims within a 120-day period and a one percent monthly interest charge if a claim was not disposed of during that period, in whole or in part. Thus there is no need to monitor the claims processing performance in the detail required on Schedule C.

We sympathize with SNFCC's desire for air freight loss and damage claims data. However, at the present time, the Board has no need for the detailed data which that organization is seeking. Moreover, there has been no clearly articulated need for specific data expressed by any other agency of the Federal, state or local government. The Board is therefore reluctant to continue the reporting requirements as they presently exist; and it is not inclined to merely scale down the reporting requirements as was proposed in EDR-315 with a new Schedule A-1, an amended Schedule A, and an amended Schedule B with fewer companies being required to file.

Elimination of Part 239 in Its Entirety

In response to the question of whether or not the Board should eliminate reporting under Part 239, American Airlines and British Caledonian Airways indicated that the reporting should be eliminated, and Japan Airlines did not oppose elimination if the reports were found to be burdensome. The Air Freight Forwarders Association (AFFA) also indicated that the reporting should be eliminated or, in the alternative, reduced to the minimum amount necessary to monitor air freight claim trends. The Air Transport Association of America (ATA) expressed the view that the Board should continue to monitor air freight claim trends and made specific suggestions as to what data should be received.

Those who supported elimination of Part 239 cited that, in its present form, the report had been put to little, if any, regulatory use and that it was unduly burdensome. American specifically stated that the carriers and forwarders have greatly increased the amount and sophistication of security provided for their freight operations and have thereby been able to reduce the amount of loss and damage sustained. The statistics submitted by the ATA indicated that the loss ratio declined from approximately 1.9 percent of freight revenues in 1970 to approximately .8 percent of freight revenue in 1976.

Although the decline in air freight loss ratios are favorable, there are nonetheless losses still being incurred. In 1976, the total claims paid exceeded $10 million and in view of this volume loss the Board believes that it should continue to monitor freight loss and damage claims. As a result Part 239 will not be eliminated entirely.

The New Part 239 Report

In order to perform the type of monitoring function which would clearly indicate a reversal or leveling off of the current favorable trend in freight loss and damage claims, the Board has decided that only one schedule will be necessary. It will be referred to as the "CAB Form 239—Report of Freight Loss and Damage Claims." Only the original of this schedule will be required to be submitted instead of having to file the original and one copy as presently required. The new report will show the number and dollar amounts of Claims Received and Claims Paid, the Total Freight Revenue, and a Ratio of Claims Paid to Revenues for domestic and international operations. In connection with the claims received, it should be noted that in cases where the dollar amount of a claim is unspecified, the amount included in the reported total shall be based upon the carrier's reasonable best estimate of the amount of that claim. The requirement that each carrier report its own dollar portion of

[1] In alphabetical order the respondents outside the Federal Government were: the Air Freight Forwarders Association of America; the Air Transport Association of America; American Airlines, Inc.; British Caledonian Airways, Ltd.; Continental Air Lines, Inc.; Delta Air Lines, Inc.; Hawaii Air Cargo Shippers Association; Japan Air Lines, Ltd.; National Airlines, Inc.; Northwest Airlines, Inc.; Shippers National Freight Claim Council, Inc.; and Trans World Airlines, Inc.

[2] Executive Order 11836, dated January 27, 1975, makes DOT responsible for collecting and analyzing cargo loss data for all modes of transportation and preparing and publishing periodic reports. Further, the Executive Order urges transportation regulatory agencies to recognize and consider the problem of theft-related cargo losses and, among other things, cooperate with the DOT in developing cargo theft reporting systems and obtaining cargo loss data from the carriers and freight forwarders.

[3] A review of previous communications also provided no insight as to DOT's needs for specific information. This review included communications between DOT and the Board's representative on the Interagency Committee on Transportation Security.

subrogated interline claims will be incorporated into the final rule.

In connection with the reporting of revenue data by type of operation, international or domestic, the Board noted the comments of the ATA, Continental, Delta, National, Northwest and Trans World Airlines. These respondents expressed concern over the changes in reporting of domestic and international revenues as proposed in EDR-315. According to the proposal, the nature of the shipment, international or domestic, rather than the geographically oriented reporting entities prescribed under Part 241 of the Economic Regulations, would have distinguished between international and domestic revenues. The respondents contended that this would require a parallel system of accounting for freight revenues to be maintained at considerable additional expense.

The Board is inclined to agree that the burdens associated with making the necessary modification exceed, at this time, the benefit to be derived. However, the Board does not believe the solution proposed by the ATA to report only the system data is appropriate. Instead, the Board will continue to require the reporting of domestic and international data, but the Board will accept the revenue reporting methodology used in Part 241 of the Economic Regulations.

CHANGES IN APPLICABILITY AND FILING FREQUENCY

Since it has been decided that, for the time being, the Board need only monitor the trends in air freight loss and damage claims, it has also been decided to restrict the applicability of Part 239 to the certificated route air carriers and foreign route air carriers.[4] The data provided by this group will be sufficient for the Board to determine any changes in the current trend and at the same time provide significant reporting relief to all categories of respondents.

The Board also believes that semi-annual reporting will be satisfactory. The report covering the first six months of each calendar year will be due in the Board on August 10 and the report covering the second six months of each calendar year will be due on February 10. We have decided not to extend the time interval between the close of the period covered by the report and the due date to sixty days as ATA requested (it is now 40 days). It appears that their request was made in anticipation of a continuance of more burdensome requirements than have been adopted in this final rule. In light of the relief granted by this rule, we do not believe an extension of the filing time interval is warranted.

All carriers and forwarders should remain mindful of the fact that nothing in this rulemaking relieves them from maintaining appropriate claims records. This means that air carriers and forwarders should retain the capability of providing airport and commodity data to law enforcement agencies or any other governmental body which may be in need of it. It should be noted that requested freight rate increases based upon loss experience may stand or fall based on the ability to provide detailed support of this type.

The Board will give prompt attention to requests by the DOT, or any Federal, state, or local law enforcement agency for data when the burden to be imposed is commensurate with the public benefit.

MAGNITUDE OF REPORT REDUCTION

The annual report reduction from this amendment will be approximately 7,800 schedules. This does not begin to measure the relief of work burden associated with preparing, processing and handling these schedules for both Board and carrier staffs.

EFFECTIVE DATE

This rule is being made effective immediately so as to entirely relieve respondents from filing the old reports for the first quarter of 1977. These reports would otherwise be due in the Board on May 10, 1977. This will provide a substantial measure of immediate relief. The first report under the new regulation would then be due in the Board on August 10, 1977, and it would cover the first six months of this calendar year.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends its Economic Regulations effective April 21, 1977, as follows:

1. Revise Part 239 to read as follows:

Sec.
239.1 Definitions.
239.2 Applicability of part and CAB Form 239 filing requirements.
239.3 Extension of filing time.
239.4 Retention of records.

AUTHORITY: Secs. 204, 402, 407, 72 Stat. 743, 757, 766 (49 USC 1324, 1372, 1377).

§ 239.1 Definitions.

Operation, domestic means traffic among the 50 States of the United States and the District of Columbia.

Operations, international means traffic among the 50 States of the United States and the District of Columbia, on the one hand, and all points outside the 50 States and the District of Columbia, on the other hand.

United States as defined in the Federal Aviation Act of 1958, means the several States, the District of Columbia, and the several Territories and possessions of the United States, including the territorial waters and the overlying airspace thereof.

§ 239.2 Applicability of part and CAB Form 239 filing requirements.

(a) This part applies to all certificated route air carriers and foreign route air carriers authorized to serve the United States in scheduled air transportation.

(b) CAB Form 239[1] shall be prepared semi-annually for the periods January 1 through June 30 and July 1 through December 31 of each year. One copy of the form with the certificate executed

[4] The Hawaii Air Cargo Shippers Association should note that Part 239 does not apply to Cooperative Shippers Associations.

[1] CAB Form 239 may be obtained from the Publications Services Division, Civil Aeronautics Board, Washington, D.C. 20428.

by the officer in charge of the carrier's accounts shall be filed with the Bureau of Accounts and Statistics, Civil Aeronautics Board, Washington, D.C. 20428, so as to be received on or before August 10 and February 10 following the end of each of the foregoing periods. If either of the due dates (August 10 or February 10) falls on a Saturday, Sunday, or national holiday, the due date will become effective on the first following working day.

(c) Data reported on Form 239 shall reflect combined scheduled and nonscheduled operations, but shall exclude military contract operations.

(d) For foreign route air carriers, data called for on Form 239 shall relate only to freight traffic from and/or to the United States and claims and revenue data relating thereto.

(e) Dollar amounts reported on Form 239 shall be rounded to the nearest whole number of United States dollars, omitting cents.

(f) Line 1.—Show the number and dollar amounts of claims received by the reporting carrier during the reporting period separated between domestic and international operations. If a dollar amount of a claim received is specified, include that amount in the total reported for columns (2) and (4); if a dollar amount of a claim received is not specified, the reporting carrier shall include an amount in the total reported for columns (2) and (4) based on the carrier's reasonable best estimate of the amount of that claim.

(g) Line 2.—Show the number and dollars amounts of claims paid in whole or in part by the reporting carrier during the reporting period separated between domestic and international operations.

(1) Carriers should report only claims paid which were made by their customers against them. Show only net claims expense paid, and exclude pending subrogations against the reporting carrier, subject to correction at a later date.

(2) Carrier interline claim data. Each carrier participating in an interline movement and sharing in the settlement shall separately report as to its own dollar portion of interline claims. For the purposes of line 2, columns (1) and (3) each interline carrier participating and sharing in the claim settlement shall count each claim on a percentage basis (participant prorate).

	Number of carriers participating in settlement			
	2	3	4	5
Claim-paying carrier	0.50	0.34	0.25	0.20
2d carrier	.50	.33	.25	.20
3d carrier		.33	.25	.20
4th carrier			.25	.20
5th carrier				.20

Note that if carrier A, for example, participated in an interline movement with carrier B, but carrier B bore the entire claim settlement, only carrier B would report the amount paid, as "1.00" claim.

(3) The dollar amounts paid (line 2, columns (2) and (4)) shall reflect only claim payments made pursuant to the carrier's liability under its tariff or other applicable law, and shall exclude payments made purusant to nontariff liability, such as under a shipper's all-risk insurance policy.

(h) Line 3.—Show the gross combined scheduled and nonscheduled air freight revenue received by the reporting carrier during the reporting period separated between domestic and international operations. For certificated route air carriers, these figures should be reported on the same basis as the total of amounts reported for domestic and international operations, respectively, in accounts 3906.2 and 3907.2 (excluding military operations) on Schedule P-3 of CAB Form 41.

(i) Line 4.—Show a percentage carried to two decimal places.

§ 239.3 Extension of filing time.

If circumstances prevent the filing of a report on or before the prescribed due date, consideration will be given to the granting of an extension upon receipt of a written request therefor. To provide ample time for consideration and communication to the air carrier of the action taken, such a request must be delivered to the Board in writing at least three (3) days in advance of the due date, setting forth good and sufficient reason to justify the granting of the extension and the date when the report can be filed. Except in cases of emergency, no such request will be entertained which is not in writing and received by the Civil Aeronautics Board at least three (3) days before the prescribed due date. If the request is denied, the air carrier remains subject to the filing requirements to the same extent as if no request for extension of time had been made.

§ 239.4 Retention of records.

The carrier which concludes disposition of the claim shall maintain a complete file of papers and correspondence relating to each claim. As a minimum, this file shall contain the following: copy of the original claim, a copy of the inspection report, if any, a copy of any and all correspondence distributing or reducing the liability arising from the claim, any and all correspondence subrogating the claim to another carrier or organization or party in the normal course of business. Should any of the above records not be maintained by the carrier upon his premises, the carrier's records shall contain an acknowledgment from the party retaining said records that the papers are in its possession and are available for inspection as if the record were retained by the carrier. Upon disposition of the claim, the complete file shall be maintained in accordance with Part 249 of the Board's regulations in this chapter.

2. Amend CAB Form 239 so that it consists of a single page designated as CAB Form 239, Report of Freight Loss and Damage Claims, attached hereto and incorporated herein.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

CAB Form 239
(4-77)

CIVIL AERONAUTICS BOARD
Washington, D.C. 20428

REPORT OF FREIGHT LOSS AND DAMAGE CLAIMS

(See Instructions on Reverse Side)

Date
Y Y M M

Carrier Code

Air Carrier _____

Six months ended (Check appropriate box) ☐ June 30, 19____ ☐ Dec. 31, 19____

Operations: Total Scheduled and Nonscheduled

Line No.	Item	DOMESTIC Number (1)	DOMESTIC Dollars (2)	INTERNATIONAL Number (3)	INTERNATIONAL Dollars (4)	SYSTEM Number Col. (1) + Col. (3) (5)	SYSTEM Dollars Col. (2) + Col. (4) (6)
1	Total Claims Received						
2	Total Claims Paid						
3	Total Freight Revenue	XXXX		XXXX		XXXX	
4	Ratio Claims Paid to Revenues (Item 2 ÷ Item 3)		%		%		%

I, the undersigned, (Title) _____ of the above-named air carrier certify that the above report has been examined by me and to the best of my knowledge and belief is a true, correct and complete report for the period stated.

Signature: _____

Name *(Please Type or Print)* _____

_____
Date

_____
Air Carrier Post Office Address

INSTRUCTIONS

1. Each United States certificated route air carrier and foreign route air carrier authorized to serve the United States in scheduled air transportation shall prepare CAB Form 239 semi-annually for the periods January 1 through June 30 and July 1 through December 31 of each year.

2. One copy of the form, with the certificate executed by the officer in charge of the carrier's accounts, shall be filed with the Bureau of Accounts and Statistics, Civil Aeronautics Board, Washington, D.C. 20428 so as to be received on or before August 10 and February 10 following the end of each of the foregoing periods. If either of the due dates (August 10 or February 10) falls on a Saturday, Sunday, or national holiday, the due date will become effective on the first following working day.

3. Data reported on Form 239 shall reflect combined scheduled and nonscheduled operations, but shall exclude military contract operations.

4. For foreign route air carriers, data called for on Form 239 shall relate only to freight traffic from and/or to the United States and claims and revenue data relating thereto.

5. Dollar amounts reported on Form 239 shall be rounded to the nearest whole number of United States dollars, omitting cents.

6. Line 1 - show the number and dollar amounts of claims received by the reporting carrier during the reporting period separated between domestic and international operations. If a dollar amount of a claim received is specified, include that amount in the total reported for columns (2) and (4); if a dollar amount of a claim received is not specified, the reporting carrier shall include an amount in the total reported for columns (2) and (4) based on the carrier's reasonable best estimate of the amount of that claim.

7. Line 2 - show the number and dollar amounts of claims paid by the reporting carrier during the reporting period separated between domestic and international operations.

a. Carriers should report only claims paid which were made by their customers against them. Show only net claims expense paid, and exclude pending subrogations against the reporting carrier, subject to correction at a later date.

b. Carrier interline claim data. Each carrier participating in an interline movement and sharing in the settlement shall separately report as to its own dollar portion of interline claims. For the purposes of line 2, columns (1) and (3) each interline carrier participating and sharing in the claim settlement shall count each claim on a percentage basis (participant prorate).

	Number of Carriers Participating in Settlement			
	2	3	4	5
Claim-paying carrier	.50	.34	.25	.20
2nd carrier	.50	.33	.25	.20
3rd carrier	-	.33	.25	.20
4th carrier	-	-	.25	.20
5th carrier	-	-	-	.20

Note that if carrier A, for example, participated in an interline movement with carrier B, but carrier B bore the entire claim settlement, only carrier B would report the amount paid, as "1.00" claim.

c. The dollar amounts paid (line 2, columns (2) and (4)) shall reflect only claim payments made pursuant to the carrier's liability under its tariff or other applicable law, and shall exclude payments made pursuant to non-tariff liability, such as under a shipper's all-risk insurance policy.

8. Line 3 - show the gross combined scheduled and nonscheduled air freight revenue received by the reporting carrier during the reported period separated between domestic and international operations. For certificated route air carriers, these figures should be reported on the same basis as the total of amounts reported for domestic and international operations, respectively, in accounts 3906.2 and 3907.2 (excluding military operations) on Schedule P-3 of CAB Form 41.

Definitions

Operations, domestic means traffic among the 50 States of the United States and the District of Columbia.

Operations, international means traffic among the 50 States of the United States and the District of Columbia, on the one hand, and all points outside the 50 States and the District of Columbia on the other hand.

United States as defined in the Federal Aviation Act of 1958, means the several States, the District of Columbia, and the several Territories and possessions of the United States, including the territorial waters and the overlying airspace thereof.

[FR Doc.77-12092 Filed 4-28-77;8:45 am]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release Nos. IA-581, 34-13454]

PART 275—RULES AND REGULATIONS, INVESTMENT ADVISERS ACT OF 1940

Extension of Temporary Exemption From the Investment Advisers Act for Certain Brokers and Dealers

AGENCY: Securities and Exchange Commission.

ACTION: Extension of Temporary Rule.

SUMMARY: As a result of the May 1, 1975 elimination of fixed commission rates on securities transactions, certain broker-dealers may have decided to impose separate charges for their investment advisory services: However, doing so might have caused such broker-dealers to lose their exemption from the Investment Advisers Act of 1940. To avoid this result the Commission has, since April 23, 1975, exempted certain broker-dealers from the Investment Advisers Act of 1940. The purpose of this document is to extend the expiration date for the temporary exemption from April 30, 1977 until April 30, 1978.

EFFECTIVE DATE: Immediately.

FOR FURTHER INFORMATION CONTACT:

Michael Berenson, Esq., Office of the Chief Counsel, Division of Investment Management, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, 202-376-8056.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission hereby amends Rule 206A-1(T) (17 CFR 275.206A-1(T)) under the Investment Advisers Act of 1940 ("Advisers Act") (15 U.S.C. 80b-1, et seq.), effective the date hereof, to continue until April 30, 1978 the temporary exemption provided thereby for certain registered brokers and dealers. The amendment to Rule 206A-1(T) is adopted pursuant to sections 206A, 211(a) and 211(b) of the Advisers Act (15 U.S.C. 80b-6a, 80b-11 (a) and 80b-11(b)).[1]

On April 23, 1975, the Commission published notice (Advisers Act Release No. 455) (40 FR 18424, April 28, 1975) of the adoption of temporary Rule 206A-1(T) effective May 1, 1975 to coincide with the effective date of Rule 19b-3 (17 CFR 240.19b-3) under the Securities Exchange Act of 1934 ("Exchange Act") (15 U.S.C. 78a et seq.).[2] Rule 206A-1(T) was intended to facilitate brokers and dealers charging separately for research and other investment advice furnished by brokers and dealers to their customers. However, the performance of advisory services for a separate charge clearly would bring such brokers and dealers within the definition of investment adviser in Section 202(a)(11) (15 U.S.C. 80b-2(a)(11)) of the Advisers Act,[3] since the exclusion in Section 202(a)(11)(C) (15 U.S.C. 80b-2(a)(11)(C)) for "any broker or dealer whose performance of such (investment advisory) services is solely incidental to the conduct of his business as a broker or dealer and who receives no special compensation "therefor" would not be available with respect to the unbundled advisory services. Accordingly, in order to afford brokers and dealers an adequate period of time to develop and test new pricing practices after May 1, 1975, without at the same time having to register under and comply with the Advisers Act, the Commission provided a four-month exemption from the Advisers Act for any broker or dealer registered as such on May 1, 1975 pursuant to Section 15 (15 U.S.C. 78o) of the Exchange Act and who was not then registered with the Commission as an investment adviser (or any successor to such broker or dealer within the meaning of Rule 15b1-3 (17 CFR 240.-15b1-3) under the Exchange Act), subject to two limited exceptions. The Commission intended that the exemptive period also would be utilized by such brokers and dealers "to become familiar with the provisions of that (Advisers) Act and interpretations thereunder and to consider their possible interaction with brokerage practices," and requested "suggestions for further action."[4]

Subsequently, the Commission concluded that additional time was needed to evaluate the potential problems, if any, in applying the Advisers Act to brokers and dealers in the light of business practices evolving in the securities industry. It also concluded that it was not appropriate to exempt from the Advisers Act for an extended period those brokers and dealers who perform investment supervisory services or other investment management services because of the special trust and confidence inherent in the relationships between such brokers and dealers and their advisory clients. Accordingly, Rule 206A-1(T) was amended principally to: (1) Extend the expiration date for the temporary exemption to April 30, 1976; and (2) to make the exemption inapplicable after November 30, 1975 to broker-dealers who provide investment supervisory or investment management services.[5]

---

[1] Section 206A of the Advisers Act provides as follows:

The Commission, by rules and regulations, upon its own motion, or by order upon application, may conditionally or unconditionally exempt any person or transaction, or any class or classes of persons, or transactions, from any provision or provisions of this title or of any rule or regulation 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 this title.

Sections 211 (a) and (b) of the Advisers Act provide as follows:

(a) The Commission shall have authority from time to time to make, issue, amend, and rescind such rules and regulations and such orders as are necessary or appropriate to the exercise of the functions and powers conferred upon the Commission elsewhere in this title. For the purposes of its rules or regulations the Commission may classify persons and matters within its jurisdiction and prescribe different requirements for different classes of persons or matters."

(b) Subject to the provisions of the Federal Register Act and regulations prescribed under the authority thereof, the rules and regulations of the Commission under this title, and amendments thereof, shall be effective upon publication in the manner which the Commission shall prescribe, or upon such later date as may be provided in such rules and regulations."

[2] Rule 19b-3 prohibits any national securities exchange from adopting or retaining any rule that requires, or from otherwise requiring, its members to charge fixed rates of commission for transactions executed on, or by the use of the facilities of, such exchange after May 1, 1975 (May 1, 1976 as to rules of an exchange relating to floor brokerage commissions).

[3] Section 202(a)(11) of the Advisers Act defines the term "investment adviser" to mean, with certain limited exclusions:

Any person who, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities, or who, for compensation and as part of a regular business, issues or promulgates analyses or reports concerning securities."

[4] Investment Advisers Act Release No. 455 (April 23, 1975), 40 FR 18424 (April 28, 1975).

[5] Investment Advisers Act Release No. 471 (August 20, 1975), 40 FR 38157 (August 27, 1975).

The text of Rule 206A-1(T), as then amended, was as follows:

Rule 206A-1(T). Temporary Exemption for Certain Broker-Dealers/Investment Advisers.

(a) Any person who was registered as a broker or dealer pursuant to Section 15 of the Securities Exchange Act of 1934 on May 1, 1975, and was not then registered as an investment adviser pursuant to Section 203 of the Investment Advisers Act of 1940 (or any successor, within the meaning of Rule 15b1-3 under the Securities Exchange Act of 1934, to such broker-dealer) shall be temporarily exempt from the provisions of the Act and the rules and regulations thereunder until April 30, 1976: *Provided, however,* That—

(1) This exemption shall not be applicable to any such person (a) whose broker-dealer registration is withdrawn, suspended, cancelled or revoked, or (b) who acts as an investment adviser, as defined in Section 2 (a)(20) of the Investment Company Act of 1940, to any investment company registered or required to be registered under that Act; and

(2) This exemption shall not be applicable after November 30, 1975, to any broker-dealer who performs investment supervisory services as defined in Section 202(a)(13) of the Act or investment management services as defined in paragraph (b) of this rule.

(b) For the purposes of this rule, a person performs "investment management services" with respect to any account as to which such person, directly or indirectly, for special compensation or not solely incidental to his business as a broker-dealer,

(1) Is authorized to determine what securities shall be purchased or sold by or for the account; or

(2) Makes decisions as to what securities shall be purchased or sold by or for the account even though some other person may have responsibility for such investment decisions.

As of April 1976 the Commission had not observed a significant amount of unbundling of advisory services by broker-dealers and decided to extend the exemptive provisions of Rule 206A-1(T) until April 30, 1977.[6] At that time, the Commission made clear that the exclusion from the exemption in Rule 206A-1(T) for a broker-dealer who performs investment supervisory services or investment management services is applicable only if such services are performed "for special compensation or not solely incidental to his business as a broker-dealer."

The Commission believes that the broker-dealer community is still in the process of developing its response to unfixed commission rates and making decisions as to the wisdom, in terms of the marketplace, of unbundling advisory services. During the twelve-month extension of Rule 206A-1(T), the Commission intends to gather information which will enable it to evaluate the need for, and the economic impact of, applying the dual regulatory schemes of the Advisers Act and the Exchange Act to broker-dealers who charge separately for their advisory services. Prior to May 1, 1978, the Commission intends to reach a final determination of the status of broker-dealers under the Advisers Act by deciding whether Rule 206A-1(T) should (1) be allowed to expire, (2) be promulgated as a permanent rule or (3) be amended and promulgated as a permanent rule.

Accordingly, Rule 206A-1(T) is hereby amended in the following manner: paragraph (a) is amended to change the expiration date of the temporary exemption from April 30, 1977 to April 30, 1978.

The text of Rule 206A-1(T) (§ 275.-206A-1(T)), as amended hereby, is set forth below.

§ 275.206A-1(T) Temporary exemption for certain broker-dealers/investment advisers.

(a) Any person who was registered as a broker or dealer pursuant to Section 15 of the Securities Exchange Act of 1934 on May 1, 1975, and was not then registered as an investment adviser pursuant to Section 203 of the Investment Advisers Act of 1940 (or any successor, within the meaning of Rule 15b1-3 under the Securities Exchange Act of 1934, to such broker-dealer) shall be temporarily exempt from the provisions of the Act and the rules and regulations thereunder until April 30, 1978. *Provided, however,* That: (1) This exemption shall not be applicable to any such person (i) whose broker-dealer registration is withdrawn, suspended, cancelled or revoked, or (ii) Who acts as an investment adviser, as defined in section 2(a)(20) of the Investment Company Act of 1940, to any investment company registered or required to be registered under that Act; and

(2) This exemption shall not be applicable after November 30, 1975, to any broker-dealer who, for special compensation or not solely incidental to his business as a broker-dealer, performs investment supervisory services as defined in section 202(a)(13) of the Act or investment management services as defined in paragraph (b) of this section.

(b) For the purposes of this rule, a person performs "investment management services" with respect to any account as to which such person, directly or indirectly,

(1) Is authorized to determine what securities shall be purchased or sold by or for the account; or

(2) Makes decisions as to what securities shall be purchased or sold by or for the account even though some other person may have responsibility for such investment decisions.

The Commission finds that the adoption of the foregoing amendment to Rule 206A-1(T) without requesting additional comments 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 Advisers Act, since it will continue for an additional year beyond its scheduled expiration and exemption from a statutory requirement for a class of persons registered under and subject to the provisions of the Exchange Act. The Commission further finds, in accordance with the requirements of the Administrative Procedure Act,[7] that notice of the amendment to Rule 206A-1(T) prior to adoption and public procedure thereon is unnecessary, and publication for 30 days prior to the effective date may be omitted, since the amendment continues an exemption from statutory requirements which otherwise would be applicable, and since it is in the public interest to facilitate the continued transition to competitive public commission rates pursuant to Rule 19b-3 under the Exchange Act. Accordingly, the amendment to Rule 206A-1(T) shall become effective on the date hereof.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

APRIL 20, 1977.

[FR Doc.77-12329 Filed 4-28-77;8:45 am]

[6] Investment Advisers Act Release No. 506 (April 1, 1976), 41 FR 14507 (April 6, 1976).

[7] 5 U.S.C. 551, et seq. (1970), as amended (Supp. IV, 1974).

Title 20—Employees' Benefits

CHAPTER III—SOCIAL SECURITY ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[Regs. No. 4, 16]

PART 404—FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Rights and Benefits Based on Disability; Determination of Disability or Blindness; Additional Medical Criteria for Determinations of Disability for Children Under Age 18

Correction

In FR Doc. 77-7605, appearing at page 14705, in the issue for Wednesday, March 16, 1977, make the following corrections:

1. On page 14712, in the second column, under section 112.00, change the first word in the first line of the fourth paragraph from *"Developmetal"* to read *"Developmental"*.

2. Also on page 14712, in the third column, change the line now reading "13.00 NEOPLASTIC DISEASES, MALIG-", to read, "113.00 NEOPLASTIC DISEASES, MALIG-".

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER B—FOOD FOR HUMAN CONSUMPTION

[Docket No. 75F-0363]

PART 175—INDIRECT FOOD ADDITIVES: ADHESIVE COATINGS AND COMPONENTS

Resinous and Polymeric Coatings

AGENCY: Food and Drug Administration, HEW.

ACTION: Final rule.

SUMMARY: This document amends the regulations for indirect food additives to provide for the use of certain resins as components of coatings for beverage containers intended to contact only alcoholic beverages containing less than 8 percent alcohol. A petition had been filed by Whittaker Coatings and Chemicals proposing safe use of the product.

DATES: Effective April 29, 1977; objections by May 31, 1977.

ADDRESSES: Objections to this regulation may be filed with the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Thomas C. Brown, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204 (202-472-5690).

SUPPLEMENTARY INFORMATION: A notice published in the FEDERAL REGISTER of January 19, 1976 (41 FR 2664) announced that a petition (FAP 5B3076) had been filed by Whittaker Coatings and Chemicals, P.O. Box 825, Colton, CA 92324 proposing that § 175.300 (formerly § 121.2514, prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)) be amended to provide for the safe use of polyester resins modified with triethylene glycol and epoxy resins modified with benzoic acid and succinic anhydride as components of coatings intended to contact only alcoholic beverages containing less than 8 percent alcohol.

The Commissioner of Food and Drugs, having evaluated data in the petition and other relevant material, concludes that § 175.300 should be amended as set forth below.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1))) and under authority delegated to the Com-

missioner (21 CFR 5.1), Part 175 is amended in § 175.300 in paragraph (b) (3) (vii) (c) by alphabetically inserting a new item in the listing of polyhydric alcohols, and in paragraph (b) (3) (viii) (c) by alphabetically inserting two new items in the listing of adjuncts for epoxy resins, to read as follows:

§ 175.300 Resinous and polymeric coatings.

* * * * *

(b) * * *
(3) * * *
(vii) * * *
(c) * * *

Triethylene glycol, for use as a component in polyester resins for coatings not exceeding a coating weight of 4 milligrams per square inch and that are intended for contact under conditions of use D, E, F or G described in table 2 of paragraph (d) of this section with alcoholic beverages containing less than 8 percent alcohol.

* * * * *

(viii) * * *
(c) * * *

Benzoic acid, for use as a component in epoxy resins for coatings not exceeding a coating weight of 4 milligrams per square inch and that are intended for contact under conditions of use D, E, F or G described in table 2 of paragraph (d) of this section with alcoholic beverages containing less than 8 percent alcohol.

* * * * *

Succinic anhydride, for use as a component in epoxy resins for coatings not exceeding a coating weight of 4 milligrams per square inch, and that are intended for contact under conditions of use D, E, F or G described in table 2 of paragraph (d) of this section with alcoholic beverages containing less than 8 percent alcohol.

* * * * *

Any person who will be adversely affected by the foregoing regulation may at any time on or before May 31, 1977, file with the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written objections thereto. Objections shall show wherein the person filing will be adversely affected by the regulation, specify with particularity the provisions of the regulation deemed objectionable, and state the grounds for the objections. If a hearing is requested, the objections shall state the issues for the hearing, shall be supported by grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analysis of the factual information intended to be presented in support of the objections in the event that a hearing is held. Four copies of all documents shall be filed and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Effective date: This regulation shall become effective April 29, 1977.

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348 (c)(1)).)

Dated: April 22, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-12300 Filed 4-28-77;8:45 am]

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

PART 510—NEW ANIMAL DRUGS

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Amprolium, Ethopabate, Bacitracin Methylene Disalicylate

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: New animal drug application (NADA 104-424V) filed by the Carnation Co., 5045 Wilshire Blvd., Los Angeles, CA 90036, is approved by the Food and Drug Administration. The NADA proposes safe and effective use of a medicated premix containing amprolium, ethopabate, and bacitracin methylene disalicylate for the manufacture of a finished broiler feed used as an aid in the prevention of coccidiosis, and for growth promotion and feed efficiency.

EFFECTIVE DATE: The approval is effective April 29, 1977.

FOR FURTHER INFORMATION CONTACT:

Adriano R. Gabuten, Bureau of Veterinary Medicine (HFV-149), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857 (301-443-4913).

SUPPLEMENTARY INFORMATION: The Commissioner of Food and Drugs is amending Parts 510 and 558 (21 CFR Parts 510, 558) to reflect this approval.

In accordance with § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)) of the animal drug regulations, a summary of the safety and effectiveness data and information submitted to support the approval of this application is released publicly. The summary is available for public examination at the office of the Hearing Clerk (HFC-20), Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, Monday through Friday from 9 a.m. to 4 p.m., except on Federal legal holidays.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))), and under authority delegated to the Commissioner (21 CFR 5.1), Parts 510 and 558 are amended as follows:

1. In Part 510, § 510.600 is amended by alphabetically adding a new sponsor to paragraph (c)(1) and numerically adding a new sponsor to paragraph (c)(2), to read as follows:

§ 510.600 Names, addresses, and code numbers of sponsors of approved applications.

* * * * *

(c) * * *
(1) * * *

Firm name and address:	*Drug listing No.*
* * * * *	
Carnation Co., 5045 Wilshire Blvd., Los Angeles, CA 90036.	047019
* * * * *	

(2) * * *

Drug listing No.:	*Firm name and address*
* * * * *	
047019	Carnation Co., 5045 Wilshire Blvd., Los Angeles, CA 90036.
* * * * *	

2. In Part 558, § 558.58 is amended by adding paragraph (a) and new item (iv) to paragraph (e)(1) to read as follows:

§ 558.58 Amprolium and ethopabate.

(a) *Approvals.* Premix levels of 0.15 percent amprolium, 0.004 percent ethopabate, and 100 g/ton bacitracin (as bacitracin methylene disalicylate) granted to No. 047019 in § 510.600(c) of this chapter, amprolium and ethopabate as provided by No. 000006, bacitracin (as bacitracin methylene disalicylate) as provided by No. 046573.

* * * * *

(e) * * *
(1) * * *

Amprolium and ethopabate in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
* *	*	*	* *	*
(iv) Amprolium 136.2 (0.015 pct) and ethopabate 3.6 (0.0001 pct).	Bacitracin 10	Broiler chickens; as an aid in the prevention of coccidiosis; growth promotion and feed efficiency.	Feed as sole ration; use as sole source of amprolium; do not feed to laying hens; as bacitracin methylene disalicylate.	047019

Effective date: This amendment becomes effective April 29, 1977.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)).)

Dated: April 19, 1977.

C. D. VAN HOUWELING,
Director, Bureau of Veterinary Medicine.

[FR Doc.77-11869 Filed 4-28-77;8:45 am]

SUBCHAPTER F—BIOLOGICS

[Docket No. 75N-0129]

PART 640—ADDITIONAL STANDARDS FOR HUMAN BLOOD AND BLOOD PRODUCTS

Cryoprecipitated Antihemophilic Factor (Human)

AGENCY: Food and Drug Administration, HEW.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) issues amendments to permit Cryoprecipitated Antihemophilic Factor (Human) to be manufactured from plasma obtained by plasmapheresis and to reorganize the regulations for consistency, pursuant to a proposal based on (1) data and relevant material in a license application and (2) FDA's ongoing review of standards for biological products.

DATES: Effective April 29, 1977, except that the effective date for labeling requirements is October 26, 1977.

FOR FURTHER INFORMATION CONTACT:

John Singleton, Bureau of Biologics HFB-620, Food and Drug Administration, Department of Health, Education, and Welfare, 8800 Rockville Pike, Bethesda, MD 20014.

SUPPLEMENTARY INFORMATION: The Commissioner of Food and Drugs proposed, in the FEDERAL REGISTER of September 9, 1975 (40 FR 41799), to amend the biologics regulations to permit the preparation of Cryoprecipitated Antihemophilic Factor (Human) from plasma obtained by plasmapheresis, and to prescribe criteria for donor suitability, collection, and testing of source material to protect the donor and assure the integrity of such source material. Also, as a result of the Commissioner's ongoing review of the existing standards of safety, purity, potency, and efficacy of biological products, he proposed to reorganize the additional standards for Cryoprecipitated Antihemophilic Factor (Human) to be consistent with the organization of other additional standards. The proposal also included substantive changes that reflect new scientific knowledge and experience with the product.

Interested persons were given until November 10, 1975 to comment. Thirteen letters of comment were received. The comments and the Commissioner's responses follow:

1. One comment on proposed § 640.50(a) (21 CFR 640.50(a)) suggested that a more appropriate name is Cryoprecipitated Factor VIII (Human).

Since the terms "Antihemophilic Factor" and "Factor VIII" are synonymous and Cryoprecipitated Antihemophilic Factor (Human) is consistent with the named recognized in the U.S. Pharmacopeia, the Commissioner finds no basis for changing the name and the comment is rejected.

2. One comment on proposed § 640.50 (a) suggested that the definition be expanded to include use for correction of coagulation defects of Von Willebrand's disease and for replacement of fibrinogen in appropriately selected patients.

The Commissioner advises that the regulation does not limit the use of the product only for correction of coagulation defect of hemophilia A. The phrase "which will correct the coagulation defect of hemophilia A" was intended to assure potency adequate to treat hemophilia A, which is the most significant use for the product. The product may be used to correct the coagulation defect of Von Willebrand's disease and for replacement of fibrinogen in appropriately selected patients and for numerous other diseases and syndromes. These uses are identified in the labeling approved by the Director, Bureau of Biologics. Accordingly, the comment is rejected. But to preclude confusion concerning acceptable uses for the product, § 640.50(a) is amended to delete the phrase "which will correct the coagulation defect of hemophilia A."

3. One comment said proposed § 640.50 (b) should make clear that the term "plasma" includes anticoagulant.

The Commissioned concludes that such clarification is unnecessary since § 640.52 (21 CFR 640.52) requires that the product be prepared from whole blood collected as prescribed in § 640.4 (21 CFR 640.4) or by plasmapheresis as prescribed in § 640.64 (21 CFR 640.64). Sections 640.4 and 640.64 require that the source material be collected in an anticoagulant. Accordingly the comment is rejected.

4. Three comments on proposed § 640.51 (21 CFR 640.51) recommended deletion of paragraph (c) since the restriction would eliminate satisfactory donors.

The Commissioner agrees that eliminating all donors who have ever been immunized is not necessary, since some individuals may not have developed significant titers of antibody. Until agreement can be reached by blood banking experts regarding the need to test all Whole Blood (Human) donors for antibodies, it is not logical to require testing for this component.

Accordingly, this requirement has been clarified to eliminate only those donors who may have been immunized with human red cells within 6 months to preclude transmission of hepatitis viruses. Donors who have been immunized with blood group substances need not be eliminated as satisfactory donors. Blood group substances are derived from nonhuman sources and do not carry any hepatitis viruses. Accordingly, the Commissioner is amending § 640.51(c) to delete the phrase "or blood group substances."

5. One comment on proposed § 640.54 (a)(1) and (2) (21 CFR 650.54(a) (1) and (2)) suggested that there is no need to require separate time periods for separation and freezing of the plasma. The comment suggested a total 6-hour period within which the plasma must be separated and frozen.

The Commissioner finds that specific time periods for each process are unnecessary as long as the plasma is completely frozen within 6 hours from the time of collection. Accordingly, the final regulation is amended in § 640.54(a)(1) to delete reference to a 4-hour limit to accomplish separation, and in § 640.54 (a)(2) to require that the plasma shall be frozen solid within 6 hours after blood collection.

6. One comment on proposed § 640.54 suggested that it should be amended to require that the original plasma volume from which the product was manufactured should be not less athan 200 milliliters.

The Commissioner assumes that the reason for the request is that a unit of plasma may be used first as a source of Platelet Concentrate (Human), and the remaining plasma in the unit may be used as the source of Cryoprecipitated Antihemophilic Factor (Human). The amount of Cryoprecipitated Antihemophilic Factor (Human) that may be obtained from a unit of plasma depends, in part, on the volume of source plasma. To assure that there is an adequate amount of Cryoprecipitated Antihemophilic Factor (Human) for clinical use, the Commissioner believes that the volume of plasma from which the product was manufactured should be not less than 200 milliliters. Accordingly, § 640.54 is amended to specify that no less than 200 milliliters of essentially cell-free plasma be obtained.

7. One comment on proposed § 640.54 (a), citing E. R. Burka, et al., *Transfusion* 15: 307 (1975), recommended that the plasma be immersed for 60 minutes in a combination of dry ice and organic solvent at a tetmperature of —70° C or colder to accomplish solid freezing.

The Commissioner finds the requirement to manufacture Cryoprecipitated Antihemophilic Factor (Human) from plasma that has been frozen solid within 6 hours after blood collection adequately assures the safety, purity, potency, and effectiveness of the product. There is no reason to restrict the method of freezing to that suggested in the comment. Accordingly, the comment is rejected.

8. One comment on proposed § 640.54 (a)(3) noted that there is no provision for thawing the plasma for the preparation of the antihemophilic factor.

The Commissioner advises that the phrase "further processing to remove Cryoprecipitated Antihemophilic Factor (Human)" is intended to include thawing of the plasma. For clarification, the paragraph is revised to reference thawing of the plasma after storage and before further processing to remove the Cryoprecipitated Antihemophilic Factor (Human).

9. Four comments on proposed § 640.54 (a)(3) recommended that storage should be at —30° C or colder rather than —18° C, as proposed.

The Commissioner is aware that the product's stability is slightly increased at the colder temperature. But existing data demonstrate adequate stability with —18° C storage. The Commissioner believes that the slight increase in stability obtained with —30° C is outweighed by the consequent burden on processors and

users (hemophiliacs) to purchase additional freezers that can maintain the —30° C storage temperature. Accordingly, the comment is rejected.

10. A comment suggested amending § 640.54 to prescribe (1) the length of time that plasma may be stored before removal of the cryoprecipitate, and (2) the volume of plasma in the cryoprecipitate. The comment provided data (E. R. Burka, et al., Transfusion 15:307–311, 1975) demonstrating that there is no loss of potency in the final product if it is separated after 3 months of storage at —30° C.

Because the FDA proposal upon which this final regulation is based did not address the questions of storage time and volume of plasma in the cryoprecipitate, the Commissioner concludes that it would be inappropriate to prescribe requirements at this time without first proposing these conditions for public comment. If the Commissioner finds that the suggested requirements are needed, they will first be proposed.

11. Four comments on proposed § 640.56 (21 CFR 640.56) said that the proposed potency requirements were statistically unsound, clinically unhelpful, and unrealistic.

The Commissioner believes that the proposal's intent was misunderstood. The proposal was designed to require an average of 40 units of Antihemophilic Factor (Human) per 100 milliliters of plasma rather than a minimum of 40 units. As stated in the preamble of the proposal, evidence obtained from potency tests on inspection samples shows that this level is obtainable since the majority of licensed manufacturers are currently producing a final product with an average potency of 40 units of antihemophilic factor per 100 milliliters of plasma. Thus, the regulation is both sound and realistic and the comments are rejected. As discussed elsewhere in this preamble, the Commissioner has concluded that it would be more meaningful to state the potency in terms of the required amount of antihemophilic factor—80 units—in the final container. Sections 640.54(b)(1) (21 CFR 640.54(b)(1) and 640.56(d)) (21 CFR 640.56(d)) are amended accordingly.

12. Four comments on proposed § 640.56 expressed concern with the proposed requirement for potency testing—four units per month. One comment said that as much information can be obtained from a potency test of four pooled units rather than four individual units. One comment suggested that 10 to 12 units should be tested every 2 months, or per quarter, and averaged. One comment said that the proposed testing should be based on volume of production and that the proposal is unrealistic for a small blood bank. One comment said that each unit should be tested and the potency stated on the label.

The Commissioner recognizes the advantages of pooling the units to be assayed and of assaying more than four units, if indicated. Accordingly, the phrase "at least" is added to § 640.56(a), and § 640.56(c) (redesignated § 640.56 (d)) is revised to reference the average potency level of the containers tested.

The Commissioner is aware that the use of four units per month for these purposes may be considered burdensome for some small blood banks that may only occasionally prepare the product. But periodic monitoring of this kind is essential, and a quality control program is as important for these blood banks as for the larger ones. It is imperative that the personnel be kept familiar with the technique to assure preparation of an acceptable product. Accordingly, the comment is rejected.

The Commissioner concludes that it is not reasonable to test every unit; such a practice will not significantly enhance quality control and the added expense is disproportional to the benefit derived. Accordingly, the comment that the label of each container state its potency is rejected.

13. One comment on proposed § 640.56 suggested that the quality control test be performed at the end of the expiration date of the units rather than each month as proposed.

The Commissioner advises that the quality control test must be conducted each month to ensure that if the collection and processing procedures are inadequate, immediate corrective action will be taken, as required by § 640.56(c)(1) (redesignated § 640.56(d)). If the quality control tests are performed at the end of the expiration date of the product (12 months from the date of collection of source blood), there would be excessive delay in taking corrective action. Accordingly, the comment is rejected.

14. One comment on proposed §§ 640.54(b)(1) and 640.56(c) (redesignated § 640.56(d)) stated that the potency should be described in terms of the number of units of antihemophilic factor per container of Cryoprecipitated Antihemophilic Factor (Human) and that a level of 80 units per container be required. Several comments said that the main concern of the prescribing physician is the minimum potency of the material in the container. Another comment suggested that § 640.56 be changed to establish a permissible failure rate.

The Commissioner agrees that the minimum potency of each container of product is important information that should be available to the prescribing physician. The Commissioner also agrees that the average minimum potency should be 80 units per container since § 640.54 now requires that the plasma shall be separated from the red blood cells to obtain no less than 200 milliliters of essentially cell-free plasma. This level of average minimum potency is consistent with the quality control test level of no less than 40 units of antihemophilic factor derived from 100 milliliters of source material.

The Commissioner believes that the comment suggesting a permissible failure rate misinterpreted the intent of the regulation. The proposed regulation requires an average number of units of antihemophilic factor rather than an absolute minimum, thereby providing for individual results failing to meet the prescribed level.

Accordingly, the Commissioner is amending § 640.54(b)(1) to require that the Cryoprecipitated Antihemophilic Factor (Human) be separated from the plasma by a procedure that has been shown to produce an average of no less than 80 units of antihemophilic factor per final container and is amending § 640.56(c) (redesignated § 640.56(d) to require that if the average potency level of the containers tested is less than 80 units of antihemophilic factor per container, immediate corrective actions must be taken and a record maintained of such action.

To assure that all the necessary information concerning the product is readily available to the prescribing physician, the Commissioner is also amending § 640.57 (21 CFR 640.57) to add a new paragraph (g) to require that the label contain the statement "Average potency is 80 or more units of antihemophilic factor."

15. One comment on proposed § 640.56(b) noted that the time within which test results must be available was specified only for results from testing performed by an outside laboratory; no time was specified for results performed by the blood bank itself. The proposal established a 10-day limit.

The Commissioner agrees that the proposal designated a time applicable only to test results from outside laboratories and is amending § 640.56 in the final regulation to establish a time limit for in-house as well as outside testing results. In addition, on the basis of his consultation with the panel of nongovernment experts on blood, convened as part of the Biologics Efficacy Review established pursuant to 21 CFR 601.25, the Commissioner has decided on his own initiative to extend the time that test results must be available from 10 to 30 days. This is consistent with the timing of quality control testing.

16. The Commissioner is amending § 640.56 by deleting paragraph (c)(2), which had required a manufacturer to advise the Bureau of Biologics if the quality control test results do not meet specifications. Since the regulation requires that immediate corrective action be taken by the manufacturer and a record maintained of such action, the Commissioner concludes that reporting requirements may be unnecessary at this time. Adequate regulatory control will usually be obtained by examination of those records during the annual inspection by FDA; if records show immediate corrections were not taken, appropriate regulatory action will be initiated.

17. Two comments on proposed § 640.57(b) questioned the necessity of including on the label the volume of source blood and plasma and the volume and type of anticoagulant.

Since the regulations now require in § 640.54(a)(1) that no less than 200 milliliters of essentially cell-free plasma be obtained and in § 640.57(g) that the label contain the statement "Average

potency is 80 or more units of antihemophilic factor," the Commissioner concludes that § 640.57(b) is no longer needed. Since the anticoagulants have no effect on the finished product and are present in insignificant amounts, the Commissiner finds it unnecessary to require a label declaration of the volume and type of anticoagulant. Accordingly, § 640.57 is amended in the final regulation by deleting paragraph (b) and sequentially renumbering the remaining paragraphs.

18. Two comments on proposed § 640.57(c) (redesignated § 640.57(b)) said that only the ABO blood group designation is necessary. One of the comments said that the inclusion of Rh type on the label would confuse certain clinicians.

The Commissioner agrees that the ABO group designation is necessary since it has clinical significance. The remaining blood group designations of the source blood were proposed for inclusion on the label primarily because the tests to identify them are routinely performed. But this is not considered essential information. Accordingly, the Commissioner accepts the comments and § 640.57(b) is revised to require only the ABO group designation of the source blood.

19. One comment on § 640.57(d) (redesignated § 640.57(c)) suggested that the donor's surname be required in addition to donor number, since errors are more likely to occur when numbers alone are used and inclusion of the surname would ease cross-checking the hepatitis test history of the donor.

The donor number is the identification universally used for whole blood and all components, and it is required throughout the biologics regulations for blood components. Mixups in the use of numbers have not been a recognized problem at reputable establishments. Therefore, the need for the surname has not been shown and the comment is rejected.

20. Two comments on proposed § 640.57 (f) (redesignated § 640.57(e)) requested that the type and results of the serological test for syphilis be deleted from the label. One comment suggested the results should be included but that the type of test performed was a matter of record and need not appear on the label. One comment suggested that the regulation use the term "interpretation" or "result" rather than "results", since only nonreactive units can be distributed.

The Commissioner concludes that the label should state that the Cryoprecipitated Antihemophilic Factor (Human) is nonreactive for syphilis, since this is clinically significant information. Accordingly, the Commissioner rejects the comments suggesting deletion of the results of the serological test for syphilis. The Commissioner accepts the suggestion to delete the type of serological test for syphilis since this is of almost no medical significance. The Commissioner agrees with the comment suggesting use of the term "result" rather than "results", and § 640.57(e) of the final regulation is amended accordingly. Consistent with the labeling requirements for other blood products as recently revised in the FEDERAL REGISTER of August 19, 1976 (41 FR 35062), the Commissioner is also amending §§ 640.57(e) and 640.57(f) to provide alternative label statements concerning the tests for syphilis and hepatitis, respectively.

21. Three comments on proposed § 640.57(h) (redesignated § 640.57(g)) said that because of the small volume of plasma remaining with the cryoprecipitated product, the antibody statement is unnecessary.

The Commissioner accepts the comment, and paragraph (h) of § 640.57 is deleted. The subsequent paragraphs are sequentially redesignated.

22. One comment on proposed § 640.57 (k) (redesignated § 640.57(j)) suggested that an additional statement be added designating the length of time units could remain at thawing temperature and recommending that the units be removed from the 30° to 37° C temperature while still cold.

The Commissioner agrees that such information is important. The Commissioner concludes, however, that such information should be included in the circular, which is approved by the Director of the Bureau of Biologics and accompanies the product, rather than on the label and licensees should amend their circulars. Accordingly, the comment is rejected.

23. Seven comments requested clarification of proposed § 640.57(l) (redesignated § 640.57(k)). One comment said that the proposed requirement to use the product within 6 hours after thawing should be changed to be consistent with the American Association of Blood Banks use requirements for Single Donor Plasma (Human), Fresh Frozen. One comment submitted data suggesting that there is no change in potency within 24 hours after thawing and said that the proposed 6-hour requirement is unreasonable. The comment also said that the risk of bacterial contamination was minimal within 4 hours after entry into the container and suggested that the time interval for use after entry should be changed to 4 hours to be consistent with Platelet Concentrate (Human) regulations, rather than 2 hours as proposed.

The Commissioner agrees that the wording should be clarified. He also recognizes that existing data show relative stability for longer than 6 hours after thawing. But the 6-hour interval after thawing is adequate to allow for pooling and issuing, and there is little justification for the product to remain thawed for a longer period. Therefore, this comment is rejected. The Commissioner accepts, however, the suggested extension of the time to use the product from entry into the container. Accordingly, § 640.57(k) is amended to require a label statement to use the product as soon as possible but no more than 4 hours after entering or pooling and within 6 hours after thawing.

24. One comment criticized the proposed regulation because it does not address the use of plasma remaining after the removal of the Cryoprecipitated Antihemophilic Factor (Human) and (Human) additional standards should be revised to provide for licensure for this cryo-poor plasma as a source product.

The Commissioner advises that Cryoprecipitated Antihemophilic Factor (Human) must be prepared from a single unit of plasma obtained by whole blood collection or by plasmapheresis. Accordingly, the plasma remaining after the Cryoprecipitated Antihemophilic Factor (Human) is removed is Single Donor Plasma and not Source Plasma (Human). The proposed additional standards for Single Donor Plasma (Human) published in the FEDERAL REGISTER of November 11, 1975 (40 FR 52619), include provisions for the product Single Donor Plasma (Human), antihemophilic factor removed.

Pertinent background data and information on which the Commissioner relies in promulgating this regulation are on public display in the office of the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

Therefore, under the Public Health Service Act (section 351, 58 Stat. 702, as amended (42 U.S.C. 262)) and under authority delegated to the Commissioner (21 CFR 5.1), Part 640 is amended in Subpart F by revising §§640.50, 640.51, and 640.52 and adding §§ 640.53, 640.54, 640.55, 640.56, and 640.57, to read as follows:

§ 640.50 Cryoprecipitated Antihemophilic Factor (Human).

(a) *Proper name and definition.* The proper name of this product shall be Cryoprecipitated Antihemophilic Factor (Human). The product is defined as a preparation of antihemophilic factor, which is obtained from a single unit of plasma collected and processed in a closed system.

(b) *Source.* The source material for Cryoprecipitated Antihemophilic Factor (Human) shall be plasma which may be obtained by whole blood collection or by plasmapheresis.

§ 640.51 Suitability of donors.

(a) Whole blood donors shall meet the criteria for suitability prescribed in § 640.3.

(b) Plasmapheresis donors shall meet the criteria for suitability prescribed in § 640.63, excluding the phrase "other than malaria" in paragraph (c)(9) of that section. Informed consent shall be required as prescribed in § 640.61.

(c) Donors shall not be suitable if they are known to have been immunized by injection with human red blood cells within the last 6 months.

§ 640.52 Collection of source material.

(a) Whole blood used as a source of Cryoprecipitated Antihemophilic Factor (Human) shall be collected as prescribed in § 640.4, except that paragraphs (d)(2), (g) and (h) of that section shall not apply. Whole blood from which both Platelet Concentrate (Human) and Cryoprecipitated Antihemophilic Factor

(Human) is derived shall be maintained as required under § 640.24 until the platelets are removed.

(b) If plasmapheresis is used, the procedure for collection shall be as prescribed in §§ 640.62, 640.64 (except that paragraph (c)(3) of that section shall not apply), and 640.65.

§ 640.53 Testing the blood.

(a) Blood from which plasma is separated for the preparation of Cryoprecipitated Antihemophilic Factor (Human) shall be tested as prescribed in §§ 610.40 of this chapter and 640.5 (a), (b), and (c).

(b) The tests shall be performed on a sample of blood collected at the time of collecting the source blood, and such sample container shall be labeled with the donor's number before the container is filled.

(c) Manufacturers of Cryoprecipitated Antihemophilic Factor (Human) obtained from plasma collected by plasmapheresis shall have testing and record-keeping responsibilities equivalent to those prescribed in § 640.69 (f) and (g).

§ 640.54 Processing.

(a) *Processing the plasma.* (1) The plasma shall be separated from the red blood cells by centrifugation to obtain no less than 200 milliliters of essentially cell-free plasma.

(2) The plasma shall be frozen solid within 6 hours after blood collection. A combination of dry ice and organic solvent may be used for freezing: *Provided,* That the procedure has been shown not to cause the solvent to penetrate the container or leach plasticizer from the container into the plasma.

(3) Immediately after separation and freezing of the plasma, the plasma shall be stored and maintained at −18° C or colder until thawing of the plasma for further processing to remove the Cryoprecipitated Antihemophilic Factor (Human).

(b) *Processing the final product.* (1) The Cryoprecipitated Antihemophilic Factor (Human) shall be separated from the plasma by a procedure that has been shown to produce an average of no less than 80 units of antihemophilic factor per final container.

(2) No diluent shall be added to the product by the manufacturer prior to freezing.

(3) The final container used for Cryoprecipitated Antihemophilic Factor (Human) shall be colorless and transparent to permit visual inspection of the contents; any closure shall maintain a hermetic seal and prevent contamination of the contents. The container material shall not interact with the contents under customary conditions of storage and use in such a manner as to have an adverse effect upon the safety, purity, potency and effectiveness of the product. At the time of filling, the final container shall be identified by a number so as to relate it to the donor.

§ 640.55 U.S. Standard preparation.

A U.S. Standard Antihemophilic Factor (Factor VIII) preparation may be obtained from the Bureau of Biologics, Food and Drug Administration, for use in the preparation of a working reference to be employed in a quality control potency test of Cryoprecipitated Antihemophilic Factor (Human).

§ 640.56 Quality control test for potency.

(a) Quality control tests for potency of antihemophilic factor shall be conducted each month on at least four representative containers of Cryoprecipitated Antihemophilic Factor (Human).

(b) The results of each test are received by the establishment licensed for Cryoprecipitated Antihemophilic Factor (Human) within 30 days of the preparation of the cryoprecipitated antihemophilic factor and are maintained at that establishment so that they may be reviewed by an authorized representative of the Food and Drug Administration.

(c) The quality control test for potency may be performed by a clinical laboratory which meets the standards of the Clinical Laboratories Improvement Act of 1967 (CLIA) (42 U.S.C. 263a) and is qualified to perform potency tests for antihemophilic factor. Such arrangements must be approved by the Director, Bureau of Biologics, Food and Drug Administration. Such testing shall not be considered as divided manufacturing, as described in § 610.63 of this chapter, provided the following conditions are met:

(1) The establishment licensed for Cryoprecipitated Antihemophilic Factor (Human) has obtained a written agreement that the testing laboratory will permit an authorized representative of the Food and Drug Administration to inspect its testing procedures and facilities during reasonable business hours.

(2) The testing laboratory will participate in any proficiency testing programs undertaken by the Bureau of Biologics, Food and Drug Administration.

(d) If the average potency level of antihemophilic factor in the containers tested is less than 80 units of antihemophilic factor per container, immediate corrective actions shall be taken and a record maintained of such action.

§ 640.57 Labeling.

In addition to the applicable requirements of § 610.62 of this chapter, and in lieu of the requirements of §§ 610.60 and 610.61 of this chapter, the container label shall bear the following information.

(a) The proper name of the product.

(b) ABO blood group designation of the source blood.

(c) Donor number.

(d) Expiration date.

(e) Type of serologic test for syphilis used and result or the statement "Nonreactive for syphilis by STS".

(f) Type of test for hepatitis B surface antigen used and the result, or the statement "Nonreactive for HB_sAg by FDA required test".

(g) The statement "Average potency is 80 or more units of antihemophilic factor".

(h) Instructions to store the product at −18° C or colder.

(i) A warning against further processing of the product if there is evidence of breakage or thawing.

(j) Instructions to thaw the product at a temperature between 30–37° C.

(k) Instruction to store at room temperature after thawing and use as soon as possible but no more than 4 hours after entering or pooling and within 6 hours after thawing.

(l) Instructions to use a filter in the administration equipment.

(m) A statement to see the instruction circular for directions for use.

(n) The statement "Caution: Federal law prohibits dispensing without prescription".

(o) Name, address, and license number of the manufacturer.

Effective date: This regulation becomes effective April 29, 1977, except requirements for labeling changes shall become effective October 26, 1977.

(Sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262).)

Dated: April 22, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-12297 Filed 4-28-77;8:45 am]

Title 32—National Defense

CHAPTER I—OFFICE OF THE SECRETARY OF DEFENSE

(DNA Instruction 5400.11)

PART 291a—PRIVACY ACT OF 1974

Exemptions

AGENCY: Defense Nuclear Agency.

ACTION: Rulemaking amendment.

SUMMARY: The Defense Nuclear Agency amends their Privacy Act regulation to delegate to the Director, Defense Nuclear Agency, the authority to exempt from disclosure certain information to the public. This provision was previously omitted through oversight. The intended effect of this amendment is to fully implement the requirements of the Privacy Act.

EFFECTIVE DATE: April 29, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. J. David Woodend (202-325-7591) at the above address.

SUPPLEMENTARY INFORMATION: On November 28, 1975, FR Doc. 75-32008, there was published in the FEDERAL REGISTER (40 FR 55543) a final adoption of rules, effective September 27, 1975, pertaining to the Privacy Act of 1974 (Pub. L. 93-579, 5 U.S.C. 552a) implementation

by the Defense Nuclear Agency concerning procedures and requirements on personal privacy and rights of individuals regarding their personal privacy.

On March 16, 1977, there was published in the FEDERAL REGISTER (42 FR 14738) a notice of a Defense Nuclear Agency proposal to amend these final rules by adding a new paragraph (S 291.a6(b) Specific Exemptions) to the rules which would authorize the Director, Defense Nuclear Agency, the right to create exemptions and to permit any information in the records system which is properly classified to be exempt from the access requirements of the Privacy Act. No written comments, recommendations, or objections have been received and the proposed Rulemaking Amendment is hereby adopted without change.

R. R. MONROE,
Vice Admiral, U.S. Navy,
Director.

MAURICE W. ROCHE,
Director, Correspondence and Directives OASD (Comptroller).

APRIL 26, 1977.

The following new subparagraph (b) is added after the Note to paragraph (a).

§ 291a.6 Specific exemptions:

* * * * *

(b) Section 5 U.S.C. 552a (3) (j) and (3) (k) authorize an agency head to exempt certain systems of records or parts of certain systems of records from some of the requirements of the act. All systems of records maintained by Defense Nuclear Agency shall be exempt from the requirements of U.S.C. 552a(d) pursuant to 5 U.S.C. 552a(3) (k) (1) to the extent that the system contains any information properly classified under Executive Order 11652, "Classification and Declassification of National Security Information and Material," dated March 8, 1972 (37 FR 10053, May 19, 1972) and which is required by the Executive Order to be kept secret in the interest of national defense or foreign policy. This exemption, which may be applicable to parts of all systems of records, is necessary because certain record systems not otherwise specifically designated for exemptions may contain isolated information which has been properly classified.

[FR Doc.77-12338 Filed 4-28-77;8:45 am]

CHAPTER VII—DEPARTMENT OF THE AIR FORCE

[AF Reg. 12-35]

PART 806b—AIR FORCE PRIVACY ACT PROGRAM

Review of Initial Refusals

AGENCY: Department of the Air Force.

ACTION: Final Rule.

SUMMARY: This rule prescribes procedural instructions for processing an individual's request for review of an Air Force official's refusal to amend his or her record. These instructions were developed as a result of Air Force examination of its internal procedures. They are intended to preclude unnecessary delays in processing and ensure fairness and impartiality in the review process.

EFFECTIVE DATE: April 29, 1977.

FOR FURTHER INFORMATION CONTACT:

Major Norma L. K. Mokuau, Air Force Privacy Act Office, Directorate of Administration (HQ USAF/DADMP), Washington, D.C. 20330. The telephone number is 202-767-4545.

SUPPLEMENTARY INFORMATION: On March 18, 1977, the Department of the Air Force published a proposed rule (42 FR 15076) to revise instructions for processing requests for review of initial refusals to amend records. As stated at that time, the intent was to clarify existing procedures and strengthen those directly related to Air Force Privacy Act Board review. Interested persons were invited to participate in the proposed rulemaking change; however, no public comments were received. A few minor language and editorial changes were made to the final rule document. These minor changes do not, however, substantially change the document's contents. Accordingly, the proposed amendment is hereby adopted, as set forth below.

VAN L. CRAWFORD, Jr.,
Colonel, U.S. Air Force, Deputy Director of Administration.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Office of the Assistant Secretary of Defense (Comptroller).

APRIL 26, 1977.

For the stated reasons, the Department of the Air Force amends Title 32 CFR Part 806b by revising § 806b.18 and by revoking and reserving § 806b.22 of the Air Force Privacy Act Program (32 CFR 806b) as follows:

§ 806b.18 Review of initial refusals.

(a) An individual may request a review of the initial refusal in writing from the Office of the Secretary of the Air Force within 45 days of the denial. The request should be addressed to the Director of Administration, Headquarters United States Air Force (HQ USAF/DA), Washington, D.C. 20330, and sent through the initial Denial Authority. The Denial Authority will forward to HQ USAF/DA a complete file consisting of: (1) The request for review; (2) The request for amendment; (3) The initial refusal; (4) A copy of the record or portions involved; and (5) Any records or coordination actions that relate to the initial refusal.

(b) The Directorate of Administration (HQ USAF/DA) will convene the Air Force Privacy Board to review the initial denial. Membership of the Board will consist of a representative from HQ USAF/DA (Chairman), the Office of the Judge Advocate General. (HQ USAF/JA), and an Air Staff function not having primary responsibility for the record in question. If the record is the primary responsibility of HQ USAF/DA or HQ USAF/JA, a member from another Air Staff organization will be substituted on the Board. The Chairman may, when deemed appropriate, request the assistance of subject matter experts to advise the Board.

(c) Functions of the Board include: (1) Reviewing requests submitted in accordance with § 806.18(a); and (2) Providing recommendations to the Office of the Vice Chief of Staff of the Air Force.

(d) If the Office of the Vice Chief of Staff of the Air Force determines that the record should be amended, the individual will be advised promptly. Simultaneously, the appropriate Systems Manager will be directed, through the Denial Authority, to amend the records and direct previous recipients to amend their copies (§ 806b.17(b)).

(e) If the Office of the Vice Chief of Staff of the Air Force determines that a denial is appropriate, the request will be forwarded through the Office of the Air Force General Counsel (SAF/GC) to the Office of the Administrative Assistant to the Secretary of the Air Force (SAF/AA) for a final decision.

(f) If "SAF/AA" determines that the record should be amended, the individual will be advised promptly. Simultaneously, the appropriate Systems Manager will be directed, through the Denial Authority, to amend the records and direct previous recipients to amend their copies (§ 806b.17(b)).

(g) If after conducting the review, SAF/AA upholds the Denial Authority's refusal to amend the record, the individual will be notified that:

(1) The amendment request has been refused after review with reasons for refusal.

(2) He or she has a right to file with the Systems Manager, a concise statement containing reasons why he or she disagrees with the Air Force's decision.

(3) The disagreement statement will be a part of the record and will, thus, become available to anyone who subsequently uses the record.

(4) Known prior recipients of the disputed record will be provided a copy of his or her disagreement statement.

(h) A final determination on the individual's request for review of an initial refusal to amend a record must be completed within 30 workdays after receipt by HQ USAF/DA, unless it is determined that a fair and equitable review cannot be completed in that time. If additional time is required, the individual will be informed in writing of the reasons for the delay and of the date when the results of the review may be expected.

(i) The procedure established by this paragraph is, for purposes of Air Force Regulation 40-771, 'Appeal and Grievance Procedures' (not published in FEDERAL REGISTER), a statutory appeal procedure. A request for review of a refusal to amend a personal record may not be processed through the regulatory grievance procedure of "AFR 40-771" or a grievance procedure contained in an agreement negotiated under Executive Order 11491, as amended."

§ 806b.22 [Reserved]

Section 806b.22 is revoked and reserved.

[FR Doc.77-12239 Filed 4-28-77;8:45 am]

Title 36—Parks, Forests, and Public Property

CHAPTER I—NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

Isle Royale National Park, Michigan; Mammals

AGENCY: National Park Service, Interior.

ACTION: Final rule.

SUMMARY: This regulation is intended to protect the wild species of mammals which inhabit this isolated park from the possibility of introduced diseases. Under this restriction, no mammals, including dogs, cats, and other pets, may be brought into the park, with the exception of guide dogs for the blind.

EFFECTIVE DATE: May 31, 1977.

FOR FURTHER INFORMATION CONTACT:

John M. Morehead, Superintendent, Isle Royale National Park, P.O. Box 27, Houghton, Michigan 49931, 906-482-3310.

SUPPLEMENTARY INFORMATION: Isle Royale National Park is an isolated island wilderness and this situation has provided a significant degree of protection for the park's wildlife population from the effects of civilization. Perpetuation of this protection is a primary goal of management of the park. The presence of mammals from outside the park environment, particularly those which might be brought as pets, could introduce disease organisms into the wild populations, with serious consequences.

The wild canids of the park, the Eastern Timber Wolf and the Red Fox, are especially susceptible to the introduction of disease. Loss of the wolf population, which provides a natural control over the moose and beaver of the park, would drastically change the environment of the park.

No objections to the proposed rulemaking were received during the 30 day comment period which was provided. Letters approving the amendment were received from the National Parks and Conservation Association, The Wilderness Society, and the Peoria Academy of Science.

Upon internal National Park Service review of the language of the proposed amendment, which referred to "domesticated mammalian pets," it was determined that this term was overly specific to accomplish the intent of the regulation. The concern was raised that the definitions of "domesticated" and "pets" could be open to varying interpretations and might, in some cases, fail to provide clear authority to exclude all mammals. For this reason, the regulation was changed to clearly indicate that all mammals, without qualification, are to be prohibited. Inasmuch as this change is not considered to be a substantive one and is editorial in nature, it is not felt that an additional proposed rulemaking is required.

PREVIOUS PUBLICATIONS

A notice of Proposed Rulemaking was published in the FEDERAL REGISTER of October 21, 1976 (41 FR 46452), proposing a regulation substantially the same as the regulation set forth below.

ORIGINATOR

John M. Morehead, Superintendent, Isle Royale National Park.

In consideration of the foregoing, paragraph (c) of 36 CFR 7.38 is amended to read as follows:

§ 7.38 Isle Royale National Park.

* * * * *

(c) *Mammals.* Dogs, cats, and other mammals may not be brought into or possessed in the park area, except for guide dogs accompanying the blind.

GARY EVERHARDT,
Director,
National Park Service.

[FR Doc.77-12265 Filed 4-28-77;8:45 am]

CHAPTER II—FOREST SERVICE, DEPARTMENT OF AGRICULTURE

PART 221—TIMBER

Extension of Interim Regulations for the Sale of National Forest Timber, Bidding Procedures

AGENCY: Forest Service, USDA.

ACTION: Interim rule.

SUMMARY: This interim rule extends interim regulations governing timber sale procedures, including bidding methods, through May 31, 1977, or until superseded by a final rule. Additional time is necessary for review and consideration of public comments on proposed regulations governing the sale of National Forest timber which were published in the FEDERAL REGISTER (42 FR 10806) on February 23, 1977.

EFFECTIVE DATE: May 1, 1977.

FOR FURTHER INFORMATION CONTACT:

George Leonard or George Roether, Timber Management Staff, Forest Service, USDA, P.O. Box 2417, Washington, D.C. 20013 (202-447-4051).

Therefore, notice is hereby given that the interim regulations published in the FEDERAL REGISTER (41 FR 48538) on November 4, 1976, are extended, as revised, through May 31, 1977, or until superseded by permanent regulations, whichever occurs first. Bidding procedures published in the FEDERAL REGISTER (42 FR 17875) on April 4, 1977, will be followed during this period of extension.

M. RUPERT CUTLER,
Assistant Secretary for Conservation, Research, and Education.

[FR Doc.77-12441 Filed 4-28-77;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER IX—ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

[ERDA-PR Temporary Regulation No. 29]

PART 9-1—GENERAL

PART 9-7—CONTRACT CLAUSES

General Policy for the Avoidance of Organizational Conflicts of Interest

APRIL 19, 1977.

AGENCY: Energy Research and Development Administration.

ACTION: Temporary Regulation.

SUMMARY: ERDA is modifying its conflict of interest regulations on technical and management support services contracting. This temporary regulation is being issued as a result of ERDA's experience in contracting for support services and because of its interest in avoiding organizational conflicts of interest.

DATES: Effective date: This regulation is effective on April 29, 1977. Interested persons may submit comments on this regulation on or before June 25, 1977.

ADDRESSES: Send comments to Division of Procurement, Rm. C-167, USERDA, Washington, D.C. 20545.

FOR FURTHER INFORMATION CONTACT:

Harry M. Tayloe, Division of Procurement, Rm. C-167, USERDA, Washington, DC 20545, 301-353-5526.

SUPPLEMENTARY INFORMATION: This temporary regulation, which modifies ERDA Procurement Regulation Subparts 9-1.54 and 9-7.50, provides additional procedures concerning the avoidance of organizational conflicts of interest, together with a standard solicitation provision and contract clause for use in technical and management support services, including evaluation and study contracts, as defined below.

Comments received will be considered in determining whether changes in the regulation are advisable.

This regulation will remain in effect until it is canceled or until its provisions are incorporated into a permanent ERDA procurement regulation.

a. Subpart 9-1.54 is amended by adding paragraph (c) and (d) in § 9-1.5402 and revising § 9-1.5404 as follows:

Subpart 9-1.54—General Policy for the Avoidance of Organizational Conflicts of Interest

§ 9-1.5402 Scope and applicability.

* * * * *

(c) Notwithstanding any other provision contained in this subpart, the clause set forth in § 9-7.5006-40 shall be included in all contracts for technical and management support services which, for purposes of this subpart, are defined as: advice, assistance, analysis, consultation, evaluation, examination, report, review, study, survey, or similar assistance, including providing assistance in procurements and related activities to support any program or other operations of ERDA.

(d) The following provision shall be included in all solicitations for technical and management support services (as defined in § 9-1.5402(c)). Where a formal solicitation is not used, the provision shall be furnished to the offeror in whatever manner is practical in order that ERDA may receive and evaluate the required information as a condition precedent to award.

Disclosure Statement Regarding Organizational Conflicts of Interest

Pursuant to ERDA-PR § 9-1.54, it is ERDA policy to avoid situations which place an offeror in a position where its judgment may be biased because of any present or planned interest, financial or otherwise, the offeror may have which relates to the work to be performed pursuant to this solicitation, or where the offeror's performance of such work may provide it with an unfair competitive advantage. (As used herein, "offeror" means the proposer or any of its affiliate organizations or proposed subcontractors.) Therefore:

(1) The offeror shall provide a statement which describes in a concise manner all relevant facts concerning any present or planned interest (financial contractual, organizational, or otherwise) relating to the work to be performed hereunder and bearing on whether the offeror has a possible conflict of interest with respect to (a) being able to render impartial, technically sound, and objective assistance or advice, or (b) being given an unfair competitive advantage.

(2) In the absence of any interest referred to above, the offeror shall submit a statement certifying that to its best knowledge and belief no such interest exists.

(3) ERDA will review the statement submitted and may require that additional relevant information be provided by the offeror. The statement and any additional information required of the offeror or otherwise known to ERDA will be used to determine whether an award to the offeror may create a conflict of interest relating to bias or prior contractual restrictions. If such conflict is found to exist, ERDA may (i) disqualify the offeror, (ii) impose appropriate conditions which satisfactorily mitigate or avoid such conflict, or (iii) determine that it is otherwise in the best interests of the Government not to disqualify the offeror.

(4) Failure to provide the statement and any additional information required, or the nondisclosure or misrepresentation of any relevant interest shall result in disqualification under this solicitation or, if discovered after award, may result in termination at no cost to the Government, disqualification under subsequent related contractual efforts, and such other remedial action as may be permitted or provided by law or the resulting contract. The attention of the offeror in complying with this provision is directed to 18 U.S.C. 1001.

* * * * *

§ 9-1.5404 Qualification and evaluation criteria, waiver.

(a) Failure on the part of an offeror to submit information pursuant to the disclosure provision set forth in § 9-1.5402 (d) or to accept the Organizational Conflicts of Interest Clause set forth in § 9-7.5006-40 shall disqualify the offeror from further consideration for contract award. However, nothing contained herein shall preclude the offeror because of a potential conflict, from proposing to exclude specific kinds of effort from the statement of work as contained in the solicitation unless the solicitation specifically prohibits such exclusion. Any such exclusion contained in the offeror's proposal shall be considered by the Government as an evaluation factor, and if the Government considers such proposed exclusion to be an essential or integral part of the required work, the offeror's proposal may be considered nonresponsive.

(b) A manager of a field office or the Director of Procurement, or their designee, may authorize the contracting officer to grant the waiver provided for in (e) of the Organizational Conflicts of Interest Clause set forth in § 9-7.5006-40.

b. Subpart 9-7.50 is amended by adding § 9-7.5006-40 as follows:

Subpart 9-7.50—Use of Standard Clauses

§ 9-7.5006 Standard ERDA clauses not included in §§ 9-7.5004 or 9-7.5005.

* * * * *

§ 9-7.5006-40 Organizational conflicts of interest.

The following clause shall be included in all contracts for technical and management support services in accordance with § 9-1.5402(c):

Article—organizational conflicts of interest.—(a) *Purpose.* The primary purpose of this clause is to aid in ensuring that the contractor (1) does not obtain any unfair competitive advantage over other parties by virtue of its performance of this contract, and (2) is not biased because of its current or planned interest (financial, contractual, organizational, or otherwise) which relate to the work under this contract.

(b) *Scope.* The restrictions described herein shall apply to performance or participation by the Contractor and any of its affiliate organizations or their successors in interest (hereinafter collectively referred to as the "Contractor") in the activities covered by this clause as a prime contractor, subcontractor, co-sponsor, joint venturer, consultant, or in any similar capacity.

(1) *Advisory, consulting, analytical, evaluation, or study work, including the preparation of statements of work and specifications:* (i) If the Contractor performs advisory, consulting, analytical, evaluation, study, or similar work under this contract, it shall be ineligible thereafter to participate in any capacity in Government contractual efforts (solicited or unsolicited) which stem directly from such work, and the Contractor agrees not to perform similar work for prospective offerors with respect to any such contractual efforts. Furthermore, unless so directed in writing by the Contracting Officer, the Contractor shall not perform any such work under this contract on any of its products or services, or the products or services of another firm for which the Contractor performs similar work. Nothing in this subparagraph shall preclude the Contractor from competing for ERDA management and technical support service follow-on contracts as defined in paragraph (f) below.

(ii) If the Contractor under this contract assists substantially in the preparation of a statement of work or specifications, the Contractor shall be ineligible to perform or participate in any capacity in any contractual effort which is based on such statement of work or specifications. The Contractor shall not incorporate its products or services in such statement of work or specifications unless so directed in writing by the Contracting Officer, in which case the restriction in this subparagraph shall not apply.

(iii) Nothing in this paragraph shall preclude the Contractor from offering or selling its standard commercial items to the Government.

(2) *Access to and use of information:* (i) If the Contractor in the performance of this contract obtains access to information, such as ERDA's plans, policies, reports, studies, financial plans, or data, which has not been released to the public, the Contractor agrees not to (a) use such information for any private purpose unless the information has been released to the public, (b) compete for work for ERDA based on such information for a period of six (6) months after the completion of this contract, or the release of such information to the public, whichever is first, (c) submit an unsolicited proposal to the Government which is based on such information until one (1) year after the release of such information to the public, and (d) release such information without prior written approval by the Contracting Officer.

(ii) In addition, the Contractor agrees that to the extent it receives or is given access to proprietary data or other confidential technical, business, or financial information under this contract, it shall treat such information in accordance with any restrictions imposed on such information.

(iii) The Contractor shall have, subject to patent and security provisions of this contract, the right to use technical data it first produces under this contract for its private purposes provided that, as of the date of such use, all data requirements of this contract have been met.

(c) *Subcontracts.* The Contractor shall include this clause, including this paragraph, in subcontracts of any tier which involve performance of work of the type specified in (b)(1) above or access to information covered in (b)(2) above. The use of this clause in such subcontracts shall be read by substituting the word "subcontractor" for the word "Contractor" wherever the word "Contractor" appears.

(d) *Remedies.* For breach of the above restrictions or for nondisclosure or misrepresentation of any relevant interest required to be disclosed concerning this contract, the Government may at no cost terminate the contract, disqualify the Contractor for subsequent related contractual efforts, and pursue other remedies as may be permitted by law or this contract.

(e) *Waiver.* Any request for waiver under this clause shall be directed in writing to the Contracting Officer and shall include a full description of the requested waiver and the reasons in support thereof. If it is determined to be in the best interest of the Government, the Contracting Officer shall grant such waiver in writing.

(f) *Definition.* The term "management and technical support services" includes any advice, assistance, analysis, consultation, evalu-

ation, examination, report, review, study, survey, or similar assistance, including providing assistance in procurements and related activities, to support any program or other operations of ERDA.

* * * * *

(Sec. 105 of the Energy Reorganization Act of 1974 Pub. L. 93-438.)

M. J. TASHJIAN,
Director of Procurement.

[FR Doc.77-12401 Filed 4-28-77;8:45 am]

Title 47—Telecommunication

CHAPTER 1—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 20765; FCC 77-276]

PART 76—CABLE TELEVISION SERVICES

Modification of Certain Technical Standards for Cable Television Systems

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: Certain technical standards and measurement requirements for cable television systems are clarified or modified. The number of measurements required to show proof of performance is modified, for many cable systems. Standards for frequency tolerance, frequency stability, and ratio of visual signal level to aural signal level are modified. The application of standards for signal-to-noise ratio and signal-to-cochannel interference ratio is clarified. Action was required because of certain ambiguities and inequities in the rules. Action intended to correct those ambiguities and inequities.

EFFECTIVE DATE: June 6, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Robert S. Powers, Research Division, Cable Television Bureau, 202-632-9797.

SUPPLEMENTARY INFORMATION:

Adopted: April 20, 1977.

Released: April 28, 1977.

1. The Commission has before it the Notice of Proposed Rule Making in this proceeding, 41 Fed. Reg. 15717, 58 FCC 2d 1035 (1976), adopted April 1, 1976, and the filings in response to the Notice.[1] This proceeding was initiated by the Commission to clarify provisions in the cable television technical standards which were causing unnecessary burdens or confusion within the cable television industry. The Commission stated in the Notice that a number of modifications of, additions to, and deletions from existing technical standards of the Commission had been postponed pending submission of the final report of the Cable Technical Advisory Committee (CTAC)[1a]. Having received the CTAC report the Commission was ready to begin revision of the cable television technical standards, based in part on the recommendations made by CTAC. This proceeding, which is a first step toward revision of these rules, invited comments in the following areas:

(1) Clarification of the scope of application of the technical rules, based on the physical characteristics of the cable system rather than on the number of communities served;

(2) Relaxation of frequency standards in the case of certain broadcast television signals received by means of television broadcast translator stations;

(3) Clarification of the frequency standards for cable television converters by replacing the frequency accuracy requirement by a frequency stability requirement; and

(4) Broadening the applicability of the requirement for a minimum ratio of visual signal level to system noise.

The Commission has now received comments and reply comments in this proceeding and believes that adoption of the proposed rules in the above-mentioned areas, with certain modifications, would be in the public interest for the reasons stated below.

SCOPE OF APPLICATION

2. In the Notice we stated that the then existing definition of a cable television system contained in § 76.5(a) of the Commission's rules did not lend itself to convenient specification of technical standards and testing procedures. Under the existing definition, cable television facilities in each distinct community or municipal entity constituted separate cable television systems, even though only a single headend might be used and the entire cable plant might be commonly owned and operated. We noted that our requirement for measurements at three locations within the cable system placed artificial and unnecessary burdens on a facility serving more than one community. We proposed to apply the technical standards of Subpart K according to the physical characteristics of cable systems rather than according to the number of communities served. To accomplish this, we proposed to describe cable systems in terms of electrically and mechanically continuous closed or shielded transmission paths. Thus, a set of electrically and mechanically connected cables would constitute a single cable system for the purposes of technical standards and measurements, even though multiple communities might be served. Conversely, separate sets of cable not so interconnected would constitute separate cable television systems even though they may be interconnected by radio channels, serve a single community, and be commonly owned. We stated that a radio link clearly is not a "cable" and that testing and maintenance performed on one of the separated cable systems would not necessarily be applicable to the others. The proposed rule change would require fewer measurements in many cases but might require additional measurements in others. In any case, measurements would have a more logical relationship to the physical structure of the cable system.

3. Comments in this area generally concurred with the intent of the proposed rule, with a number of suggested refinements. The Association of Maximum Service Telecasters, Inc., (AMST) stated that measurements should be required on each separate trunk cable as well as on each physically separate set of cables. We agree with AMST that measurements made on one trunk do not necessarily assure acceptable performance on other trunks of the system, and we recognize that the proposed rule does not correspond in all details to plant layout. In a separate action, we do plan to address the feasibility of defining various sub-systems of cable television systems for purposes of applying technical standards, based in part on suggestions of CTAC. Depending on whatever subsequent definitions are adopted, we would then be able to specify in appropriate detail which measurements should be made at what locations. Our intent is eventually to have our measurement requirements correspond very closely to (1) the physical reality of cable television systems as they now exist and may exist in the future, and (2) the measurements a conscientious cable operator would make in any case to assure compatibility, safety, quality of service, and non-interference with over-the-air services. Such correspondence would provide maximum assurance of quality and compatibility with the least possible regulatory burden and thereby serve the overall public interest. In our judgment, the proposed rule is an appropriate step toward this goal.

4. Joint comments filed by sixty-eight cable television system operators (Cable Operators) requested that mechanically separate[2] sets of cables which are interconnected by CARS (Cable Television Relay Service) microwave links should be exempted from the proposed requirements for separate measurements. They suggest that cable systems using CARS links would be "penalized" by having to make separate measurements in those sets of cables which are joined by the CARS links. We feel that requiring separate measurements on mechanical separate sets of cables is a reasonable requirement, since measurements in one set of cables may be unrelated to those in a different set. Accordingly, the rule we are adopting today maintains the re-

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[1] See 41 FR 21652.

[1a] This committee was created by the Commission to provide advice and recommendations concerning technical standards for carriage of broadcast and cable originated programming, two way communications, and various other cable services. The CTAC Final Report is available from the National Technical Information Center as FCC Report FCC-CTB-75-01, May, 1975.

[2] The terms "mechanically continuous" and "mechanically separate" are used to indicate whether or not there is a continuous cable connection linking two or more sets of cable, as differentiated from radio connections.

quirement that separate measurements be made on each mechanically separate set of cables.

5. In our Notice of Proposed Rulemaking, we proposed to treat each "* * * set of electrically and mechanically continuous closed or shielded transmission paths * * *" as a separate cable television system, for purposes of technical regulation. The purpose was to make our measurement requirements correspond to the actual configuration of the cable transmission paths rather than to political boundaries. However, treating a mechanically separate set of cable transmission paths as an entirely distinct cable television system would be inconsistent with the common understanding of a system as a set of cables, radio links, and possibly other transmission pathways under common ownership and control. Furthermore, treating separated sets of cable paths as separate cable television systems could complicate the definition of the "ratio of visual signal level to system noise" and perhaps also the definition of other technical parameters. The intent of our proposal would better be implemented by defining a cable television system as a single business entity. We also note that since the release of the Notice of Proposed Rulemaking in this proceeding, we have adopted a First Report and Order, FCC 77-205, ____ FCC 2d ____ (1977), in Docket 20561. In the First Report and Order, supra, we adopted a cable television system definition which is consistent both with the intent of that proceeding and with the intended scope of application of technical standards in this proceeding. Therefore there is no longer any need to adopt separate language to clarify the scope of application of the technical standards in this Docket. The only rule change necessary to accomplish our intention in this Docket is replacement of the words "community unit" where they were inserted in Subpart K under Docket 20561 by the words "cable television system" or "system," as appropriate. This is detailed in the attached Appendix. The requirement that separate measurements be made on mechanically separate sets of cables is incorporated into § 76.601(c).

FREQUENCY ACCURACY REQUIREMENTS

6. In our Notice, we stated that § 76.605 (a)(2) of the Rules requires that the visual carrier frequency for Class I signals be maintained 1.25 MHz ±25 kHz above the lower boundary of the cable television channel even though cable television systems may receive signals from television broadcast translator stations which in some cases are not required to have such close frequency control. We proposed to add a note to Section 76.605 (a)(2) to relax the frequency tolerance in the case of signals received from television broadcast translator stations, since the frequency standards for cable television systems were not intended to require the cable operator to make corrections to the frequencies of broadcast signals as received.

7. AMST and the Consumer Electronics Group of the Electronic Industries Association (EIA) both point out that relaxation of the present requirements would be appropriate only if adjacent channels are not used on the cable system. The New York State Commission on Cable Television (New York Cable Commission) and the Office of Cable Television, Department of Public Utilities, State of New Jersey (New Jersey Cable Office), suggest that the inconsistency between translator station tolerances and cable channel tolerances could be resolved by decreasing the tolerance allowed for translators instead of relaxing the tolerance for cable channels.

8. We believe the points raised by the above-mentioned parties have merit. If either an upper adjacent channel or a lower adjacent channel is used, adjacent video carriers should be separated from each other by 6 MHz ±50 kHz for proper rejection of the unwanted aural signal. Accordingly, we are modifying the proposed note to allow the greater tolerance only in the case where adjacent channels are not in use by the cable system. With respect to the proposal of the New York Cable Commission and the New Jersey Cable Office, we do expect to examine the question of frequency tolerances for low power translator stations, but we believe this matter should be dealt with in a separate proceeding. In any event, we are not certain at this time that a tolerance appropriate for low power translators would resolve the inconsistency with the existing cable television frequency tolerance. In the meantime, we shall adopt the relaxed tolerance for cable systems, with the modification mentioned above.

FREQUENCY STABILITY REQUIREMENTS

9. We mentioned in our Notice that under certain conditions a cable operator may have no way to assure that signals delivered to subscribers meet certain frequency specifications given in our Rules. The present § 76.605(a)(2) of our Rules requires that the frequency of the visual carrier at the output of each set-top converter (when they are used in a cable television system) be maintained 1.25 MHz ±250 kHz above the lower frequency boundary of the cable television channel. But set-top converters with manual fine tuning capability may have a tuning range of several megahertz, and the cable operator has no way to assure correct tuning by the subscriber. We stated that in our opinion a frequency stability requirement is more appropriate than an absolute accuracy requirement, where such converters are used, and we proposed to restate the requirement clearly in terms of stability. We also stated that we did not propose to change the tolerance of ±250 kHz, but that comments on that point would be welcomed. We noted that many of today's converters are capable of significantly better stability than our present requirement, especially those with automatic fine tuning capability. We also proposed that the ±250 kHz stability should be maintained for at least four hours after initial tuning.

10. Jerrold Electronics Corporation (Jerrold) suggested that the time period for application of the stability requirement should be three hours rather than the four hours we proposed. Jerrold maintained that three hours was a more typical period for viewing without desiring to retune the television receiver to another channel. Jerrold also requested clarification of the temperature conditions under which the frequency stability requirements were to be imposed, and discussed three possible interpretations of the rule as we proposed it. We agree that a three hour period for stability tests will be adequate, and have modified our proposed rule accordingly. Also we have redrafted the proposed rule to clarify the temperature conditions under which the stability requirements are to be met.

11. Oak Industries, Inc. (Oak) agrees that a stability criterion rather than an absolute frequency tolerance is appropriate for converters, but asks that the time period for the stability specification be one hour instead of the four hours proposed. We are not inclined to lower the time period for the required stability to a time as short as one hour. We feel that cable subscribers are quite justified in expecting from cable television systems signals which are stable for more than an hour. Since the individual subscriber does not generally have a choice of converters, it is not feasible to rely on individual purchasing decisions to balance price and quality. The temperature excursions we specify in our rule are modest, in keeping with temperature variations which can be expected in non-air conditioned homes. We therefore do not expect our rule to add any significant cost burden to converters being manufactured today.

12. The cable operators filing jointly (para. 4, supra) requested that an FCC acceptance or type approval procedure be used to remove the burden of this type of measurement from the cable operator. In this connection, we note that cable operators are not generally equipped for such measurements. The New Jersey Cable Office and the National Cable Television Association (NCTA) urged that we allow manufacturers' specifications as evidence of compliance with the frequency stability requirement. We agree that it would be unduly burdensome to require cable operators to equip themselves for this type of measurement. And, in our judgment, it is unnecessary for this Commission to set up and operate a type acceptance or type approval program for frequency stability in this case. Thus, for new equipment we will accept manufacturers' specifications as evidence of compliance. Generally, we will require no proof of compliance for existing equipment. But we remind all concerned that the cable operator is responsible for taking corrective action in case the requirement is not met in any particular instance.

13. EIA noted that accurate frequency spacing of video carriers on the cable distribution system is still necessary, even though the set-top converter itself may drift as much as 250 kHz. Accurate spacing is necessary, according to EIA, both to permit proper adjacent channel rejection and to prevent having to readjust the fine tuning of the converter or receiver when changing from one channel to another. We agree. We are not, however, incorporating this provision into our rules at this time. We expect that cable operators using converters would follow this practice without the existence of a Commission rule. Furthermore, we are addressing the question of cable channel frequencies in another action. (*Notice of Proposed Rule Making in Docket 21006*, 41 FR 54512 (1976).)

14. EIA also pointed out that a drift of ±250 kHz could require frequent retuning of the converter in the case of some of the newer receivers and anticipated future receivers which use frequency synthesis techniques. Frequency synthesis techniques could eliminate the need for receiver fine tuning and therefore should eliminate fine tuning errors. But these advantages are achieved only if the incoming signal is within a few kilohertz of the frequency to which the receiver is adjusted by the manufacturer or by a technician. EIA concluded that a standard frequency channelling plan is needed, so that receivers may be manufactured to receive directly the midband and superband channels, thereby eliminating the need for converters. Since we are addressing frequency channelling plans in Docket 21006, we are putting aside for the moment these legitimate concerns about the effect of drifting converters on television receivers using frequency synthesis techniques. If a standard frequency plan is adopted for carriage of signals on the cable itself, a subscriber owning a receiver without variable fine tuning would have no need for a set-top converter, provided the receiver could receive the standard midband and superband channels.

15. A comment made by AMST may indicate a misinterpretation of the intent of our proposed stability rule. AMST recommended that the upper limit of the temperature range should be higher than 25° C, since that temperature is often exceeded in homes. We do not intend that the temperature range mentioned in the stability specifications should represent the total operating range of the converter. We expect that the operating range would be much greater than ±5 degrees, although we have not adopted nor do we expect to adopt any rule on the operating temperature range. The rule we are adopting today applies only to the frequency drift which may occur when the converter encounters a change of ±5 degrees (Celsius) in ambient temperature.

Applicability of System Noise and Co-Channel Interference Standards

16. The final proposal in the Notice of Proposed Rule Making concerned extended application of existing requirements of § 76.605(a)(9). It was proposed that application of the signal-to-noise ratio standard be extended to cover signals obtained by direct feed from a television broadcast station as well as those signals already specified in § 76.605 (a)(9).

17. There were no objections to this extension. However, the New York Cable Commission pointed out that any signal received at the cable head end with a visual signal to noise ratio of 36 decibels would suffer further noise degradation in the cable system, and therefore 36 decibels should not be allowed at the head end. There was and is no intention of allowing or requiring a 36 decibel ratio at the head end. The proposed requirement, like all other requirements of § 76.605 except § 76.605(a)(12), would apply at the subscriber's location and would relate only to the transmission characteristic of the cable television system and not to the quality of received signals.[3] We have slightly revised the wording in the rules as adopted, hoping to avoid any misinterpretation of our intent.

18. In addition to the standard for signal-to-noise ratio, the existing § 76.605(a)(9) also specifies the applicability of our standard for ratio of visual signal level to any undesired co-channel television signal operating on proper offset assignment. Through an inadvertent omission, our Notice of Proposed Rulemaking failed to clarify that the co-channel interference standard should also be applicable to signals obtained by direct feed. Since direct feed clearly avoids problems of reception in the presence of co-channel signals, application of the co-channel interference standard to direct feed signals is a nonsubstantive editorial revision of the Commission's Rules and Regulations, imposes no new requirements, and is intended only to relax or clarify existing requirements. Compliance with the prior notice and procedural provisions of the Administrative Procedure Act, 5 U.S.C. 553, would serve no useful purpose and is unnecessary. Therefore, we have corrected this omission in the Appendix to this Order.

19. The New Jersey Cable Office suggested that the Commission should establish a procedural framework by which direct feed could be required for those cases in which a cable operator has exhausted all other economically reasonable means for obtaining a high quality broadcast signal. Believing that it is in the best interest of the public as well as the broadcaster and the cable operator for cable television signals to be of the highest possible quality, we encourage cooperative efforts between cable operators and broadcasters to obtain the best signal possible at the head end, within economic and technical reason. We do not oppose the idea of having guidelines for situations in which direct feed might be required. But we would prefer to consider that matter separately, and only after further information is obtained about the circumstances under which cooperative efforts between broadcasters and cable operators have failed to provide adequate solutions to problems of poor reception at cable headends.

Other Comments and Recommendations

20. NCTA suggested that we drop the requirement to maintain the aural signal level at 13 to 17 decibels below the visual signal level in certain cases. The current requirement is for the purpose of avoiding interference to a signal being carried on a channel adjacent to the channel in question, while providing enough aural signal for proper operation of receivers. NCTA points out that there are cable systems operating with seven or fewer channels, and carrying no signals on adjacent channels. The requirement that the aural signal must be at least 13 decibels lower than the visual signal is unnecessary in that case, and requires otherwise unneeded equipment in order to comply with the rule. In reply comments, EIA agreed with NCTA's reasoning, with the caution that the aural signal still should be at least 7 decibels lower than the visual signal (according to broadcast practice) for proper operation of television receivers. AMST also supported the NCTA suggestion.

21. We agree that the NCTA recommendation and the EIA reply comment have merit, and are therefore acting to adopt the NCTA suggestion as modified. We would, however, caution cable operators that in many cases good engineering practice would suggest that aural carriers should be attenuated somewhat more than 7 decibels below the visual carrier even though adjacent channels are not in use. For example, the visual carrier, the aural carrier, and the color subcarrier can interact with each other through non-linearities in amplifiers and signal processing equipment to produce an interfering signal approximately 920 kHz from the visual carrier. This interference is minimized by lowering the aural carrier level. We also note that a cable system distributing more than seven but less than twelve television signals would have to suppress some of its aural carriers but might, under the new standard, choose to leave some of the aural carriers at the higher level. In spite of these cautions, however, we are willing to leave such judgements up to the cable operator, in those cases where adjacent channels are not used, since we believe that many systems using seven channels or fewer might not justify the additional cost and complexity of equipment required to suppress and control the levels of the aural carriers.

[3] The standard of signal level to system noise is now applied only in the case of signals received by the cable system or delivered to subscribers inside the Grade B contour of the broadcast station. This rule has sometimes been interpreted as implying a standard on the quality of the signal as received at the head end. However, our standard only applies to transmission of the signal once it is under the control of the cable television operator and not to the signal as received.

22. This modification of our aural carrier standard is a non-substantive editorial revision of the Commission's Rules and Regulations, imposes no new requirements, and is intended only to clarify or relax existing requirements. Compliance with the prior notice, procedural and effective date provisions of the Administrative Procedure Act, 5 U.S.C. 553, would serve no useful purpose and is unnecessary. Therefore, we are adopting the limited relaxation without requesting further public comment.

23. Finally, AMST extended its comments to urge adoption of further standards to assure high quality of signals delivered by cable television systems. Reaffirming its comments in other dockets, AMST urged standards for signal to noise ratio at the input to the cable system, for ghosting limits, and for parameters affecting color quality. Our staff is engaged in a general review of cable television technical standards, based in part on the recommendations of our Cable Technical Advisory Committee. We plan to address the suggestions of AMST in a future proceeding. Authority for adoption of the rules set forth below is contained in 47 U.S.C. 151, 152, 301, 302, 303, 307, 308, and 309.

24. Accordingly, *it is ordered,* That effective June 6, 1977, 47 CFR Chapter I, Part 76 is amended as set forth below.

25. *It is further ordered,* That the proceedings in Docket 20765 are terminated.

(Secs. 1, 2, 301, 303, 307, 308, 309, 48 Stat., as amended, 1064, 1081, 1082, 1083, 1084, 1085 (47 U.S.C. 151, 152, 301, 303, 307, 308, 309).)

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

1. In § 76.601, paragraph (b) is amended by replacing the words "community unit" by the words "cable television system"; paragraph (d) is amended by replacing the words "community unit" by the word "system"; paragraph (e) is deleted; the Note at the end of the section is amended by replacing the words "system community units" by the words "cable television systems"; and paragraph (c) is revised as follows:

§ 76.601 Performance tests.

* * * * *

(c) The operator of each cable television system shall conduct complete performance tests of that system at least once each calendar year (at intervals not to exceed 14 months) and shall maintain the resulting test data on file at the operator's local business office for at least five (5) years. It shall be made available for inspection by the Commission on request. The performance tests shall be directed at determining the extent to which the system complies with all the technical standards set forth in § 76.605. The tests shall be made on each Class I cable television channel specified pursuant to paragraph (b) of this section, and shall include measurements made at no less than three widely separated points within each mechanically continuous set of cables within the cable television system. Within each mechanically continuous set of cables, at least one measurement point shall be representative of terminals most distant from the system input in terms of cable distance. The measurements may be taken at convenient monitoring points in the cable network: *Provided,* That data shall be included to relate the measured performance to the system performance as would be viewed from a nearby subscriber terminal. A description of instruments and procedure and a statement of the qualifications of the person performing the tests shall be included.

* * * * *

2. In § 76.605, paragraph (a)(4) is amended by replacing the words "community unit" by the words "cable system"; paragraph (a)(12) is amended by replacing the words "community unit" by the words "cable television system"; paragraph (b) is amended by replacing the words "Community units" by the words "Cable television systems"; paragraph (c) is deleted; and paragraphs (a), (a)(2), (a)(6), (a)(9), (a)(9)(i)—(iii) are revised to read as follows:

§ 76.605 Technical standards.

(a) The following requirements apply to the performance of a cable television system as measured at any subscriber terminal with a matched termination, and to each of the Class I cable television channels in the system:

* * * * *

(2) If no frequency converter is supplied to the subscriber the visual carrier frequency shall be maintained 1.25 MHz ±25 kHz above the lower frequency boundary of the cable television channel. If a frequency converter is supplied to the subscriber by the cable television system, the following requirement shall be applied at the interface between the converter and the subscriber's terminal equipment: when the visual carrier at the output of the converter has been tuned to a frequency 1.25 MHz above the lower frequency boundary of a cable television channel with the converter stabilized at an ambient temperature between 20°C and 25°C, the frequency of the visual carrier shall not vary more than ±250 kHz for a period of at least three hours, during which period the ambient temperature may vary ±5°C about the initial ambient temperature.

NOTE.—A relaxed frequency tolerance will be permitted when both of the following conditions are met: (a) the signal is received by means of a television broadcast translator station, and (b) the cable television system carries signals on neither an upper nor a lower channel adjacent in frequency to the channel on which the translator signal is carried. In such cases, the visual carrier frequency shall be maintained 1.25 MHz ±(25+T) kHz above the lower frequency boundary of the cable television channel, where T is the frequency tolerance in kHz allowed the television broadcast translator station pursuant to § 74.761 of this chapter.

* * * * *

(6) The rms voltage of the aural signal shall be maintained between 13 and 17 decibels below the associated visual signal level; except that, if the cable television system carries signals on neither an upper nor a lower channel adjacent to the first channel, the rms voltage of the aural signal shall be maintained between 7 and 17 decibels below the associated visual signal level.

* * * * *

(9) The ratio of visual signal level to system noise, and of visual signal level to any undesired co-channel television signal operating on proper offset assignment, shall not be less than 36 decibels. This requirement is applicable to:

(i) Each signal which is delivered by a cable television system to subscribers within the predicted Grade B contour for that signal, or

(ii) Each signal which is first picked up within its predicted Grade B contour, or

(iii) Each signal which is first received by the cable television system by direct video feed from a television broadcast station.

* * * * *

3. In § 76.609 a new paragraph (i) is added to read as follows:

§ 76.609 Measurements.

* * * * *

(i) Annual measurements of frequency stability of set top converters, when such converters are supplied by the cable television operator, are not required when either of the following indicates that the requirements of § 76.605 (a)(2) are met: (1) manufacturer's specifications based on a representative sample of the converters, or (2) laboratory tests performed by or for the cable television system operator on a representative sample of the converters. Proof of performance tests for frequency stability will not be required for converters ordered from the manufacturer prior to September 6, 1977.

[FR Doc.77-12324 Filed 4-28-77;8:45 am]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Ex Parte No. MC-96]

LICENSING OF BROKERS

Limiting Required Proofs

AGENCY: Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY: This document prescribes new rules, and adopts new procedures, for the licensing of brokers. The rules are intended to make more efficient the current licensing procedures, by limiting the proof required to that of the applicant's fitness. Applications for household goods brokerage authority specifically excluded.

EFFECTIVE DATE: August 29, 1977.

FOR FURTHER INFORMATION CONTACT:

Michael Erenberg, Assistant Deputy Director, Section of Operating Rights, Interstate Commerce Commission, Washington, D.C. 20423, 202-275-7292.

SUPPLEMENTARY INFORMATION:

ENTRY CONTROL OF BROKERS

By Notice and Order entered September 11, 1975, the Interstate Commerce Commission on its own motion instituted a rulemaking proceeding (1) for the purposes of investigating the present licensing requirements for brokers of property and passengers, operating in interstate or foreign commerce, and (2) for the possible formulation of legislation which would amend section 211 of the Interstate Commerce Act for subsequent recommendation to Congress. Interested parties were invited to submit their views in writing to the Commission. All authorized brokers of property or passengers operating in interstate or foreign commerce within the United States were made parties to the proceeding. Additionally, oral argument was held before the entire Commission on August 9, 1976. Based upon an analysis of the representations filed by the U.S. Department of Transportation, motor common carriers, travel organizations and agencies, associations, and passenger and property brokers, and an evaluation of economic data and its internal licensing procedure, the Commission has promulgated the rules and regulations set forth below.

These rules eliminate the fee for filing a broker license, (with the exceptions of applications for a household goods broker's license) raise the required amount of bonding to $10,000, and make a general finding that operation by qualified applicants, as brokers, in interstate or foreign commerce, of passengers and property (except household goods), between all points in the United States (including Alaska and Hawaii), will be consistent with the public interest and the national transportation policy. This general finding and issuance of a master license was the basis for a modification of the procedures employed for the licensing of brokers, as indicated in the promulgated rules and regulations set forth below. Generally, the new procedure, because of the general finding, limits the examination of a broker license application to the issue of an applicant's fitness. This will permit the expedited handling of broker applications, and offer greater ease of entry into the broker industry for qualified applicants. Household goods brokerage was excluded from this new procedure, the Commission wishing to maintain the existing agency-carrier relationship in the household goods industry in its present form in order fully to protect the consumer. Applications to be a broker of household goods will be handled under the procedures formerly applicable.

The Commission will accept and consider petitions for reconsideration from any interested person whether or not such person has previously participated in this proceeding.

The rule is issued under the authority of 49 U.S.C. 302, 303, 304, 305, 311, and 320, and 5 U.S.C. 553 and 559.

Issued at Washington, D.C., April 8, 1977.

ROBERT L. OSWALD,
Secretary.

Parts 1002, 1003, and 1043 of Chapter X of Title 49 of the Code of Federal Regulations modified, and supplemented by adding Part 1045A, as set forth below:

PART 1002—FEES

§ 1002.2 [Amended]

(1) 49 CFR 1002.2(d)(9) shall be revised and amended to reflect that an application for a broker license, section 211, will require a fee only for the filing of an application for a household goods broker's license.

PART 1003—LIST OF FORMS

§ 1003.1 [Amended]

(2) 49 CFR 1003.1 shall be revised as follows by limiting the need for an OP-OR-11 form only to cases where the application is for a household goods broker's license:

Applications under section 211 of the Interstate Commerce Act for licenses to operate as brokers of motor-carrier transportation of household goods.

PART 1043—SURETY BONDS AND POLICIES OF INSURANCE

(3) 49 CFR 1043.4 shall be revised and amended to read as follows:

§ 1043.4 Brokers.

No person, firm, or corporation shall engage in the business of a broker as defined in Part II, Interstate Commerce Act, and no brokerage license shall be issued to any such person, firm, or corporation nor remain in force unless and until such person, firm, or corporation shall have furnished a bond or other security approved by the Commission, in an amount not less than $10,000, and in such form as will insure the financial responsibility of such broker and the supplying of authorized transportation in accordance with the contracts, agreements, or arrangements therefor.

1045A—BROKER SPECIAL LICENSING PROCEDURE

§ 1045A.1 Procedures.

(a) *Scope of special rules.* These special rules govern the filing and handling of requests for authority to operate as a breaker, in arranging for the transportation by motor vehicle, in interstate or foreign commerce, of passengers and property (except houeshold goods) pursuant to a general finding made in Ex Parte No. MC-96, *Entry Control of Broker*, 126 M.C.C. 476 (1977), and the master license issued as a result, in paragraph (f) below, authorizing such operations by qualified applicants, between all points in the United States (including Alaska and Hawaii), subject to the terms, definitions, conditions, and restrictions set forth in *Entry Control of Brokers, supra,* and the master license in (f) below.

(b) *Requests for authority.* Individuals desiring to perform brokerage operations pursuant to the master license set forth in paragraph (f) below must file with this Commission, at its offices in Washington, D.C., a sworn and notarized request (which may be in letter form) containing the following information:

(1) The name and address of the individual's representative (which may include the individual in a self-representing role) to whom inquiries may be made.

(2) The designation of the individual's statutory agent for service of process within each of the States in or through which operations are proposed to be conducted (Form BOC-3).

(3) Evidence of the individual's surety bond coverage (Form BMC-84). Individuals already in possession of the $5,000 amount formerly required under 49 CFR 1043.4 shall have 180 days after the effective date of the report in *Entry Control of Brokers, supra,* to comply with the new $10,000 bond requirement, and need only file a copy of BMC-84 reflecting the higher amount. Existing brokers not complying with this provision within the required time period will be issued a show cause order requiring them to show cause why the higher bond amount has not been obtained.

(4) Requests for broker authority must also contain the following information in the subparagraphs below. Requests for passenger broker authority shall include that specified in subparagraph (i), while requests for property broker authority (except household goods) shall include that specified in subparagraph (ii).

(i) Applicants for a passenger broker license shall submit the following information, which may be in letter form; (A) The face of the request shall contain in bold type the words:

SPECIAL PASSENGER BROKER LICENSE PROCEDURE

§ 1045A.1 Procedures.

(B) Applicant shall submit an initial verified statement in support of the request for authority. This statement shall include all of the evidence applicant plans to present in the proceeding. This shall contain applicant's name, the name under which it will be doing business, the present locations of applicant's offices for doing business, including those which it will open coincident with the granting of a license under these regulations, and evidence of applicant's fitness, including evidence as to applicant's good general character (this may also include statements from reputable members of the community as to applicant's good general character), applicant's ability to conduct the proposed operations in a manner satisfactory to patrons (this evidence may in-

clude applicant's past experience in the tour industry, a description of the proposed operation, or any other evidence applicable), applicant's willingness to comply with the pertinent regulatory requirements (this evidence should include a statement that applicant is familiar with the various regulations pertinent to passenger broker operations, and that it is willing to conform to said regulations).

(C) Applicant shall also file complete information as to any affiliation between it and any carrier subject to this Commission's regulations.

(ii) Applicants for a property broker license (except household goods brokers) shall submit the following information, which may be in letter form: (A) The face of the request shall contain in bold type the words:

SPECIAL PROPERTY BROKER LICENSE PROCEDURE

(B) Applicant shall submit an initial verified statement in support of the request for authority. This statement should include all of the evidence applicant plans to present in the proceeding. This should contain applicant's name, the name under which it will be doing business, the present locations of applicant's offices for doing business, including those which it will open coincident with the granting of a license under these regulations, and, evidence of applicant's fitness, including evidence as to applicant's good general character (this may also include statements from reputable members of the community as to applicant's good general character), applicant's ability to conduct the proposed operations in a manner satisfactory to patrons (this evidence may include applicant's past experience in the transportation industry, or any other evidence applicable), applicant's willingness to comply with the pertinent regulatory requirements (this evidence should include a statement that applicant is familiar with the various regulations pertinent to property broker operations, and that it is willing to conform to said regulations).

(C) Applicant shall also file complete information as to any affiliation between it and any carrier subject to this Commission's regulations, and any affiliation between it and any shipper of commodities whose transportation is not exempt from Commission regulations.

(D) Applicant shall also file a verified statement describing the proposed operation, including the commodities and services which will be a part of its broker operation.

(c) *Incomplete applications.* Incomplete applications will be rejected, and returned to applicant's representative, with a designation as to why the application was rejected. Applicant may refile a complete application at any time.

(d) *Existing brokers.* Existing brokers that wish to add to their present authority should indicate in their submittal what authority they now hold.

(e) *Procedures.* Once a complete and properly submitted request for authority has been filed, this Commission will publish a notice in the FEDERAL REGISTER identifying the applicant and the license sought. Any interested person may file a verified statement in opposition within 30 days from the date of publication at the offices of this Commission in Washington, D.C. Inasmuch as a prospective finding has been made to the operation being consistent with the public interest and the national transportation policy, any consideration of a protest will be limited to the only relevant outstanding matter—applicant's fitness. Fitness in a brokerage proceeding involves four things: (1) Good general character, (2) an ability to conduct the proposed operations in an appropriate manner satisfactory to patrons, (3) willingness to comply with the various regulatory requirements, and (4) the ability to obtain the required bond. If a verified statement in opposition is received within the 30-day time period, applicant will be so notified. If an applicant is not otherwise informed by this Commission, it may commence operation within 45 days of the original publication in the FEDERAL REGISTER, under the authority as published in the FEDERAL REGISTER. No individual licenses will be issued. This Commission reserves the right to require that a broker terminate its operations if it is later discovered that the broker's operations do not qualify for the benefits of this precedure.

(f) *Licensing.* No individual licenses will be issued. Copies of the appropriate FEDERAL REGISTER publication will be kept with the master license below at the Offices of the Commission in Washington, D.C.

[FR Doc.77-12370 Filed 4-28-77;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER II—NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 651—HADDOCK, COD, YELLOWTAIL FLOUNDER

Emergency Regulations Repromulgated

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Emergency regulations.

SUMMARY: This rule implements the haddock, cod, and yellowtail flounder regulations published in the FEDERAL REGISTER (42 FR 13998) on March 14, 1977 for an additional 45 days from April 29 to June 12, 1977 inclusive. The emergency described in 42 FR 13998 continues to exist.

EFFECTIVE DATE: April 29, 1977.

FOR FURTHER INFORMATION CONTACT:

Richard Schaefer, Fisheries Management Operations Division, National Marine Fisheries Service, Washington, D.C. 20235 (202-634-7454).

SUPPLEMENTARY INFORMATION: On March 14, 1977, the Director, National Marine Fisheries Service published emergency regulations in the FEDERAL REGISTER (42 FR 13998) to implement the fishery management plan concerning haddock, cod, and yellowtail flounder prepared by the New England Fishery Management Council in consultations with the Mid-Atlantic Fishery Management Council. The Secretary has determined that the current regulations should be continued for an additional 45 days as authorized by Section 305(e)(2) of the Fishery Conservation and Management Act of 1976.

Therefore, the regulations adopted on March 5, 1977 are continued in effect for 45 days from 0001 a.m., April 29 to June 12, 1977 inclusive unless sooner amended or terminated by appropriate public notice.

Dated this 26th day of April, 1977 at Washington, D.C.

JACK W. GEHRINGER,
Deputy Director, National Marine Fisheries Service.

[FR Doc.77-12378 Filed 4-28-77;8:45 am]

Title 19—Customs Duties

CHAPTER I—UNITED STATES CUSTOMS SERVICE, DEPARTMENT OF THE TREASURY

PART 18—TRANSPORTATION IN BOND AND MERCHANDISE IN TRANSIT

PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

Postponement of Effective Date of Customs Regulations Relating to Customs Seals

AGENCY: United States Customs Service, Treasury.

ACTION: Notice of postponement of effective date of regulations.

SUMMARY: This document postpones from April 25, 1977, to August 22, 1977, the effective date of amendments to the Customs Regulations which require the use of high security red in-bond Customs seals on conveyances or compartments in which carload lots of bonded merchandise are transported.

The Customs Service has been advised by representatives of the seal manufacturing industry that orders for the high security seals cannot be filled by that date.

DATE: Effective date postponed to August 22, 1977.

FOR FURTHER INFORMATION CONTACT:

Lee H. Kramer, Attorney, Regulations and Legal Publications Division, United States Customs Service, Washington, D.C. 20229. (202-566-8237).

SUPPLEMENTARY INFORMATION: Pursuant to Treasury Decision 77-30, which was published in the FEDERAL REGISTER on January 24, 1977 (42 FR 4120) §§ 18.4 and 24.13 of the Customs Regulations (19 CFR 18.4, 24.13), were amended to provide that conveyances or compartments in which carload lots of bonded merchandise are transported, shall be sealed with high security red in-bond Customs seals, or if incapable of being so sealed, with red in-bond Customs seals. Although the metal strap

seal presently in use will indicate that a conveyance or compartment has been opened, it does not offer any physical protection to the contents of the conveyance or compartment. In laboratory tests and field evaluations, high security seals have been found to be suitable to provide both accountability and physical protection for cargo. High security seals can be very effective in preventing the theft of cargo. The effective date of these amendments was April 25, 1977. However, the Customs Service has been advised by representatives of the seal manufacturing industry that orders for the high security seals cannot be filled by that date. Consequently, many of the carriers of bonded merchandise will be unable to comply with the amended Customs Regulations.

In order to allow adequate time for the manufacture and distribution of high security red in-bond Customs seals, the effective date of amended §§ 18.14 and 24.3 of the Customs Regulations is hereby postponed until August 22, 1977.

VERNON D. ACREE,
Commissioner of Customs.

Approved: April 19, 1977.

JOHN H. HARPER,
Assistant Secretary of the Treasury.

[FR Doc.77-12512 Filed 4-28-77;8:45 am]

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Lemon Reg. 90]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final Rule.

SUMMARY: This regulation establishes the quantity of California-Arizona lemons that may be shipped to fresh market during the weekly regulation period May 1-7, 1977. This regulation is needed to provide for orderly marketing of fresh lemons for the regulation period because of the production and marketing situation confronting the lemon industry.

EFFECTIVE DATE: May 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250. (202)-447-3545.

SUPPLEMENTARY INFORMATION: (a) *Findings.* (1) Pursuant to the amended marketing agreement and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee established under the amended marketing agreement and order, and upon other available information, it is found that the limitation of handling of such lemons, as provided in this regulation will tend to effectuate the declared policy of the act.

(2) The need for this regulation to limit the quantity of lemons that may be marketed during the specified week stems from the production and marketing situation confronting the lemon industry.

(i) The committee has submitted its recommendation for the quantity of lemons it considers advisable to be handled during the specified week. The recommendation resulted from consideration of the factors covered in the order. The committee further reports the demand for lemons continues good this week. Average f.o.b. price was $5.57 per carton the week ended April 23, 1977, compared to $5.56 per carton the previous week. Track and rolling supplies at 115 cars were up 25 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the quantity of lemons which may be handled should be established as provided in this regulation.

(3) It is further found that it is impracticable and is contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because the time intervening between the date when information upon which this regulation is based became available and the time when it must become effective to effectuate the declared policy of the act is insufficient. A reasonable time is permitted, for preparation for the effective time; and good cause exists for making the regulation effective as specified. The committee held an open meeting during the current week, after giving due notice, to consider supply and market conditions for lemons and the need for regulation. Interested persons were afforded an opportunity to submit information and views at this meeting. The recommendation and supporting information for regulation during the period specified were promptly submitted to the Secretary after the meeting was held, and information concerning the provisions and effective time has been provided to handlers of lemons. It is necessary, to effectuate the declared policy of the act, to make this regulation effective as specified. The committee meeting was held on April 26, 1977.

§ 910.390 Lemon Regulation 90.

(b) *Order.* (1) The quantity of lemons grown in California and Arizona which may be handled during the period May 1, 1977, through May 7, 1977, is established at 265,000 cartons.

(2) As used in this section, "handled" and "carton(s)" have the same meaning as when used in the amended marketing agreement and order.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.)

Dated: April 27, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-12559 Filed 4-28-77;11:21 am]

[Lime Reg. 37]

PART 911—LIMES GROWN IN FLORIDA

Quality and Size Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final Rule.

SUMMARY: Lime Regulation 37 prescribes during the period May 1 through June 18, 1977, the following grade and size requirement; Persian type limes Mexican type limes shipped to points outside the production area shall grade at least U.S. No. 2, with no minimum size requirement; Persian type limes shipped to such points shall grade at least U.S. No. 2, Mixed Color, and measure at least 1¾ inches in diameter. Both types of limes shipped to destinations within the production area are exempted from grade requirements, except the minimum juice content requirement.

EFFECTIVE DATE: May 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-3545.

SUPPLEMENTARY INFORMATION: *Findings.* (1) Pursuant to the amended marketing agreement and Order No. 911, as amended (7 CFR Part 911), regulating the handling of limes grown in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations of the Florida Lime Administrative Committee, established under the amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of limes, as provided in this regulation, will tend to effective the declared policy of the act.

(2) The regulation herein specified is based upon an appraisal of the current and prospective crop and market conditions for Florida limes. Fresh shipments for the 1977-78 season are expected to require about 500,000 bushels, as compared with shipments of about 790,000 bushels during the 1976-77 season. Although the January freeze reduced the size of the crop, adequate sup-

plies of acceptable sizes and grades of limes are expected to be available to fill fresh market demands. The imposition of the specified grade and size requirements is necessary to prevent the handling of defective and small limes, which do not provide consumer satisfaction, in order to promote orderly marketing in the interest of producers and consumers, consistent with the objectives of the act.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this regulation until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information became available upon which this regulation is based and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient. A reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the regulation effective as specified. Shipments of Florida limes are currently being made and the volume is expected to increase seasonally as the season progresses. The recommendation and supporting information for regulation during the period specified were promptly submitted to the Secretary after open meetings of the Florida Lime Administrative Committee on April 13 and 15, 1977. The meetings were held to consider recommendations for regulation, after giving due notice of the meetings, and interested persons were afforded an opportunity to submit their views at the meetings. The provisions of this regulation are identical with the aforesaid recommendation of the committee, except for a lower grade for Persian type limes and shorter effective period. Information concerning the provisions and effective time has been provided to handlers of limes. It is necessary, in order to effectuate the declared policy of the act, to make this regulation effective as specified.

§ 911.339 Lime Regulation 37.

Order. (a) During the period May 1, 1977, through June 18, 1977, no handler shall handle:

(1) Any limes of the group known as true "seeded" limes (also known as Mexican, West Indian, and Key limes and by other synonyms), grown in the production area, which do not meet the requirements of at least U.S. No. 2 Grade for Persian (Tahiti) Limes, except as to color: *Provided,* That true limes which fail to meet the requirements of such grade may be handled within the production area, if such limes meet all other applicable requirements of this section and the minimum juice content requirement prescribed in the U.S. Standards for Persian (Tahiti) Limes, and are handled in containers other than the containers prescribed in § 911.329 for the handling of limes between the production area and any point outside thereof;

(2) Any limes of the group known as large-fruited or Persian "seedless" limes (including Tahiti, Bearss and similar varieties) which do not grade at least U.S. No. 2, Mixed Color: *Provided,* That stem length shall not be considered a factor of grade, and tolerances for fruit affected by decay and for fruit failing to meet the requirements set forth in the U.S. Standards for Persian (Tahiti) Limes shall apply: *Provided further,* That Persian limes which fail to meet the requirements of such grade may be handled within the production area, if such limes meet all other applicable requirements of this section and meet the same minimum juice content requirement prescribed in the U.S. Standards for such limes and are handled in containers other than the containers prescribed in § 911.329 for the handling of limes between the production area and any point outside thereof; or

(3) Any limes of the group known as large-fruited or Persian "seedless" limes (including Tahiti, Bearss, and similar varieties) which are of a size smaller than 1¾ inches in diameter.

(b) Notwithstanding the provisions of paragraph (a)(3), not more than 10 percent, by count, of the limes in any lot of containers, other than master containers of individual bags, may fail to meet the applicable minimum size requirement: *Provided,* That no individual container of limes having a net weight of more than four pounds may have more than 15 percent, by count, of the limes which fail to meet such applicable size requirement.

(c) Terms used in the amended marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in the amended marketing agreement and order; and terms relating to grade and diameter, as used herein, shall have the same meaning as is given to the respective term in the United States Standards for Persian (Tahiti) Limes (§§ 51.1000–51.1016).

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

Dated: April 26, 1977, to become effective May 1, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-12292 Filed 4-28-77;8:45 am]

PART 929—CRANBERRIES GROWN IN THE STATES OF MASSACHUSETTS, RHODE ISLAND, CONNECTICUT, NEW JERSEY, WISCONSIN, MICHIGAN, MINNESOTA, OREGON, WASHINGTON, AND LONG ISLAND, IN THE STATE OF NEW YORK

Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of cranberries to be marketed from the 1977 crop at 248,604,800 pounds. Such action recognizes the supply situation confronting the cranberry industry and is needed to assure orderly marketing.

EFFECTIVE DATE: May 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202–447–3545).

SUPPLEMENTARY INFORMATION: Notice of rulemaking was published in the FEDERAL REGISTER on April 18, 1977 (42 FR 20143) that the Secretary of Agriculture was considering the issuance of a handling regulation designed to promote orderly marketing of cranberries grown in designated States. The proposal was recommended by the Cranberry Marketing Committee. This committee is established under the marketing agreement, as amended, and Order No. 929, as amended (7 CFR Part 929). This program regulates the handling of cranberries grown in the States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York, and is issued under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

The notice invited interested persons to file written comments regarding the proposal not later than April 25, 1977. A number of parties filed comments with regard to the proposed regulation. The primary objections were that the proposal (1) may result in some growers having excess allotment while others are short and (2) may favor one State over another. With regard to the first objection, the order provides for the transfer of any unused portion of annual allotment among growers. It also provides for the transfer of cranberries from a grower having a surplus to one needing additional cranberries. This may be accomplished by the committee or by a grower or handler as provided in the marketing order. With regard to the second objection, the grower allotment provisions under the order are applicable to the entire production area, and do not operate in favor of one State or locality to the detriment of another State or locality.

The committee recommended a marketable quantity of 248,604,800 pounds (2,486,048 barrels) of cranberries for the 1977–78 crop year. This quantity represents estimated sales of cranberries from the 1977–78 crop and provides for an adequate carryover into the 1978–79 crop year.

There has been a long term upward trend in the production of cranberries which in the past decade has resulted in crops one million barrels or over two-thirds larger than 10 years ago. Sales of fresh and processed cranberries have failed to keep pace with the upward trend in production. This has resulted in a chronic surplus since the beginning of this decade.

The committee projects a total available supply of 3,001,000 barrels of cranberries during 1977–78. This includes an estimated 1977 carry-in of 689,000 barrels, which is 24 percent larger than in 1976–77. The committee estimates sales at 2,100,000 barrels of cranberries, which is 5 percent larger than in 1976–77.

After consideration of all relevant matter presented, including the proposal set forth in the aforesaid notice, the views and comments submitted during the notice period, and other available information, it is found that the regulation, as hereinafter set forth, will tend to effectuate the declared policy of the act.

It is hereby further found that good cause exists for not postponing the effective date of this regulation until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) notice was given of the regulation by mailing the proposal to each cranberry grower of record and by publication of the proposal in the April 18, 1977, FEDERAL REGISTER, (2) as provided in the marketing agreement and order, this regulation applies to cranberries marketed during the 1977–78 season, which requires issuance of grower allotments on or before May 1, 1977, (3) compliance with this regulation will not require any special preparation by handlers which cannot be completed prior to the time handling of the 1977–78 crop of cranberries begins, (4) prompt issuance of this regulation will be beneficial to all interested persons because it should afford producers and handlers maximum time to plan their operations accordingly, and (5) no useful purpose will be served by postponing such issuance. The regulation is as follows:

§ 929.304 Marketable quantity and allotment percentage during the crop year beginning September 1, 1977.

(a) The marketable quantity during the crop year beginning September 1, 1977, shall be 248,604,800 pounds.

(b) As provided in § 929.49, the allotment percentage shall be 95 percent.

(c) Terms used herein shall have the same meaning as when used in the said marketing agreement and order.

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

Dated: April 27, 1977, to become effective May 1, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-12454 Filed 4-28-77;8:45 am]

[Lime Reg. 6; Reg. 5 Terminated]

PART 944—FRUITS; LIME REGULATIONS

Minimum Grade Requirement

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final Rule.

SUMMARY: This regulation lowers the minimum grade requirement applicable to imported Persian "seedless" limes from U.S. Combination, Mixed Color, to U.S. No. 2, Mixed Color grade to coincide with such requirements being made effective on Florida limes. The regulation is required by Federal law.

EFFECTIVE DATE: May 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202–447–3545.

SUPPLEMENTARY INFORMATION:

§ 944.205 Lime regulation 6.

(a) On and after the effective date of this section, the importation into the United States of any limes is prohibited unless such limes are inspected and meet the following requirements:

(1) Such limes of the group known as true "seeded" limes (also known as Mexican, West Indian, and Key limes and by other synonyms), meet the requirements of at least U.S. No. 2 grade for Persian (Tahiti) limes, except as to color;

(2). Such limes of the group known as large-fruited or Persian "seedless" limes (including Tahiti, Bearss, and similar varieties) grade at least U.S. No. 2, Mixed Color: *Provided,* That stem length shall not be considered a factor of grade, and tolerances for fruit affected by decay and for fruit failing to meet the requirements set forth in the U.S. Standards for Persian (Tahiti) Limes shall apply;

(3) Such limes of the group known as large-fruited or Persian "seedless" limes (including Tahiti, Bearss, and similar varieties) are of a size not smaller than 1¾ inches in diameter; and

(4) Notwithstanding the provisions of subparagraph (3), not to exceed 10 percent, by count, of limes in any lot of containers may fail to meet the applicable size requirement: *Provided,* That no individual container of limes having a net weight of more than 4 pounds may have more than 15 percent, by count, of limes which fail to meet such applicable size requirement.

(b) The Federal or Federal-State Inspection Service, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, is hereby designated as the governmental inspection service for the purpose of certifying the grade, size, quality, and maturity of limes that are imported into the United States. Inspection by the Federal or Federal-State Inspection Service with appropriate evidence thereof in the form of an official inspection certificate, issued by the respective service, applicable to the particular shipment of limes, is required on all imports of limes. Such inspection and certification services will be available upon application in accordance with the rules and regulations governing inspection and certification of fresh fruits, vegetables, and other products (7 CFR Part 51) but, since inspectors are not located in the immediate vicinity of some of the small ports of entry, such as those in southern California, importers of limes should make arrangements for inspection, through the applicable one of the following offices, at least the specified number of days prior to the time when the limes will be imported:

Port	Office	Advance notice (days)
All Texas points	Leo M. Denbo, 500 S. Nebraska Ave., San Juan, Tex. 78589, phone (512) 787-4091 or Charles E. Parragon, 724 E. Overland, El Paso, Tex. 79901, phone (915) 543-7723.	1
All New York points	Carmine J. Cavallo, Room 23A, Hunts Point Market, Bronx, N.Y. 10474, phone (212) 991-7668, -7669 or Charles D. Renick, 176 Niagara Frontier Food Terminal, Room 8, Buffalo, N.Y. 14206, phone (716) 824-1555.	1
All Arizona points	B. O. Morgan, 225 Terrace Ave., Nogales, Ariz. 85621, phone (602) 287-2902.	1
All Florida points	Bennie C. Tiner, 1250 N.W. 12th Ave., Rm. 530, Miami, Fla. 33136, phone (305) 324-0110 or Cecil Brantley, 550 3rd Street, N.W., Winter Haven, Fla. 33880, phone (813) 294-3311 or Johnnie L. Corbitt, Unit 46, 3335 North Edgewood Ave., Jacksonville, Fla. 32205, phone (904) 354-5983.	1
All California points	T. A. Trombatore, 784 S. Central Ave., Rm. 206, Los Angeles, Calif. 90021, phone (213) 622-8750.	3
All Louisiana points	Leonard E. Mixon, 5927 Federal Office Bldg., 701 Loyola Ave., New Orleans, La. 70113, phone (504) 589-6741, -6742.	1
All other points	M. A. Castille, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250, phone (202) 447-5870.	3

(c) Inspection certificates shall cover only the quantity of limes that is being imported at a particular port of entry by a particular importer.

(d) The inspection performed, and ceritficates issued, by the Federal or Federal-State Inspection Service shall be in accordance with the rules and regulations of the Department governing the inspection and certification of fresh fruits, vegetables, and other products (7 CFR Part 51). The cost of any inspection and certification shall be borne by the applicant therefor.

(e) Each inspection certificate issued with respect to any limes to be imported into the United States shall set forth, among other things:

(1) The date and place of inspection;

(2) The name of the shipper, or applicant;

(3) The commodity inspected;

(4) The quantity of the commodity covered by the certificate;

(5) The principal identifying marks on the container;

(6) The railroad car initials and number, the truck and the trailer license number, the name of the vessel, or other identification of the shipment; and

(7) The following statement if the facts warrant: Meets U.S. import requirements under section 8e of the Agricultural Marketing Agreement Act of 1937, as amended.

(f) Notwithstanding any other provision of this regulation, any importation of limes which, in the aggregate, does not exceed 250 pound, net weight, may be imported without regard to the restrictions specified herein.

(g) No provisions of this section shall supersede the restrictions or prohibitions on limes under the Plant Quarantine Act of 1912.

(h) Nothing contained in this regulation shall be deemed to preclude any importer from reconditioning prior to importation any shipment of limes for the purpose of making it eligible for importation.

(i) The terms used herein relating to grade and diameter shall have the same meaning as when used in the United States Standards for Persian (Tahiti) Limes (7 CFR 51.1000–51.1016). Importation means release from custody of the United States Bureau of Customs.

(j) Lime Regulation 5 (36 FR 10774, 22008; 38 FR 12603; 40 FR 2793; 41 FR 7384, 16548, 54751) is hereby terminated at the effective time hereof.

It is hereby found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective time of this regulation beyond that hereinafter specified (5 U.S.C. 553) in that (a) the requirements of this import regulation are imposed pursuant to section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), which makes such regulation mandatory; (b) such regulation imposes the same restrictions as are being made applicable to domestic shipments of limes under Lime Regulation 37 (§ 911.339), which becomes effective May 1, 1977; (c) compliance with this import regulation will not require any special preparation which cannot be completed by the effective time hereof; and (d) this regulation relieves restrictions on the importation of limes.

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

Dated: April 26, 1977, to become effective May 1, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-12293 Filed 4-28-77;8:45 am]

proposed rules

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.

CIVIL SERVICE COMMISSION

[5 CFR Part 552]

PROCESSING GARNISHMENT ORDERS ISSUED AGAINST U.S.

Proposed Uniform Procedures for Executive Agencies

Correction

In FR Doc. 77-11066, appearing at page 19882 in the issue of Friday, April 15, 1977, § 552.102(a), lines 3 and 4 should read "dependent establishments, the Postal Service, and the Postal Rate Commission,".

FEDERAL ENERGY ADMINISTRATION

[10 CFR Parts 211 and 212]

CONFORMING AMENDMENTS TO ALLOCATION AND PRICE REGULATIONS TO IMPLEMENT PURCHASE AUTHORITY FOR STRATEGIC PETROLEUM RESERVE

AGENCY: Federal Energy Administration (FEA).

ACTION: Notice of proposed rulemaking and public hearing.

SUMMARY: FEA requests further comments concerning proposed amendments to the allocation regulations (42 FR 8362, February 10, 1977) that would further modify the FEA domestic crude oil allocation program (the "entitlements" program) with respect to acquisition of crude oil for the Strategic Petroleum Reserve ("SPR").

FEA also requests comments on proposed amendments to the price regulations. Prices charged in sales of crude oil for the SPR would be subject to existing price regulations, with slight modifications. A special provision relating to actual costs of delivery to the Government for the SPR is proposed and comments are requested on whether a special provision for a handling fee is needed.

DATES: Comments by May 6, 1977, 4:30 p.m. Requests to speak by May 3, 1977, 4:30 p.m.

ADDRESS: Comments and requests to speak to: Executive Communications, Room 3309, Federal Energy Administration, Box LV, Washington, D.C. 20461.

Address and time for hearing: May 12, 1977, 9:30 a.m., Room 2105, 2000 M Street, NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Robert C. Gillette (Hearing Procedures), 2000 M Street, NW., Room 2214B, Washington, D.C. 20461. 202-254-5201.

Ed Vilade (Media Relations), 12th and Pennsylvania Avenue, NW., Room 3104, Washington, D.C. 20461. 202-566-9833.

Michael E. Carosella (SPR Program Office), 1726 M Street, NW., Room 200, Washington, D.C. 20461. 202-634-5500.

Doris Dewton (Entitlements Program Office), 2000 M Street, NW., Room 6128H, Washington, D.C. 20461. 202-254-8660.

Laura Kuitunen and Craig Bamberger (Office of General Counsel), 12th and Pennsylvania Avenue, NW., Room 5138, Washington, D.C. 20461. 202-566-9567.

SUPPLEMENTARY INFORMATION:

I. Background.
II. Procedures for SPR acquisitions.
A. Description of first solicitations.
B. Subsequent solicitations.
III. Proposed amendments.
A. Modifications to the allocation regulations concerning application of the costs and sales revenues of entitlements.
B. Modifications to the price regulations.
C. Purchases from foreign persons.
IV. Comments requested.
V. Comment procedures.

I. BACKGROUND

Title I, Part B of the Energy Policy and Conservation Act ("EPCA"), enacted on December 22, 1975, set forth requirements for the Federal Energy Administration ("FEA") to acquire up to one billion barrels of crude oil and refined petroleum products for storage in a Strategic Petroleum Reserve ("SPR"). On December 14, 1976 FEA submitted to Congress an SPR Plan ("Plan") detailing FEA's proposals for designing, constructing, and filling the storage and related facilities of the SPR. The Plan was resubmitted on February 16, 1977 to correct a technical oversight. This Plan, which took effect on April 18, 1977, provides for the storage of 150 million barrels of crude oil by December 22, 1978, 325 million by December 22, 1980, and 500 million by December 22, 1982. To meet these goals, FEA must commence crude oil acquisition activities immediately.

In the SPR Plan, FEA stated its intention to propose use of the authorities granted in the Emergency Petroleum Allocation Act of 1973, as amended ("EPAA"), to allow the Government to obtain the benefits of domestic crude oil price controls for imported crude oil for the SPR to the same extent that refiners receive such benefits under the entitlements program for processing imported crude oil. The Plan also provided that a final choice among several options being considered by FEA, including amendments to the entitlements program, would be made following completion of the review process, including consideration of the requirements of the National Environmental Policy Act of 1969.

As part of the review process, FEA issued a notice of proposed rulemaking on February 5, 1977 to elicit public comments on FEA's current domestic crude oil allocation program (the "entitlements program") as it is proposed to be modified with respect to FEA's proposed procedures for acquisition of crude oil for the SPR. (42 FR 8362, February 10, 1977.) Final amendments to the regulations regarding certain issues addressed in the notice of proposed rulemaking are being issued concurrently with this notice. Other issues have been reserved for further consideration, and comments on any other issues pertaining to the modifications to the entitlements program for sales of domestic crude oil for the SPR are requested in this proceeding.

The purpose of this notice of proposed rulemaking is to set forth proposed conforming amendments to the price regulations concerning prices for sales of crude oil for the SPR to be considered along with possible further changes in the entitlements program.

II. PROCEDURES FOR SPR ACQUISITIONS

A. DESCRIPTION OF FIRST SOLICITATIONS

As described in more detail in the concurrently issued notice adopting amendments to Part 211, the solicitations for the first 10,000,000 barrels of crude oil expected to be issued during the period of April through June 1977 by the Defense Fuel Supply Center, will be limited to imported crude oil and structured as follows. Two million barrels are expected to be procured in one or more purchases for prompt delivery in July, August and possibly September 1977, dependent upon the availability of SPR storage facilities. The balance of 8,000,000 barrels, for deliveries commencing in August or later and continuing throughout 1977, are expected to be acquired separately. It is anticipated that the first solicitation will require the submission of proposals by the end of May, and that initial source selection will be completed by August 1977.

Under the procedures contemplated by the concurrently adopted amendments, payment from the Government of the contract price, less $3 per barrel, would be due upon acceptance of crude oil delivered for the SPR and submission of appropriate documentation. Supplier firms would then have their SPR deliveries of crude oil reflected in the entitlement notice published in the month following acceptance by the Government of the crude oil. The $3 per barrel balance of the purchase price would be paid by the end of

the month following the month in which the related acceptance of a delivery of crude oil for the SPR was made, partly by the Federal Government and partly by issuance of entitlements.

The first solicitations, for the first 10,000,000 barrels, will provide for submission of offers with respect to imported crude oil only (including previously imported crude oil), although subsequent procurement may provide also for sales of domestic crude oil.

It should be noted that certain aspects of the proposed changes to the price regulations will be directly related to the inulations will be directly related to the formulation of offers for these first solicitations. Therefore, firms submitting offers should evaluate the final price rules in formulating their offers.

B. SUBSEQUENT SOLICITATIONS

As noted above, the solicitations for proposals for the acquisition of the first 10,000,000 barrels of crude oil for the SPR will be limited to imported crude oil, principally because the amendments to the entitlements program and to the price regulations that are necessary to facilitate the acquisition of imported crude oil appear to be less complex than those associated with the possible acquisition of domestic crude oil subject to lower tier or upper tier first sale ceiling prices. In subsequent solicitations, however, FEA may request bids or proposals involving domestic as well as imported crude oil. Accordingly, although no decision has been reached on the matter, the proposed amendments to the regulations set forth herein are sufficiently broad to accommodate sales of domestic and imported crude oil for the SPR.

III. PROPOSED AMENDMENTS

Sales of crude oil in the United States are either exempt from FEA price regulations (as "the first sale into U.S. commerce," pursuant to § 212.53(b); as the first sale of crude oil produced and sold from a stripper well property pursuant to § 212.54; or as the first sale of U.S. owned crude oil pursuant to the provisions of the Naval Petroleum Reserves Production Act of 1976 and § 212.55) or are subject to price regulations (Subpart D of Part 212 applies to each first sale of domestic crude oil other than exempt sales and Subpart F or Part 212 applies to each sale of crude oil, other than the first sale, by resellers, reseller-retailers, retailers and refiners).

Although the procurement procedures to be used in the acquisition of crude oil for the SPR may result in sales at less than the maximum prices permitted by the price regulations, the price regulations will nevertheless be applicable to such sales to the same extent as they are applicable to any other sales.

The purpose of the amendments proposed herein is to facilitate the sale of crude oil to the Government for the SPR by segregating, insofar as practicable, the effects of an SPR sale of crude oil from the seller's other FEA-regulated sales.

A. MODIFICATIONS TO THE ALLOCATION REGULATIONS CONCERNING APPLICATION OF THE COSTS AND SALES REVENUES OF ENTITLEMENTS

Section 211.67(m) provides generally that the cost of entitlements purchased or the sales revenues from entitlements sold are to be applied to adjust the cost of crude oil or product in inventory of firms. Inasmuch as entitlements issued in conjunction with sales of crude oil for the SPR serve as partial payment to the seller of that crude oil and are designed to reduce the cost of crude oil to the Government, there does not appear to be any basis for a requirement that the amount of entitlements transactions attributable to sales of crude oil for the SPR be applied by the seller as provided for in § 211.67(m).

Accordingly, § 211.67(m) is proposed to be amended to provide that with respect to entitlements issued (and sold or used to diminish a firm's requirement to purchase entitlements) in connection with a firm's sales for the SPR, or with respect to entitlements required to be purchased in connection with a firm's sales for the SPR, neither the sales revenues from entitlements sold (or the reduction in cost of entitlements purchased), nor the cost of entitlements required to be purchased, are to constitute an adjustment to the cost of crude oil or product in inventory of any firm selling crude oil for the SPR.

It should be noted in this regard that although the amendments to the entitlements program being adopted contemporaneously herewith treat imported crude oil accepted for the SPR as "crude oil runs to stills," such treatment is for purposes of the entitlements program only and, together with the amendments to § 211.67(m) proposed herein, would have no impact on a refiner's cost of crude oil for purposes of the refiner price regulations. This is consistent with the purpose of the refiner price regulations (Subpart E of Part 212), which define the "increased cost of crude oil" which is eligible to be passed through in prices charged for covered products as the "increased cost of crude oil * * * purchased or landed * * * for refining." (§ 212.83(c) (2) (iii) (C), emphasis added.)

B. MODIFICATIONS TO THE PRICE REGULATIONS

A new § 212.95 is proposed to be added to specify the manner in which the price regulations apply to sales of crude oil for the SPR.

As was stated above, the purpose of the amendments proposed herein is to facilitate the sale of crude oil to the Government for the SPR by segregating, insofar as practicable, the effects of an SPR sale of crude oil from the seller's other FEA-regulated sales.

To this end, it is proposed that the maximum lawful price for sales of crude oil to the Government for the SPR be calculated on the basis of a separate price computation for each such sale (as though a separate inventory existed), that entitlements attributable to each such sale be taken into account only with respect to the transaction with the Government with respect to which the entitlements were purchased or sold, and that any unrecovered increased costs attributable to crude oil sold to the Government for the SPR not be available to be applied in determining the maximum allowable price with respect to any other sale.

A special provision is proposed to permit certain additional costs of transporting crude oil to the Government delivery point to be included in the maximum lawful price and comments are requested on whether a special provision is needed to provide for the addition of a specified handling charge for each barrel of crude oil sold.

For each solicitation and acquisition after the first solicitations covering 10,000,000 barrels of imported crude oil, special provisions are also proposed to facilitate sales for the SPR and to minimize transportation costs by permitting sellers having various categories of crude oil available to them (e.g., lower tier crude oil and imported crude oil) to substitute one category of crude oil for another, provided that appropriate adjustments are made.

1. *Price Rule.* The proposed § 212.95 would provide that the net return to sellers in sales of crude oil for the SPR shall not exceed the maximum lawful price, if any, applicable to the crude oil delivered plus actual expenses incurred in delivering the oil to the Government.

FEA is in a separate rulemaking proceeding considering a number of issues relating to the applicability of Subpart F to resales of crude oil generally, and does not intend in the current proceeding to preempt the resolution of any of those issues.

When crude oil is delivered to the Government, it is proposed that sellers will be required to certify the volume and, if applicable, the maximum lawful price under § 212.93 (but would be permitted to treat each lot of oil separately acquired as a separate "product in inventory" whether or not it has historically done so), the volume and the applicable ceiling prices under §§ 212.73 or 212.74, or the volume and that no ceiling price is applicable to a first sale of imported crude oil into U.S. commerce. Thus, the maximum lawful price for sales of crude oil to the Government for the SPR would, if they were first sales of domestic crude oil pursuant to Subpart D, be subject to the existing regulations of that Subpart. However, the present regulations for resales of crude oil pursuant to Subpart F would be modified with respect to sales for the SPR to provide for a separate price computation for each lot of crude oil as though a separate inventory existed.

With respect to lower and upper tier controlled crude oil and crude oil priced under § 212.93, the payments to sellers will be reduced if the net return to the seller (Line (g) in Table I below) exceeds

the ceiling or maximum lawful price for the crude oil, plus actual expenses incurred in making delivery to the Government. No adjustment will be required for uncontrolled oil.

FEA requests comments on how to ascertain the actual costs incurred in making delivery of the crude oil to the Government for the SPR (exclusive of costs that are not already included in the maximum lawful price) and on whether there is a need for any handling fee and, if so, in what amount.

2. *No other Use of Unrecovered Increased Costs Associated With SPR Sales.* The proposed § 212.95 would provide that, with respect to resale for the SPR of crude oil subject to maximum lawful prices computed pursuant to Subpart F or subject to first sale ceiling prices pursuant to Subpart D, if the net return to the seller (excluding actual delivery expenses and the handling fee) is less than the maximum lawful price, the full maximum lawful price is to be deemed recovered; no carry-forward or other application of any unrecovered amounts to sales prices to other customers would be permitted.

3. *Interchangeability of Lower Tier, Upper Tier, and Uncontrolled Oil.* The proposed § 212.95 would provide that—after the initial solicitations for 10,000,000 barrels, which are confined to actual imported oil—when certifying the lower tier, upper tier, or uncontrolled oil status of volumes of crude oil delivered to the Government, as stated in section III.B. above, a firm may, subject to the conditions set forth below, attribute to the SPR oil the ceiling price or other maximum lawful price of any crude oil (whether lower tier, upper tier, or uncontrolled of identical grade and quality actually in inventory at the time delivery is made, regardless of the actual source of the crude oil actually delivered.

If, for example, a seller delivers 35°, .2 percent sulfur crude oil to the SPR that is actually lower tier crude oil but certifies it as imported crude oil (because it has at the time of delivery both lower tier and imported 35°, .2 percent sulfur crude oil in inventory in quantities at least equal to the quantity delivered to the Government), it will receive a higher net return from the sale to the Government than if the crude oil were certified as lower tier, but will be required to certify an equivalent volume of like grade and quality imported crude oil as lower tier crude oil and to deem the cost of such crude oil to be the cost of the lower tier crude oil that was actually furnished to the Government. (*See* Table below comparing cost to the Government and net return to the firm in the two cases. As illustrated in Table I, the net cost to the Government is unaffected.)

If domestic crude oil subject to lower tier or upper tier first sale ceiling prices pursuant to Subpart D or other maximum lawful prices pursuant to Subpart F is made eligible for sale to the Government for the SPR and such sales are subject to the entitlements program, the net return to two firms offering crude oil at the same delivered cost to the Government (in the case of Firm A, lower tier crude oil, and in the case of Firm B, uncontrolled crude oil) is illustrated in the folowing table. As was noted in this regard in the February 5, 1977 notice, all offers are to be stated in terms of a fully delivered price to the Government, with the payment obligation of the Government adjusted downward by the value of an entitlement per barrel of uncontrolled crude oil in the month of delivery.

TABLE 1

	Firm A (old oil)	Firm B (uncontrolled oil)
Cost to Government:		
a. Offer price	$13.25	$13.25
b. Net entitlement value [1]	2.35	2.35
c. Net cost to Government (a.-b.)	10.90	10.90
Net return to firm:		
d. Government payment to firm (c.)	10.90	10.90
e. Value of entitlement received (b.)[1]	2.35	2.35
f. Entitlement purchase required [1]	7.84	
g. Net return to firm (d.+e.−f.)	5.41	13.25

[1] Assumes entitlement value of $7.84 and domestic crude oil supply ratio of 0.3.

As illustrated by the table above, the net return ("g.") to the firm that sells crude oil to the Government for the SPR, after entitlements adjustments, is the appropriate measure for determining whether, in any sales subject to the price regulations, the price is at or below the price permitted by the regulations.

Accordingly, § 212.95 as proposed would specify that the net return to the seller of crude oil for the SPR, including any reduction in costs incurred or any revenues realized in entitlement transactions attributable to such sale, but not including actual costs of delivering the crude oil would be deemed the selling price for purposes of determining whether the price regulations had been complied with. Section 212.95 would further provide that the payment obligation of the Government would be adjusted downward in any sales for the SPR in which the net return to the seller exceeded any applicable price regulations (plus allowable transportation costs).

Comments are specifically requested as to whether this portion of the proposal, regarding interchangeability, is subject to abuse which might result in overcharges to other purchasers by firms subject to Part 212. If this portion of the proposed procedures is subject to potential abuse, comments are requested as to whether the proposal may be modified to eliminate any such potential abuse or whether this portion of the proposal should not be adopted.

C. PURCHASES FROM FOREIGN PERSONS

Foreign firms would be permitted to offer crude oil to the Government. For purposes of resolving interpretive issues arising under § 212.53, it is proposed that the sale by a foreign firm to the Government would be a first sale into U.S. commerce and exempt from Part 212 pursuant to § 212.53(b), and that no sales by domestic firms would be deemed first sales into U.S. commerce.

Comments are requested on whether it is possible to identify sales by domestic firms which should qualify as first sales into U.S. commerce and by what criteria such sales could be readily identified Such sales should represent incremental crude oil importation that would not have occurred but for the opportunity to sell such crude oil to the Government for the SPR.

IV. COMMENTS REQUESTED

Comments are invited generally as to the practicability and desirability of these procedures.

In this rulemaking proceeding, FEA is also requesting additional comments addressing the proper treatment under the entitlements program of domestic crude oil sold for the SPR. In its concurrently issued final rule providing for entitlement issuances with respect to imported crude oil sold to the Government for the SPR, FEA states that further amendments to the entitlements program that would cover sales of domestic crude oil for the SPR would be adopted in the future so as to be effective for the Government's solicitation of offers of crude oil subsequent to the solicitations for the first 10,000,000 barrels. FEA intends to review the additional comments received during this proceeding in its formulation of these further amendments to the entitlements program.

V. COMMENT PROCEDURES

A. WRITTEN COMMENTS

Interested persons are invited to participate in this rulemaking by submitting data, views or arguments with respect to the proposals set forth in this notice. Comments should be identified on the outside envelope and on the document with the designation "Strategic Petroleum Reserve — Conforming Amendments to Price Regulations." Fifteen copies should be submitted.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

B. PUBLIC HEARINGS

1. *Request Procedure.* The times and places for the hearings are indicated in the dates section of this preamble. If necessary to present all testimony, the hearing will be continued to 9:30 a.m. of the next business day following the first day of the hearing.

Any person who has an interest in the proposed amendments issued today, or who is a representative of a group or class of persons that has an interest in today's proposed amendments, may make a written request for an opportunity to make oral presentation. The person making the request should be prepared to describe the interest concerned, if appropriate, to state why he or she is a proper representative of a group or class

of persons that has such an interest, and to give a concise summary of the proposed oral presentation and a phone number where he or she may be contacted through the day before the hearing.

Each person selected to be heard will be so notified by the FEA before 4:30 p.m., e.s.t., May 4, 1977 and must submit 100 copies of his or her statement to Regulations Management, Room 2214, 2000 M Street NW., Washington, D.C., before 4:30 p.m., e.s.t., on May 9, 1977.

2. *Conduct of the Hearings.* The FEA reserves the right to select the persons to be heard at these hearings, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearings. The length of each presentation may be limited, based on the number of persons requesting to be heard.

An FEA official will be designated to preside at the hearings. These will not be judicial or evidentiary-type hearings. Questions may be asked only by those conducting the hearings, and there will be no cross-examination of persons presenting statements. Any decision made by the FEA with respect to the subject matter of the hearings will be based on all information available to the FEA. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if he so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit questions to be asked of any person making a statement at the hearings, to Executive Communications, FEA, before 4:30 p.m., e.s.t., May 5, 1977. Any person who wishes to ask a question at the hearings may submit the question, in writing, to the presiding officer. The FEA or the presiding officer, if the question is submitted at the hearings, will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearings will be announced by the presiding officer.

A transcript of the hearings will be made and the entire record of the hearings, including the transcript, will be retained by the FEA and made available for inspection at the Freedom of Information Office, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter.

As required by section 7(c)(2) of the Federal Energy Administration Act of 1974, Pub. L. 93-275, a copy of this notice has been submitted to the Administrator of the Environmental Protection Agency for his comments concerning the impact of this proposal on the quality of the environment. The Administrator has no comments.

This proposal has been reviewed in accordance with Executive Order 11821, issued November 24, 1974, and has been determined to be of a nature that requires no evaluation of its economic impact. The Federal Energy Administration has, however, prepared an economic impact evaluation of the February 5 proposed amendments to the provisions of the domestic crude oil allocation program (the "entitlements program") for implementing purchase authority for the SPR.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-163, as amended, Pub. L. 94-385; E.O. 11790, 39 FR 23185.)

In consideration of the foregoing, Parts 211 and 212 of Chapter II, Title 10 of the Code of Federal Regulations, is proposed to be amended as set forth below.

Issued in Washington, D.C., April 25, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

1. Section 211.67 is amended in paragraph (m) to add a new subparagraph (5) to read as follows:

§ 211.67 Allocation of domestic crude oil.

* * * * *

(m) *Adjustments to crude oil and product costs.*

* * * * *

(5) *Strategic Petroleum Reserve entitlements transactions.* Notwithstanding the other provisions of this § 211.67(m), entitlements issued by the Government to a firm associated with acquisitions from that firm for the Strategic Petroleum Reserve ("SPR") which are sold by that firm (or which diminish the entitlements purchase obligations of that firm) and entitlements which are required to be purchased by a firm because of sales by that firm for the SPR shall not:

(i) Permit or require any adjustment to that firm's cost of crude oil in § 212.83 (c)(2) if it is a refiner;

(ii) Permit or require any adjustment to that firm's cost of product in inventory if it is a reseller or retailer; or

(iii) Permit or require any adjustment to that firm's prices in other first sales of crude oil if it is a producer.

2. A new section 212.95 is added to read as follows:

§ 212.95 Strategic petroleum reserve crude oil pricing.

(a) *Scope.* This section applies to each sale of crude oil to the Government for the Strategic Petroleum Reserve ("SPR").

(b) *Rule.* Crude oil shall be sold to the Government for the SPR at a net return to the seller of not more than any applicable per barrel ceiling price or other maximum lawful price, plus actual expenses incurred in delivering the crude oil to the Government. As used in this section, the term "net return to the seller" means the payment to the seller by the Government for crude oil acquired for the SPR, plus or minus any costs or revenues (including reduced purchase obligations) for the purchase or sale of entitlements that are attributable to such sale of crude oil to the Government for the SPR.

(1) When proposals are submitted and when crude oil is delivered to the Government, bidders and sellers shall certify what volumes of crude oil are lower tier, upper tier, or imported or domestic uncontrolled crude oil and shall certify the ceiling or other maximum lawful price, if any, applicable to the volumes so classified. A bidder or seller certifying the maximum lawful price pursuant to § 212.93 may treat each lot of crude oil separately acquired as a separate "product in inventory" whether or not it has historically done so.

(2) For each solicitation and acquisition of crude oil for the SPR (other than the solicitations and acquisitions pursuant thereto by the Government for the first 10,000,000 barrels of crude oil for the SPR), a seller of crude oil to the Government for the SPR may certify such crude oil as lower tier, upper tier, or uncontrolled crude oil with the ceiling price or other maximum lawful price, if any, applicable to such crude oil so classified, without regard to the actual source of the crude oil thus certified, provided that the seller has an equivalent volume of crude oil of identical grade and quality of the category thus certified in inventory at the time delivery is made, and provided also that such equivalent volume of like grade and quality crude oil in inventory is simultaneously recertified to correspond to the category of the crude oil that was actually furnished to the Government and that the cost to the seller of such equivalent volume of like grade and quality crude oil in inventory is simultaneously deemed to be the cost of the seller of the crude oil actually furnished to the Government.

(3) Payments to sellers shall be reduced if the net return to the seller would otherwise exceed any applicable ceiling price or other maximum lawful price, plus allowable expenses incurred in making delivery to the Government.

(4) Any sale by a foreign firm to the Government for the SPR will be deemed a first sale into U.S. commerce. No sale by a domestic firm will be deemed a first sale into U.S. commerce. A domestic firm is any firm with its principal place of business in the United States.

[FR Doc.77-12257 Filed 4-26-77;10:05 am]

CIVIL AERONAUTICS BOARD

[14 CFR Part 241]

[EDR-323; Docket 30781; Dated: April 22, 1977]

UNIFORM SYSTEM OF ACCOUNTS AND REPORTS FOR CERTIFICATED AIR CARRIERS

Revision of Accounting and Reporting Requirements for Small Air Carriers

AGENCY: Civil Aeronautics Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the Board's accounting and reporting requirements by reducing the level of reporting requirements for small certificated air carriers and upgrading the submission of traffic and capacity statistics for supplemental air carriers. The reductions for small certificated carriers would be accomplished by: (1) Revising the current air carrier groupings for reporting purposes and (2) relieving the small carriers within the revised carrier groups of the burden of filing certain CAB Form 41 schedules which reflect air carrier financial and traffic and capacity data. The upgrading of the supplemental carriers' traffic and capacity statistics would be accomplished by placing these carriers on a comparable basis with certificated route air carriers in order to recognize their increasing importance within the overall air transportation industry. This proposal was developed as part of the Board's on-going effort to reduce and improve air carrier reporting wherever possible.

DATES: Comments must be received on or before May 30, 1977.

ADDRESSES: Comments should be sent to Docket 30781, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. Comments may be examined at the Docket Section, Civil Aeronautics Board, Room 711, Universal Building 1825 Connecticut Avenue, NW., Washington, D.C., as soon as they are received.

FOR FURTHER INFORMATION CONTACT:

Raymond Kurlander, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, 202-673-5270.

SUPPLEMENTARY INFORMATION: In connection with the Board's stated goal of reducing air carrier reporting burden wherever possible, an extensive review of the accounting and reporting requirements imposed on the smaller carriers in the air transportation industry by Part 241 of the Economic Regulations, Uniform System of Accounts and Reports for Certificated Air Carriers (USAR) has been undertaken to identify accounting or reporting requirements for which the benefits to the Board's regulatory programs do not appear commensurate with the burdens imposed. In this regard, it should be noted that the principal benefit of many reports is the measurement of industry trends through data summaries and that the smaller carriers, as a group, make up a relatively small percentage of the industry totals.

While the Boards accounting provisions currently permit relief for small carriers in the scope of accounts which must be maintained, all route air carriers are subject to essentially the same reporting requirements with very little distinction made for carrier size. This observation equally applies to all supplemental air carriers. As a result of this, there are indications, based on late filings and correspondence, that some small carriers have experienced difficulty in meeting the reporting requirements presently imposed upon them. These facts, together with the Board's desire to reduce reporting burden whenever possible and the trend toward the issuance of certificates to new smaller carriers such as Air New England, Munz Northern, Air Midwest, and Rich International have caused us to consider the need for a new data collection system with variations according to the size of carriers.

Our review of the reports currently submitted by smaller air carriers disclosed that a number of the current reports submitted to the Board on a recurrent basis are of questionable regulatory need. The possible elimination of reports for which there is not a clearly defined regulatory need is but one aspect of the development of a small carrier reporting system.

Besides reviewing the CAB Form 41 schedules by weighing the burden imposed against the benefits achieved, the air carrier groupings as presently contained in the USAR were analyzed to ensure that the benefits of the reports reduction program will accrue to all eligible carriers. Additionally, the regulatory need for smaller carriers to submit service segment data to the Board has also been explored. These and other matters will be discussed below.

AIR CARRIER GROUPINGS

Under current regulations, there are three route air carrier groupings and two supplemental air carrier groupings which are based on the size of carrier operations. These carrier groupings were established to relate carrier size to the scope of the system of accounts which must be maintained by individual carriers. These groupings permitted smaller air carriers to maintain accounting systems with a lesser degree of detail and scope of accounts than that required of larger carriers. In the past, we have reviewed the air carrier groupings to ensure that the level of accounting is commensurate with an air carrier's level of operations. This proposal would expand the concept of relating regulatory need to carrier size to include reporting as well as accounting requirements.

With the advent of a reporting system which recognizes variations in carrier size, the need to periodically review the grouping of air carriers becomes even more pronounced. In this regard, we have performed an in-depth review of the current air carrier groupings to identify possible areas of improvement and simplification. In conjunction with this review, an analysis of the Board's current reporting requirements has highlighted three basic levels of reporting which we have identified as necessary in supporting the Board's regulatory functions. In general, the Board maintains an accounting and statistical data base to ensure the timely availability of the information required to support the Board's route, rate, subsidy, and other regulatory activities. With the recent certification of new smaller carriers, it becomes imperative to seek to establish a reporting system which reflects the relative impact such carriers have on the overall air transportation system.

In relating carrier grouping, carrier size, and level of reporting, we feel that the best approach would be to establish three basic air carrier groupings which would reflect the three proposed levels of reporting. The proposed Group I (lowest) level of reporting would reflect a certain basic body of facts which is required from all certificated carriers, irrespective of their level of operations. Group II would consist of those carriers whose level of operations warrants a slightly higher reporting level. The third group of carriers (Group III) would encompass those carriers whose operations have a significant impact on the air transportation industry.

Regarding the placement of individual carriers within specific carrier groups, we are proposing to use total operating revenues as the criterion for the initial assignment of carriers to carrier groups. We have found, through extensive analysis, that total operating revenues provides an easy means of measuring a carrier's size relative to the overall air transportation industry. It also represents a criterion which is both easily computed and understood. In initially establishing the proposed carrier groupings, the following criteria were used:

Air carrier group:	*Total operating revenue range*
I	0–$10,000,000
II	$10,000,001–$75,000,000
III	$75,000,001+

We are also proposing to include these criteria within the body of the regulations as a historical reference point in the assignment of carriers to a specific carrier group.

As proposed, the use of operating revenue criteria would enable carriers of comparable size to be analyzed through the use of a common data base. In addition, this criterion would still maintain a common data base for analyzing industry groups such as the local service carriers and trunk carriers. However, we wish to emphasize that, while we would initially use a carrier's total operating revenues as the sole criterion for placing it within a particular group, the carrier's future operating revenues will not automatically determine its classification. For example, a carrier intially listed as a Group I carrier would not automatically become a Group II carrier as soon as its operating revenues rose above $10,000,000; neither would a carrier initially listed as a Group III carrier automatically become a Group II carrier if its operating revenues fell below $75,000,000;

and, by the same token, neither would a carrier initially listed as a Group II carrier be ineligible for reclassification as a Group I carrier simply because its operating revenues continue to exceed $10,000,000. Periodic reviews of the criteria for establishing carrier groups as well as the classification of individual carriers will be performed to ensure that each carrier's level of reporting is supported by a discernible regulatory need; moreover, when an air carrier feels that it should be placed in another grouping, such carrier may petition the Board at any time for reclassification of its group status.

Applying the foregoing criteria at the present time would result in the following air carrier groupings:

Group I air carriers:
- Air Micronesia, Inc.
- Air Midwest, Inc.
- Aspen Airways, Inc.
- Chicago Helicopter Airways, Inc.
- Evergreen International Airlines, Inc.
- Kodiak-Western Alaska Airlines, Inc.
- McCulloch International Airlines, Inc.
- Modern Air Transport, Inc.
- Munz Northern Airlines, Inc.
- New York Airways, Inc.
- Reeve Aleutian Airways, Inc.
- Rich International Airways, Inc.
- Wright Air Lines, Inc.

Group II air carriers:
- Airlift International, Inc.
- Air New England, Inc.
- Alaska Airlines, Inc.
- Aloha Airlines, Inc.
- Capitol International Airways, Inc.
- Hawaiian Airlines, Inc.
- Wien Air Alaska, Inc.

Group III air carriers:
- Allegheny Airlines, Inc.
- American Airlines, Inc.
- Braniff Airways, Inc.
- Continental Air Lines, Inc.
- Delta Air Lines, Inc.
- Eastern Air Lines, Inc.
- The Flying Tiger Line Inc.
- Frontier Airlines, Inc.
- Hughes Air Corp., d/b/a Hughes Airwest
- National Airlines, Inc.
- North Central Airlines, Inc.
- Northwest Airlines, Inc.
- Overseas National Airways, Inc.
- Ozark Air Lines, Inc.
- Pan American World Airways, Inc.
- Piedmont Aviation, Inc.
- Seaboard World Airlines, Inc.
- Southern Airways, Inc.
- Texas International Airlines, Inc.
- Trans International Airlines, Inc.
- Trans World Airlines, Inc.
- United Air Lines, Inc.
- Western Air Lines, Inc.
- World Airways, Inc.

CAB Form 41 Schedules

Currently, all certificated route carriers are required to file with the Board essentially the same financial and traffic and capacity data on CAB Form 41 schedules. This fact is applicable to supplemental carriers as well. These schedules are submitted in a recurrent basis pursuant to Part 241 of the Board's Economic Regulations. In keeping with our goal of reducing, improving, and simplifying reporting requirements, the Form 41 schedules are under continuous review by the Board's staff to highlight areas where such reporting changes are possible. The development of a small carrier reporting system is one part of this continuing analysis of reporting burden.

In focusing on small carriers, we have been able to identify a number of schedules where the data collected is either not supported by a specfic regulatory need or not supported by benefits which outweigh the burden imposed. As stated earlier, our proposed small carrier reporting system envisions three levels of reporting based on the Group I, Group II, and Group III carrier groupings. This will enable regulatory need and benefits derived to outweigh, to the maximum extent possible, the burden imposed.

In summary, we are proposing the elimination of the following CAB Form 41 schedules:

GROUP I—ROUTE AIR CARRIERS

Schedule No.:	*Schedule Title*
A-1	Status of Accounting Plans Required to be Filed.
B-3	Statement of Changes in Stockholders' Equity.
B-4	Allowance for Uncollectible Accounts; Accounts with Investor Controlled Companies, Other Associated Companies and Nontransport Divisions.
B-13	Summary of Projected Financial Commitments and Related Deposits.
B-44	Summary of Resources Exchanged with Affiliated Group Members and Other Associated Companies.
B-46	Long-Term and Short-Term Nontrade Debt.
P-1(a)	Interim Statement of Operations.
P-2(a)	Revenue Market Report.
P-3(a)	Income taxes.
P-4	Transport-Related Revenues and Expenses; Explanation of Extraordinary Items and Cumulative Effect of Accounting Changes on Prior Years; Explanation of Prior Period Adjustments and Dividends Declared.
P-5(a)	Components of Flight Equipment Depreciation.
P-9.1	Distribution of Ground Servicing Expenses by Geographic Location—Group I Air Carriers.
P-11(a)	Charges by Foreign Governments and Foreign Entities for En Route Facilities and Services.
P-11(b)	Charges by Foreign Governments for Airport Facilities and Services.
T-1(b)	Traffic and Capacity Statistics by Class of Service—Scheduled Services.
T-1(c)	Traffic and Capacity Statistics by Class of Service—Nonscheduled Services.
T-6	Report of Civil Aircraft Charters.
T-7	Statistical Market Report.
T-41	Charter and Special Services Revenue Aircraft—Miles Flown: Calculation of Limitation of Charter Trips.

GROUP II—ROUTE AIR CARRIERS

Schedule No.:	*Schedule Title*
A-1	Status of Accounting Plans Required to be Filed.
B-44	Summary of Resources Exchanged with Affiliated Group, Members and Other Associated Companies.
B-46	Long-Term and Short-Term Nontrade Debt.
P-1(a)	Interim Statement of Operations.
P-2(a)	Revenue Market Report.
P-3(a)	Income Taxes.
P-5(a)	Components of Flight Equipment Depreciation.
P-11(a)	Charges by Foreign Governments and Foreign Entities for En Route Facilities and Services.
P-11(b)	Charges by Foreign Governments for Airport Facilities and Services.
T-6	Report of Civil Aircraft Charters.
T-7	Statistical Market Report.
T-41	Charter and Special Services Revenue Aircraft-Miles Flown; Calculation of Limitation of Charter Trips.

GROUP I—SUPPLEMENTAL AIR CARRIERS

Schedule No.:	*Schedule Title*
A-1	Status of Accounting Plans Required to be Filed.
B-13	Summary of Projected Financial Commitments and Related Deposits.
B-14	Summary of Property Obtained Under Long-Term Leases.
B-44	Summary of Resources Exchanged wiht Affiliated Group Members and Other Associated Companies.
B-46	Long-Term and Short-Term Nontrade Debt.
P-5(a)	Components of Flight Equipment Depreciation.
P-11(a)	Charges by Foreign Governments and Foreign Entitites for En Route Facilities and Services.
P-11(b)	Charges by Foreign Governments for Airport Facilities and Services.
T-3.1	Statement of Traffic and Capacity Statistics.

GROUP II—SUPPLEMENTAL AIR CARRIERS

Schedule No.:	*Schedule Title*
A-1	Status of Accounting Plans Required to be Filed.
B-44	Summary of Resources Exchanged with Affiliated Group Members and Other Associated Companies.
B-46	Long-Term and Short-Term Nontrade Debt.
P-4	Transport-Related Revenues and Expenses; Explanation of Extraordinary Items and Cumulative Effect of Accounting Changes on Prior Years; Explanation of Prior Record Adjustments and Dividends Declared.
P-5(a)	Components of Flight Equipment Depreciation.
T-3.1	Statement of Traffic and Capacity Statistics.

In addition to the proposed elimination of the reporting requirements for certain CAB Form 41 schedules for specific carrier groupings, we are also proposing to change the reporting requirements for Schedule B-5 "Property and Equipment." Specifically, we are proposing to eliminate data columns 2 through 6 on Schedule B-5. This change would apply to Group I and Group II route air carriers only and would relieve the affected carriers from the burden of reporting on Schedule B-5 quarterly property and equipment cost data relative to additions, retirements, and transfers between property accounts. This change is being proposed based on our re-evaluation of our regulatory needs in light of the level of operations and overall impact on the air transportation industry of the small carriers.

At the same time we are proposing reporting reductions for small route and supplemental air carriers, we are also analyzing our current data base to insure that all the data required for the optimum performance of the Board's regulatory functions is available in a timely manner. Over the past few years, the importance of supplemental air carriers within the air transportation industry has increased steadily with no appreciable increase in reporting burden. An in-depth review, conducted in light of our current data needs, of the overall reporting requirements applicable to supplemental carriers has disclosed a need for updating the informational content of the traffic and capacity statistics filed with the Board on a recurrent basis. The purpose of this update is to reflect the material impact of supplemental carriers on our overall air transportation system; therefore, we are proposing to eliminate Schedule T-3.1 "Statement of Traffic and Capacity Statistics" while at the same time expanding the applicability of the reporting requirements for Schedules T-1(a) "Traffic and Capacity Statistics by Class of Service," T-1(c) "Traffic and Capacity Statistics by Class of Service—Nonscheduled Services," T-2(b) "Traffic, Capacity, Aircraft Operations, and Miscellaneous Statistics by Type of Aircraft," and T-3(c) "Airport Activity Statistics—Nonscheduled Revenue Service" to include submission by supplemental carriers.

It should be noted that the administration of the air carrier subsidy program requires that a basic amount of information be collected from all subsidized carriers for the judicious establishment and monitoring of subsidy rates. The proposed grouping of air carriers would result in the inclusion of certain small subsidized carriers in Groups I and II. These carriers would receive advantages from the reports reductions to the extent possible. However, Group I and Group II carriers which receive subsidy would be required to continue filing certain CAB Form 41 schedules not filed by other carriers in these groups in order to provide the data necessary for establishing and monitoring their applicable subsidy rates. These additional schedules are identified by footnote in the listing of CAB Form 41 schedules contained in the proposed amendment to Section 22 "General Reporting Instructions" of the USAR.

SERVICE-SEGMENT DATA

The collection of service segment data has enabled the Board to capitalize on advances in automatic data processing (ADP) technologies and expanded carrier ADP facilities. Submission of this data in ADP media form has enabled us to increase the efficient utilization of the Board's ADP equipment; moreover, we have been able to enhance the statistical analyses of the Board by being able to computerize the processing of service segment data. Thus, we have succeeded in streamlining the reporting of traffic and capacity statistics on the CAB Form 41 T schedules while at the same time improving the data base for regulatory decisionmaking purposes.

Even though the information system for generating, collecting, and processing service-segment data is operating effectively, there is a segment of the air transportation industry which is still experiencing difficulty in submitting the requisite data, notably the small carrier segment of the industry. These carriers do not possess computer facilities of the same degree of sophistication as those maintained by the large route carriers. Because of this, small carriers are required to use significant amounts of computer time to generate the requisite service-segment data. On the other hand, if a carrier does not have available computer storage or an ADP capability at all, they are forced to process the data by leasing computer time at an ADP facility or by manual methods.

Although we have found service-segment data to be invaluable in the regulatory process, we also recognize the significant burden that this imposes on the small route carriers. In performing a searching analysis of the overall regulatory burden imposed on the small carriers, we have found that, taken as a whole, the operating statistics of these carriers do not represent a material portion of the total air transportation industry. While the lack of such data would not generally create a detriment to our monitoring and economic reviews of these carriers for regulatory purposes, service-segment data is utilized by the Board's staff in verifying allocations for the purpose of administering the Board's subsidy program. This use of service-segment data in establishing and monitoring subsidy rates has caused us to conclude that there is a specific regulatory need for the continued submission of service-segment data by small (Group I and Group II) subsidized carriers. Accordingly, we have proposed the elimination of the collection of service-segment data from Group I and Group II route carriers with the exception of those small route air carriers in Groups I and II which are receiving a subsidy.

OTHER MATTERS

Currently, the structural framework of the USAR relative to air carrier reporting requirements is divided into two basic sections: route carriers and supplemental carriers. In reviewing the contents of the USAR, it is obvious that a number of the reporting requirements (CAB Form 41 schedules) are required to be filed by both route and supplemental carriers with the same reporting instructions being listed in both sections of the USAR. This duplication creates an undue burden on the regulatory rulemaking process by requiring duplicative effort in processing, reviewing, and commenting on rulemakings. After due consideration, we have tentatively determined that this increased effort is unwarranted. Therefore, we are proposing to eliminate the structural concept in the USAR of having a separate section of reporting requirements for route and supplemental carriers. In combining these two sections into one, the differentiation of reporting requirements between routes and supplementals will still be maintained by referencing the applicability of specific CAB Form 41 schedules in their respective reporting instructions.

Route and supplemental air carriers currently report certain financial and traffic data to the Board broken down by operational entity. For example, route carriers, allocate certain expense and statistical data based on a Domestic, Atlantic Ocean, Pacific Ocean, and Latin America entity concept. This concept means that route carriers shall allocate and report certain data based on those geographic entities in which a carrier conducts operations. Schedules such as P-3, P-4, P-5.1, P-5.2, T-1, T-2, and T-3 are all examples of schedules which require the reporting of financial and statistical data by operating entity.

At the present time, supplemental carriers allocate the data reported on Schedules P-3.1 and T-3.1 between the domestic—48 States, domestic—48 States and Alaska and/or Hawaii, territorial, and international operational reporting entities. With increasing competition between route and supplemental carriers and with the increasing impact which supplementals are having in the air

transportation industry, there is a need for greater comparability of data in analyzing the industry as a whole as well as by component parts. These factors as well as our proposal to expand the reporting of traffic and capacity data by supplemental carriers has caused us to reach the tentative conclusion that there is a need for updating the overall operating entity reporting concept for supplemental carriers. To provide for increased comparability of data and to facilitate data analysis, we are proposing to place supplemental carriers on the same operating entity reporting concept as the route air carriers.

Reporting by aircraft type is another area which we reviewed for a possible significant reduction in reporting burden. Our analysis disclosed that many of the smaller carriers are overly burdened by the current provisions of the USAR which require the allocation of certain expenses and traffic and capacity statistics by aircraft type. As a result of these findings, we have considered various alternative means of maintaining a minimum level of reporting necessary to meet the Board's data requirements. Based on our analyses, we have tentatively determined that if single-engine piston and twin-engine piston fixed-wing aircraft with a gross maximum takeoff weight of 12,500 pounds or less were separately grouped, for reporting purposes, as single aircraft types, we could still maintain a level of reporting sufficient to maintain our minimum data requirements. Therefore, we are proposing to modify the USAR provisions concerning reporting by aircraft type to allow carriers to group all single-engine piston and twin-engine piston fixed-wing aircraft with a gross maximum takeoff weight of 12,500 pounds or less as separate aircraft types for reporting purposes.

PROPOSED RULE

It is proposed to amend Part 241 of the Economic Regulations (14 CFR Part 241) as follows:

1. Amend the Table of Contents of the Uniform System of Accounts and Reports by revising the section title "General Reporting Provisions—Route Air Carriers" and eliminating the section title "General Reporting Provisions—Supplemental Air Carriers" and eliminating sections 31 through 36, inclusive, to read as follows:

GENERAL REPORTING PROVISIONS

21 Introduction to System of Reports.
22 General Reporting Instructions.
23 Certification and Balance Sheet Elements.
24 Profit and Loss Elements.
25 Traffic and Capacity Elements.
26 General Corporate Elements.

2. Amend Section 04 to read as follows:

Section 04—Air Carrier Groupings and Standard Name Abbreviations

(a) All certificated air carriers are grouped into three basic air carrier groupings based on their level of operations. In order to initially place individual air carriers within a specific carrier group, total operating revenues were used as the criteria for determining each carrier's group classification. The following operating revenue ranges were used to initially establish three air carrier groups.

Carrier group:	*Total Operating Revenues*
I	0 – $10,000,000
II	$10,000,001 – $75,000,000
III	$75,000,001 +

(b) Both the criteria for establishing air carrier groupings and the assignment of each air carrier to a specific group of carriers shall be reviewed periodically by the Board to assure the maintenance of appropriate standards for the grouping of air carriers. When an air carrier's level of operations surpasses the upper or lower limits of its currently assigned carrier grouping, the carrier is not automatically transferred to a different group and a new level of reporting. When a situation arises where a carrier feels that its currently assigned group is inappropriate, the carrier may petition the Board for reconsideration of its assigned carrier grouping; however, any changes in the herein assigned carrier grouping shall occur only by formal Board action, either on the Board's own initiative or in response to a carrier petition.

(c) Based on the criteria established in paragraph (a) of this section, certificated air carriers are assigned to air carrier groupings as follows:

Name	Abbreviation	Certificate status	Subsidized (yes) or (no)
Group I air carriers:			
Air Micronesia, Inc	Air Micronesia	Route	No.
Air Midwest, Inc	Air Midwest	do	Yes.
Aspen Airways, Inc	Aspen	do	No.
Chicago Helicopter Airways, Inc	Chicago Helicopter	do	No.
Evergreen International Airlines, Inc	Evergreen	Supplemental	No.
Kodiak-Western Alaska Airlines, Inc	Kodiak	Route	Yes.
McCulloch International Airlines, Inc	McCulloch	Supplemental	No.
Modern Air Transport, Inc	Modern	do	No.
Munz Northern Airlines, Inc	Munz	Route	No.
New York Airways, Inc	NY Airways	do	No.
Reeve Aleutian Airways, Inc	Reeve	do	No.
Rich International Airways, Inc	Rich	Supplemental	No.
Wright Air Lines, Inc	Wright	Route	No.
Group II air carriers:			
Airlift International, Inc	Airlift	do	No.
Air New England, Inc	Air New England	do	Yes.
Alaska Airlines, Inc	Alaska	do	Yes.
Aloha Airlines, Inc	Aloha	do	No.
Capitol International Airways, Inc	Capitol	Supplemental	No.
Hawaiian Airlines, Inc	Hawaiian	Route	No.
Wien Air Alaska, Inc	Wien	do	Yes.
Group III air carriers:			
Allegheny Airlines, Inc	Allegheny	do	No.
American Airlines, Inc.[1]	American	do	No.
Braniff Airways, Inc.[1]	Braniff	do	No.
Continental Air Lines, Inc.[1]	Continental	do	No.
Delta Air Lines, Inc.[1]	Delta	do	No.
Eastern Air Lines, Inc.[1]	Eastern	do	No.
The Flying Tiger Line Inc	Flying Tiger	do	No.
Frontier Airlines, Inc	Frontier	do	Yes.
Hughes Air Corp., d.b.a. Hughes Airwest.	Airwest	do	Yes.
National Airlines, Inc.[1]	National	do	No.
North Central Airlines, Inc	North Central	do	Yes.
Northwest Airlines, Inc.[1]	Northwest	do	No.
Overseas National Airways, Inc	Overseas	Supplemental	No.
Ozark Air Lines, Inc	Ozark	Route	Yes.
Pan American World Airways, Inc	Pan American	do	No.
Piedmont Aviation, Inc	Piedmont	do	Yes.
Seaboard World Airlines, Inc	Seaboard	do	No.
Southern Airways, Inc	Southern	do	Yes.
Texas International Airlines, Inc	Texas	do	Yes.
Trans International Airlines, Inc	Trans International	Supplemental	No.
Trans World Airlines, Inc.[1]	Trans World	Route	No.
United Air Lines, Inc.[1]	United	do	No.
Western Air Lines, Inc.[1]	Western	do	No.
World Airways, Inc	World	Supplemental	No.

[1] Trunk air carriers.

3. Amend Section 1–6 to read in pertinent part as follows:

Sec. 1–6 Accounting entities.

(a) Separate accounting records shall be maintained for each air transport entity for which separate reports to the Civil Aeronautics Board are required to be made by section 21(g) and for each separate corporate or organizational division of the air carrier. * * *

4. Amend Section 1–9 by revising paragraph (e) to read as follows:

Sec. 1–9 Conversion to this system of accounts and reports.

* * * * *

(e) All statements and plans required to be submitted to the Civil Aeronautics Board by this system of accounts and reports shall be filed by January 1, 1957, or with the first report filed hereunder after an air carrier becomes subject to this part. (See section 22(d).)

5. Amend Section 2–1 by revising paragraph (e) to read as follows:

Sec. 2–1 Basis of allocation between entities.

* * * * *

(e) In accordance with the provisions of section 22(d), each air carrier shall file a statement with the Civil Aeronautics Board which details the practices and techniques used in directly assigning and prorating revenues and expenses, or costs, in compliance with the provisions of this section.

6. Amend Section 2–4 by revising paragraph (d) to read as follows:

Sec. 2–4 Accounting period.

* * * * *

(d) Expenditures charged directly or amortized to operations within one accounting year shall not be reversed in a subsequent accounting year and reamortized or charged directly against operations of subsequent years except that retroactive adjustments are permitted where necessary to conform with adjustments required by the Civil Aeronautics Board for ratemaking purposes provided a statement explaining the detailed adjustments is submitted for review by the Civil Aeronautics Board. (See section 22(d).)

7. Amend Section 2–13 by revising the last sentence of paragraph (d) to read as follows:

Sec. 2–13 Establishment of allowances.

* * * * *

(d) * * * Allocation allowances shall not be used in respect to expenditures, the distortionary fluctuations of which spread over a cycle of longer than one year. (See section 22(d).)

8. Amend Section 2–14 by revising paragraph (b) to read in pertinent part as follows:

Sec. 2–14 Depreciation and amortization.

* * * * *

(b) In accordance with the provisions of section 22(d), each air carrier shall file with the Civil Aeronautics Board a statement which shall clearly and completely describe for each classification of property and equipment the methods, service lives, and residual values used for computing depreciation on the different subcatagories of property or equipment included therein. * * *

9. Amend Section 2–19 by revising paragraph (a) to read in pertinent part as follows:

Sec. 2–19 Accounting for pension plans.

(a) In accordance with the provisions of section 22(d), each air carrier which has an employee pension plan or plans shall file with the Director, Bureau of Accounts and Statistics, a standard statement showing with respect to each pension plan covered by the statement, the following information: * * *

10. Amend Section 5–4 by revising paragraph (h) to read in pertinent part as follows:

Sec. 5–4 Property and equipment depreciation and overraul.

* * * * *

(h) In accordance with the provisions of section 22(d), each air carrier shall file with the Civil Aeronautics Board a statement fully describing its plans of accounting for airframe and aircraft engine overhauls. * * *

11. Amend Section 5–5 by revising paragraph (b) to read as follows:

Sec. 5–5 Other assets.

* * * * *

(b) Deferred charges having a definite time incidence shall be amortized over the periods to which they apply. When property acquisition adjustments, developmental and preoperating costs, and other intangibles are capitalized, each air carrier shall file a statement of accounting procedures, setting forth a description of the items capitalized and the monthly rates at which it proposes to amortize such costs. (See section 22(d).)

12. Amend Section 6 "Objective Classification of Balance Sheet Elements" as follows:

A. By revising paragraph (d) of account 1311 to read as follows:

1311 Allowance for obsolescence—spare parts and supplies.

* * * * *

(d) In accordance with the provisions of section 22(d), each air carrier shall file with the Civil Aeronautics Board a statement fully describing its plans of accounting for allowances for obsolescence and deterioration of expendable parts. The required statement shall indicate for each class or type of parts the predetermined level of the inventory against which an allowance is being accrued and shall fully explain the bases of the estimated losses and the rate of allowance accrual.

B. By revising paragraph (b) of account 1510 to read as follows:

1510 Investments in associated companies.

* * * * *

(b) In accordance with the provisions of section 22(d), a statement shall be filed with the Civil Aeronautics Board which fully explains the procedures for accounting for investments in investor controlled and other associated companies, including change in status from associated to investor controlled company, or vice versa.

C. By revising paragraph (c) of account 1870 to read as follows:

1870 Property acquisition adjustment.

* * * * *

(c) When charges are made to this account, each air carrier shall file a statement of accounting procedures with the Civil Aeronautics Board in accordance with section 22(d). The required statement shall include an explanation of the charges and the air carrier's proposed plan for writeoff or amortization.

D. By revising paragraph (c) of account 2120 to read as follows:

2120 Accrued vacation liability.

* * * * *

(c) Each air carrier shall file a statement with the Board fully describing the accounting procedures followed in accruing liability for personnel vacations. This statement shall include such information as (1) bases of accrual; (2) whether the accruals are made pursuant to a labor agreement, individual contract, or a company policy; and (3) whether the accruals cover all employees or certain categories only. (See section 22(d).)

E. By revising paragraph (e) of account 2160 to read as follows:

2160 Air traffic liability.

* * * * *

(e) In accordance with the provisions of section 22(d), a statement shall be filed with the Board which fully explains the accounting methods and bases of clearing to income, both earned revenue and the revenue that is derived from unused or unredeemed transportation sales.

13. Amend Section 10 "Functional Classification—Operating Expenses of Group I Air Carriers" as follows:

A. By revising the last sentence of paragraph (c) of subfunction 5300 to read as follows:

5300 Maintenance burden.

* * * * *

(c) * * * In accordance with the provisions of section 22(d), each air carrier shall file with the Civil Aeronautics Board a statement in which procedures followed in allocating maintenance burden between current transport services, overhauls, capital projects and outside services are fully explained.

B. By revising paragraph (d) of function 7100 to read as follows:

7100 Transport-related expenses.

* * * * *

(d) In accordance with the provisions of section 22(d) each air carrier shall file with the Civil Aeronautics Board a statement of accounting procedures setting forth methods used in assigning or prorating expenses between transport-related services and transport operations.

14. Amend Section 11 "Functional Classification—Operating Expenses of Group II and Group III Air Carriers" as follows:

A. By revising the last sentence of paragraph (c) of subfunction 5300 to read as follows:

5300 Maintenance burden.

* * * * *

(c) * * * In accordance with the provisions of section 22(d), each air carrier shall file with the Civil Aeronautics Board a statement in which procedures followed in allocating maintenance burden between current transport services, overhauls, capital projects and outside services are fully explained.

B. By revising paragraph (d) of function 7100 to read as follows:

7100 Transport-related expenses.

* * * * *

(d) In accordance with the provisions of section 22(d), each air carrier shall file with the Civil Aeronautics Board a statement of accounting procedures setting forth methods used in assigning or prorating expenses between transport-related services and transport operations.

15. Amend Section 14 "Objective Classification—Nonoperating Income and Expense" by revising paragraph (b) of

account 86.0 to read in pertinent part as follows:

86.0 Income from nontransport ventures.

* * * * *

(b) This account shall include revenues and expenses applicable to nonscheduled transport services performed for the defense establishment when and as separate reports for such services are required in accordance with Section 21 "Introduction to System of Reports." * * *

16. Amend Section 19-3 to read as follows:

ports."***

Sec. 19-3 Accessibility and transmittal of data.

Each air carrier shall maintain its prescribed operating statistics in a manner and at such locations as will permit ready availability for examination by representatives of the Board. All Group I subsidized route carriers, Group II subsidized route carriers and all Group III route air carriers shall transmit to the Board on a monthly basis individual flight stage data for scheduled services as prescribed in section 19-5, summarized by flight number, service segment, service class, and aircraft type. Those air carriers required to submit this data shall utilize either magnetic ADP tapes or ADP punched cards for transmitting the prescribed data to the Board. All ADP-oriented records shall be transmitted in accordance with standard practices to be established by the Board's Bureau of Accounts and Statistics. All such data shall be received by the Civil Aeronautics Board at its offices in Washington, D.C., no later than 30 days following the close of the month to which applicable.

17. Amend Section 21 to read in pertinent part as follows:

Section 21—Introduction to System of Reports

(a) Each air carrier subject to the Federal Aviation Act of 1958, as amended, shall file with the Civil Aeronautics Board, monthly, quarterly and annual CAB Form 41 reports of financial and operating statistics as prescribed herein unless waiver is made by the Civil Aeronautics Board.

(b) The system prescribed provides for the submission by each air carrier of five classes of financial and operating statistics, on individual schedules of the CAB Form 41 report, grouped as follows:

A. Certification.
B. Balance sheet elements.
P. Profit and loss elements.
T. Traffic and capacity elements.
G. General corporate elements.

(c) The prescribed system of reports provides that the frequency of reporting shall be monthly for some schedules, quarterly for some and annually for others. It also provides in some areas for the classification of route and supplemental air carriers into Group I, Group II, and Group III, with the form and content differentiated as between groups and by types of certificate.

(d) Each schedule of the prescribed CAB Form 41 report has been assigned a specific code. The prefix alphabetical codes A, B, P, T, and G, respectively, have been employed to denote certification, balance sheet, profit and loss, traffic and capacity, and general corporate elements. The digits immediately following the alphabetical prefix designate the particular schedule.

(e) Upon approval by the Civil Aeronautics Board, the carrier may supply its own computer prepared forms provided each schedule conforms with the size and format of the forms prescribed herein.

(f) A good quality black ribbon shall be used in preparing the original copy of each schedule submitted to the Civil Aeronautics Board. In no event shall photocopy or similar processes be used nor shall any information be typed on the reverse side of copies submitted to the Civil Aeronautics Board.

(g) Four separate air carrier entities shall be established for the purpose of submitting the reports hereinafter prescribed. They are as follows: (1) Domestic operations; (2) operations via the Atlantic Ocean; (3) operations via the Pacific Ocean; and (4) operations within the Latin American areas. With respect to the first classification, the domestic entity shall embrace all operations within the 50 States of the United States and the District of Columbia, and shall also include Canadian transborder operations. The reports to be submitted by each entity shall be comparable to those required of a distinct legal entity whether the reporting entity constitutes such an entity, a semi-autonomous physically separated operating division of the air carrier, or an entity established for reporting purposes only.

The entities for which separate reports shall be made by the different route and supplemental air carriers are set forth below in the lists entitled "Route Air Carrier Reporting Entities" and "Supplemental Air Carrier Reporting Entities."

ROUTE AIR CARRIER REPORTING ENTITIES

Air carriers	*Entities*
Airlift International, Inc	Domestic, Latin America.
Air Micronesia, Inc	Pacific.
Air Midwest, Inc	Domestic.
Air New England, Inc	Do.
Alaska Airlines, Inc	Do.
Allegheny Airlines, Inc	Do.
Aloha Airlines, Inc	Do.
American Airlines, Inc	Domestic, Latin America.
Aspen Airways, Inc	Domestic.
Braniff Airways, Inc	Domestic, Latin America.
Chicago Helicopter Airways, Inc	Domestic.
Continental Air Lines, Inc	Domestic, Pacific.
Delta Air Lines, Inc	Domestic, Latin America.
Eastern Air Lines, Inc	Do.
The Flying Tiger Line Inc	Domestic, Pacific.
Frontier Airlines, Inc	Domestic.
Hawaiian Airlines, Inc	Do.
Hughes Air Corp., d.b.a. Hughes Airwest	Do.
Kodiak-Western Alaska Airlines, Inc	Do.
Munz Northern Airlines, Inc	Do.
National Airlines, Inc	Domestic, Atlantic, Latin America.
New York Airways, Inc	Domestic.
North Central Airlines, Inc	Do.
Northwest Airlines, Inc	Domestic, Pacific.
Ozark Air Lines, Inc	Domestic.
Pan American World Airways, Inc	Domestic, Atlantic, Latin America, Pacific.
Piedmont Aviation, Inc	Domestic.
Reeve Aleutian Airways, Inc	Atlantic.
Seaboard World Airlines, Inc	Do.
Southern Airways, Inc	Domestic.
Texas International Airlines, Inc	Do.
Trans World Airlines, Inc	Domestic, Atlantic, Pacific.
United Air Lines, Inc	Domestic.
Western Air Lines, Inc	Domestic, Latin America.
Wien Air Alaska, Inc	Domestic.
Wright Air Lines, Inc	Do.

SUPPLEMENTAL AIR CARRIER REPORTING ENTITIES

Air Carriers	*Entities* [1]
Capitol International Airways, Inc	Domestic, International.
Evergreen International Airlines, Inc	Do.
McCulloch International Airlines, Inc	Do.
Modern Air Transport, Inc	Do.
Overseas National Airways, Inc	Do.
Trans International Airlines, Inc	International.[2]
Rich International Airways, Inc	Domestic, International.
World Airways, Inc	Do.

[1] For reporting purposes, carriers with international authority shall allocate all international operations between the Atlantic, Pacific, and Latin American entities.

[2] Due to limited authority, Rich International shall report all operations as a single operating entity to be labeled "Latin America Entity."

(h) As a general rule separate reports shall be filed for the air carrier and for each associated company, as defined in section 03, which is an air carrier. However, transactions of associated companies in which 100 percent equity control resides in the reporting air carrier shall be consolidated with transactions of the reporting air carrier when such associated companies peform services related to the transport operations of the reporting air carrier almost exclusively and are not engaged in air transportation for their own account.

(i) Generally, route air carriers' nonscheduled services shall be treated as an integral part of the reporting entity to which most closely related without regard to the geographic area in which such nonscheduled services may actually be performed. However, supplementary reports shall be made of nonscheduled services (including services for the Department of Defense) in areas not encompassed by the prescribed reporting entity in any month in which the available ton-miles of such nonscheduled services exceed 5 percent of the available ton-miles of the reporting entity. Such supplemental reports shall continue until waived by the Board upon a showing that such nonscheduled operations will not in the subsequent 12-month period exceed the 5 percent limit. The supplemental reports to be filed each month or calendar quarter, as applicable, shall be comprised of report Schedules P-5, T-1 and T-2. Transport and nontransport revenues pertaining to such separately reported nonscheduled services shall be reflected on Schedule P-2 each quarter with appropriate cross references inserted on Schedules P-3 and P-4, as applicable.

(j) When and as required in the national interest, any route air carrier which performs nonscheduled transport services for the Department of Defense shall, when directed by the Board, make separate reports for such services as if they were conducted by a physically separated transport entity. Such reports shall consist of schedules P-1 through P-9, T-1 and T-2. The letter "D" shall be inserted on such reports, following the schedule number of each P and T schedule. When a carrier has more than one reporting entity, nonscheduled transport and nonscheduled Defense services shall be assigned to the reporting entity to which more closely related.

18. Amend Section 22 "General Reporting Instructions" to read in pertinent part as follows:

Section 22—General Reporting Instructions

(a) One copy of each schedule in the CAB Form 41 report shall be filed with the Civil Aeronautics Board and shall be received on or before the due date indicated for each such schedule in the list titled "Due Dates of Schedules in CAB Form 41 Report."

List of schedules in CAB Form 41 report

Schedule No.	Schedule title	Filing frequency	Applicability by carrier group I	II	III
A	Certification	Quarterly	x	x	x
A-1	Status of accounting plans required to be filed	Annually			(1)
A-2	Controlling person's certification	do	x	x	x
B-1	Balance sheet	Monthly	(1)	(1)	(1)
B-1	do	Quarterly	(2)	(2)	(2)
B-2	General notes to financial statements	Annually	x	x	x
B-3	Statement of changes in stockholders' equity	Quarterly	(2)	(1)	(1)
B-4	Allowance for uncollectible accounts; Accounts with investor controlled companies; Other associated companies; and nontransport divisions.	do	(2)	(1)	(1)
B-5	Property and equipment	do	(1)	(1)	(1)
B-7	Airframes and aircraft engines acquired	do	(1)	(1)	(1)
B-7(a)	Reinvestment of flight equipment capital gains	(2)	(1)	(1)	(1)
B-7(b)	Flight equipment acquired	Quarterly			(1)
B-8	Property and equipment retired	do	x	x	x
B-8(a)	Flight equipment capital gains invested or deposited for reinvestment in flight equipment.	(2)	(1)	(1)	(1)
B-10	Unamortized developmental and preoperating costs	Quarterly	x	x	x
B-11	Aging of receivables and payables	Monthly	(2)	(2)	(2)
B-12	Statement of changes in financial position	Quarterly	x	x	x
B-13	Summary of projected financial commitments and related deposits	do	(2)	x	x
B-14	Summary of property obtained under long-term leases	do	x	x	x
B-41	Investments held by, or for the account of, respondent	Annually	x	x	x
B-43	Inventory of airframes and aircraft engines	do	x	x	x
B-44	Summary of resources exchanged with affiliated group members and other associated companies.	do	(2)	(2)	x
B-46	Long-term and short-term nontrade debt	do	(2)	(2)	x
P-1.1	Statement of operations	Quarterly	x		
P-1.2	do	do		x	x
P-1(a)	Interim statement of operations	Monthly			(1)
P-2	Notes to CAB Form 41 report	Quarterly	x	x	x
P-2(a)	Revenue market report	do			(1)
P-3	Transport revenues; Depreciation and amortization; Nonoperating income and expense (net).	do	(1)	(1)	(1)
P-3.1	Transport revenues	do	(2)	(2)	(2)
P-3(a)	Income taxes	do			(1)
P-4	Transport-related revenues and expenses; Explanation of extraordinary items and cumulative effect of accounting changes on prior years; Explanation of prior period adjustments and dividends declared.	do	(2)	(1)	(1)
P-5.1	Aircraft operating expenses: Group I air carriers	do	x		
P-5.2	Aircraft operating expenses: Group II and Group III air carriers	do		x	x
P-5(a)	Components of flight equipment depreciation	do	(2)	(2)	(1)
P-6	Maintenance; Passenger service and general and administrative expense functions: All air carrier groups.	do	x	x	x
P-7	Aircraft and traffic servicing, promotion and sales, and general and administrative expense functions: Group II and Group III air carriers.	do		x	x
P-8	Aircraft and traffic servicing, and promotion and sales expense subfunctions: Group III air carriers.	do			x
P-9.2	Distribution of ground servicing expenses by geographic location: Group II and Group III route air carriers.	do		(1)	(1)
P-10	Employment statistics by Labor category	do	(1)	(1)	(1)
P-11(a)	Charges by foreign governments and foreign entities for en route facilities and services.	do		(2)	x
P-11(b)	Charges by foreign governments for airport facilities and services	do		(2)	x
P-12	Fuel inventories and consumption	Monthly	x	x	x
P-12(a)	Fuel consumption by type of service and specific operational markets	do	x	x	x
P-13	Passenger revenue and traffic data by type of fare: 48 States	do			(2)
T-1(a)	Traffic and capacity statistics by class of service	do	x	x	x
T-1(b)	Traffic and capacity statistics by class of service: Scheduled services	do		(1)	(1)
T-1(c)	Traffic and capacity statistics by class of service: Nonscheduled services	do	(2)	x	x
T-2(a)	Traffic, capacity, aircraft operations, and miscellaneous statistics by type of aircraft.	Quarterly	(1)	(1)	(1)
T-2(b)	Traffic, capacity, aircraft operations, and miscellaneous statistics by type of aircraft.	do	x	x	x
T-3(a)	Airport activity statistics: Revenue service	do	(1)	(1)	(1)
T-3(b)	Airport activity statistics: Revenue service	do	(1)	(1)	(1)
T-3(c)	Airport activity statistics: Nonscheduled revenue service	do	x	x	x
T-6	Report of civil aircraft charters	do	(2)	(2)	x
T-7	Statistical market report	Monthly			(1)
T-41	Charter and special services revenue aircraft-miles flown; calculation of limitation of charter trips.	(2a)			(1)
G-41	Persons holding more than 5 per centum of respondent's capital stock or capital.	Annually	x	x	x
G-42	Security interests of all officers and directors and compensation paid to principal officers and directors.	do	x	x	x
G-43	Compensation and expenses of persons and firms (other than directors, officers, and employees) earning $20,000 or more during the calendar year.	do	x	x	x
G-44	Corporate and securities data	do	x	x	x

[1] Applicable only to route air carriers.
[2] Applicable only to supplemental air carriers.
[3] Applicable only to subsidized air carriers.
[4] Applicable to all air carriers except local service air carriers.
[5] In accordance with the provisions of sections 235.4 and 235.5 of Part 235 of this subchapter.
[2a] For the first 9 months and for the 12 months of each calendar year.
[6] Applicable only to local service air carriers.
[7] Applicable only to trunk air carriers.

Due dates of schedules in CAB Form 41 report

Due dates [1]	Schedule No.
Jan. 20	* * *
Jan. 30	B-1,[2] B-11, P-1(a), * * *
Feb. 10 [3]	A, B-1,[2a] B-3, B-4, B-5, B-7, B-7(b), B-8, B-10, B-12, B-13, B-14, P-1.1, P-1.2, P-2, P-2(a), P-3, P-3.1, P-3(a), P-4, P-5.1, P-5.2, P-5(a), P-6, P-7, P-8, P-9.2, P-10, P-11(a), P-11(b)
Feb. 20	* * *
Mar. 1	B-1,[2] B-11, P-1(a), * * *
Mar. 20	* * *
Mar. 30	A-2, B-1,[2] B-2,[2] B-11, * * *
Apr. 20	* * *
Apr. 30	B-1,[2] B-11, * * *
May 10	A, B-1,[2a] B-3, B-4, B-5, B-7, B-7(b), B-8, B-10, B-12, B-13, B-14, P-1.1, P-1.2, P-2, P-2(a), P-3, P-3.1, P-3(a), P-4, P-5.1, P-5.2, P-5(a), P-6, P-7, P-8, P-9.2, P-10, P-11(a), P-11(b)
May 20	* * *
May 30	B-1,[2] B-11, P-1(a), * * *
June 20	* * *
June 30	B-1,[2] B-11, P-1(a), * * *
July 20	* * *
July 30	B-1,[2] B-11, P-1(a), * * *
Aug. 10	A, A-1, B-1,[2] B-3, B-4, B-5, B-7, B-7(b), B-8, B-10, B-12, B-13, B-14, P-1.1, P-1.2, P-2, P-2(a), P-3, P-3.1, P-3(a), P-4, P-5.1, P-5.2, P-5(a), P-6, P-7, P-8, P-9.2, P-10, P-11(a), P-11(b)
Aug. 20	* * *
Aug. 30	B-1,[2] B-11, P-1(a), * * *
Sept. 20	* * *
Sept. 30	B-1,[2] B-11, P-1(a), * * *
Oct. 20	* * *
Oct. 30	B-1,[2] B-11, P-1(a), * * *
Nov. 10	A, B-1,[2a] B-3, B-4, B-5, B-7, B-7(b), B-8, B-10, B-12, B-13, B-14, P-1.1, P-1.2, P-2, P-2(a), P-3, P-3.1, P-3(a), P-4, P-5.1, P-5.2, P-5(a), P-6, P-7, P-8, P-9.2, P-10, P-11(a), P-11(b)
Nov. 20	* * *
Nov. 30	B-1,[2] B-11, P-1(a), * * *
Dec. 20	* * *
Dec. 30	B-1,[2] B-11, P-1(a), * * *

[1] Due dates falling on a Saturday, Sunday or national holiday will become effective the first following working day.
[2] Reporting date applicable only to route air carriers.
[3] B and P reporting dates are extended to March 30, if preliminary schedules are filed at the Board by February 10.
[3a] Reporting date applicable only to supplemental air carriers.

(b) Each air carrier shall file the applicable schedules of the CAB Form 41 reports with the Civil Aeronautics Board in accordance with the above instructions, except that the time for filing B and P report schedules for the final quarter of each calendar year may be extended to the following March 30: *Provided,* That preliminary Schedules B-1, P-1(a), P-1.1 or P-1.2, P-3, P-3.1, and P-3(a) are submitted, as applicable, and are received on or before their respective due dates. For the third month of any calendar quarter, Schedule P-1(a) need not be filed: *Provided,* That Schedule P-1.1 or P-1.2 for the quarter is received on the due date prescribed for Schedule P-1(a) rather than the due date prescribed for Schedule P-1.1 or P-1.2. Route air carriers' reports on Schedules B-1 and P-1(a) for each month shall be withheld from public disclosure, subject to the same exceptions as those set forth in section 19-6 until such time as (1) the quarterly financial reports are due, (2) the quarterly financial reports are filed, or (3) information covered by monthly reports is publicly released by the carrier concerned, whichever first occurs. At the request of an air carrier, and upon a showing by such air carriers that public disclosure of its preliminary year-end report would adversely affect its interests and would not be in the public interest, the Board will withhold such preliminary year-end report from public disclosure until such time as (1) the final report is filed, (2) the final report is due, or (3) information covered by the preliminary report is publicly released by the carrier concerned, whichever first occurs.

(c) If circumstances prevent the filing of a report on or before the prescribed due date, consideration will be given to the granting of an extension upon receipt of a written request therefor. To provide ample time for consideration and communication to the air carrier of the action taken, such a request must be delivered to the Board in writing at least three (3) days in advance of the due date, setting forth good and sufficient reason to justify the granting of the extension and the date when the report can be filed. Except in cases of emergency, no such request will be entertained which is not in writing and received by the Civil Aeronautics Board at least three (3) days before the prescribed due date. If a request is denied the air carrier remains subject to the filing requirements to the same extent as if no request for extension of time had been made.

(d) Statements of accounting or statistical procedures required to be filed under this system of accounts and reports are recapitulated below. As a general rule these statements or revisions thereof shall be filed prior to the date on which the procedures are to become effective. However, in certain cases where a change in procedure or the initial adoption of a new procedure is necessitated by events or transactions occurring for the first time or by new requirements of professional or regulatory bodies, air carriers are permitted to file new or amended statements within thirty (30) days after the close of the first calendar quarter in which the procedures become effective.

The procedures shall be regarded as accepted unless the carrier is notified of Board objections within ninety (90) days after receipt. These statements shall be filed in triplicate on standard forms AP-1 through AP-15.

(1) Procedures for assigning or prorating profit and loss items between operating entities, as prescribed by section 2-1(e).

(2) Procedures for retroactive adjustments made to conform accounts with mail rate actions, as required by section 2-4(d). (Applicable to route air carriers only.)

(3) [Reserved]

(4) Procedures for establishment of expense allocation allowances, as prescribed by section 2-13(d).

(5) Procedures for depreciation of property and equipment, as prescribed by section 2-14(b).

* * * * *

(9) Procedures for accural of air traffic liability, and the method for determining earned income as prescribed by section 6-2160. In addition, all route air carriers shall file their annual physical verification procedures, including the cutoff date selected by the carrier, as prescribed by section 2-17.

(10) Procedures for assigning or prorating expenses between transport operations and transport-related operations, as prescribed by section 10-7100 or 11-7100.

* * * * *

Section 23 [Amended]

19. Amend Section 23 "Certification and Balance Sheet Elements" as follows:

A. By revising the general heading "Financial—Route Carriers" to read:

FINANCIAL REPORTING REQUIREMENTS

B. By revising paragraph (a) of Schedule A-1 to read as follows:

Schedule A-1—Status of Accounting Plans Required To Be Filed

(a) This schedule shall be filed by all Group III route air carriers.

C. By revising the text for Schedule B-1 to read as follows:

Schedule B-1—Balance Sheet

(a) This schedule shall be filed by each air carrier.

(b) For route air carriers, this schedule shall reflect the balances at the close of business on the last day of each calendar month for all overall or system operations of each air carrier in conformance with the provisions of sections 4, 5, and 6.

(c) For supplemental air carriers, this schedule shall reflect the balances as at the close of business on the last day of each calendar quarter, for the overall operations of each air carrier in conformance with the provisions of sections 4, 5, and 6.

(d) Individual proprietors or partners shall report the aggregate capital contributed by the proprietor or partners in account 2890 Additional Capital Invested.

(e) This scheduled has been designed to facilitate the presentation of comparative data for prior periods when used in submissions to the Securities and Exchange Commission (SEC). (See section 22(k).) Comparative data need not be submitted when this schedule is not used for submission to the SEC. In all instances data for the current period shall be presented in the left column.

D. By revising paragraph (a) of Schedule B-2 to read in pertinent part as follows:

Schedule B-2—General Notes to Financial Statements

(a) This schedule shall be filed annually by all route and supplemental air carriers required * * *

E. By revising paragraph (a) of Schedule B-3 to read as follows:

Schedule B-3—Statement of Changes in Stockholders' Equity

(a) This schedule shall be filed by all Group II and Group III and subsidized Group I air carriers.

F. By revising paragraph (a) of Schedule B-4 to read as follows:

Schedule B-4—Allowance for Uncollectible Accounts; Accounts With Investor Controlled Companies, Other Associated Companies and Nontransport Divisions

(a) This schedule shall be filed by all Group II and Group III and subsidized Group I route air carriers.

G. By revising paragraph (a) of Schedule B-5 to read as follows:

Schedule B-5—Property and Equipment

(a) This schedule shall be filed by all route air carriers; however, the data applicable to columns 2 through 6 need not be filed by Group I and Group II air carriers.

H. By revising paragraph (a) of Schedule B-7 to read as follows:

Schedule B-7—Airframes and Aircraft Engines Acquired

(a) This schedule shall be filed by all air carriers with the exception of local service route air carriers.

I. By revising paragraph (a) of Schedule B-7(a) to read in pertinent part as follows:

Schedule B-7(a)—Reinvestment of Flight Equipment Capital Gains

(a) This schedule shall be filed by each route air carrier which desires * * *

J. By revising Schedule B-8 to read in pertinent part as follows:

Schedule B-8—Property and Equipment Re ired

(a) This schedule shall be filed by all air carriers.

* * * * *

(e) Column 7, "Cost" shall agree in totals for each account with the corresponding cost of property and equipment retired, and, for the Group III route air carriers, as reported in Schedule B-5, column 4, "Retirements."

(f) Column 10, "Realization" shall reflect the proceeds from disposition, including any insurance proceeds.

(g) For route air carriers, column 12, "Gain or Loss" shall, in aggregate for retirements of all property and equipment together with gain or loss on sale of securities, agree with amounts reflected by the air carrier on Schedule P-3 in profit and loss subaccounts 88.5 Capital Gains and Losses—Operating Property and 88.6 Capital Gains and Losses—Other.

* * * * *

K. By revising paragraph (a) of Schedule B-10 to read as follows:

Schedule B-10—Unamortized Developmental and Preoperating Costs

(a) This schedule shall be filed by all air carriers.

L. By adding a new Schedule B-11 to read as follows:

Schedule B-11—Ageing of Receivables and Payables

(a) This schedule shall be filed by all supplemental air carriers.

(b) This schedule shall reflect the balances of receivables and payables as at the close of each month.

(c) Columns 1 and 2 reflect the account number and description of the type of receivable or payable for which report is to be made.

(d) Column 3, "Total Receivables" and "Total Payables," shall reflect the total amount recorded in each account, and shall agree with the amounts reported on the carrier's balance sheet as at the preparation date of this schedule.

(e) Column 4, "Amounts not Overdue," shall reflect receivables or payables which are not overdue.

(f) Columns 5 through 8, "Amounts Overdue," shall reflect receivables or payables which are overdue for periods of 30 days or less, 31 to 60 days, 61 to 90 days, and over 90 days, respectively.

(g) Account 2210, "Long-Term Debt," shall be detailed by class of debt, showing separately amounts held by associated companies and by others, giving the maturity dates and effective interest rates. Describe any significant covenants relative to the debt in footnote.

(h) Items which include claims in litigation or unpaid court judgments shall be footnoted, and such claims and judgments shall be listed by amount and explained at the bottom of the schedule in the space provided therefor.

M. By revising paragraph (a) of Schedule B-12 to read as follows:

Schedule B-12—Statement of Changes in Financial Position

(a) This schedule shall be filed by all air carriers.

N. By revising paragraph (a) of Schedule B-13 to read as follows:

Schedule B-13—Summary of Projected Financial Commitments and Related Deposits

(a) This schedule shall be filed by all Group II and Group III and Group I subsidized air carriers.

O. By revising paragraphs (a), (b), and (d) of Schedule B-14 to read as follows:

Schedule B-14—Summary of Property Obtained Under Long-Term Leases

(a) This schedule shall be filed by all air carriers.

(b) This schedule shall be filed for the overall or system operations of the air carrier.

(c) * * *

(d) Column 3, "Cost" shall reflect the estimated cost to the lessor if stipulated in the lease agreement. If the lessor's cost is not stipulated, it shall be determined based on the cost of comparable owned property or equipment, the market value of comparable property or equipment, or independent appraisals; and such estimates, together with sufficient documentary evidence and factual support, shall be submitted to the Director, Bureau of Accounts and Statistics, for approval.

* * * * *

P. By revising paragraph (a) of Schedule B-41 to read as follows:

Schedule B-41—Investments Held by, or for the Account of, Respondent

(a) This schedule shall be filed by all air carriers.

Q. By revising the text of Schedule B-43 to read in pertinent part as follows:

Schedule B-43—Inventory of Airframes and Aircraft Engines

(a) This schedule shall be filed by all air carriers.

(b) Air carriers shall file a single set of this schedule for the overall corporate or other legal entity comprising the air carrier.

(c) The indicated data shall be reported for each individual airframe, identified by type, model, and design of cabin as to use for passengers exclusively, cargo exclusively, or both passengers and cargo in combination. Data pertaining to aircraft engines shall be reported on a group basis by type or engine and by type of aircraft to which related.

(d) Data in this schedule shall be grouped and subtotaled as between data pertaining to airframes and data pertaining to aircraft engines. Data pertaining to nonoperating airframes and aircraft engines shall be reported in a group below the data for operating equipment.

(e) The data to be reported shall include owned and rented airframes and aircraft engines currently in operation or in conversion. Data pertaining to rented airframes and aircraft engines shall be listed in columns 1 through 7 and in column 13; the cost of improvements thereto shall be listed in columns 8 through 12.

(f) For route air carriers, column 8, "Cost" shall agree in totals for owned and operating airframes and aircraft engines, respectively, with corresponding amounts reflected in accounts 1601 and 1602 in column 7 of Schedule B-5 as at December 31 of the reporting year.

(g) * * *

* * * * *

R. By revising paragraph (a) of Schedule B-44 to read as follows:

Schedule B-44—Summary of Resources Exchanged with Affiliated Group Members and Other Associated Companies

(a) This schedule shall be filed by all subsidized Group I, subsidized Group II, and Group III route air carriers.

S. By revising paragraph (a) of Schedule B-46 to read in pertinent part as follows:

Schedule B-46—Long-Term and Short-Term Nontrade Debt

(a) This schedule shall be filed by all subsidized Group I, subsidized Group II, and Group III route air carriers and all persons controlling such air carriers, * * *

20. Amend Section 24 "Profit and Loss Elements" as follows:

A. By revising the text of Schedules P-1.1 and P-1.2 to read as follows:

Schedule P-1.1—Statement of Operations—Group I Air Carriers

Schedule P-1.2—Statement of Operations—Group II and Group III Air Carriers

(a) Schedule P-1.1 shall be filed by each Group I air carrier and Schedule P-1.2 shall be filed by each Group II air carrier and each Group III air carrier.

(b) Air carriers shall file separate statements of operation for each separate operating entity of the air carrier and for the overall or system operations of the air carrier.

(c) Supplemental air carriers shall report data only in the column headed "Quarter." Cumulative "12 Months to Date" and "Year to Date" information is not required from supplemental air carriers but is acceptable if the report is used for submission to the Securities and Exchange Commission as explained in section 22(k).

(d) Data reported on this schedule shall conform with the instructions pertaining to profit and loss classifications within this Uniform System of Accounts and Reports.

(e) Data reported in the "12-Months-to-Date" column shall represent for each individual item the sum of amounts reported in the "Quarter" column for the current and next previous three quarters. Data reported in the year-to-date column shall represent, for the first three quarters of the air carrier's fiscal or calendar year, amounts from the beginning of the carrier's fiscal or calendar year, to the end of the quarter for which the schedule is being submitted. For the fourth quarter of the air carrier's fiscal or calendar year, the year-to-date column should be used for the comparative presentation of data for the prior year.

(f) Earnings per share data shall be filed on a quarterly basis by those air carriers that are required to file such data with the Securities and Exchange Commission.

(g) This schedule has been designed to facilitate the presentation of comparative data for prior periods when used in submissions to the Securities and Exchange Commission. (See section 22(k).)

B. By revising paragraph (a) of Schedule P-1(a) to read as follows:

Schedule P-1—Interim Statement of Operations

(a) This schedule shall be filed by all Group III route air carriers.

C. By revising the title and text of Schedule P-2 to read in pertinent part as follows:

Schedule P-2—Notes to CAB Form 41 Report

(a) This schedule shall be filed by all air carriers.

(b) Air carriers shall file separate sets of this schedule for each separate operating entity and for the overall or system operations of the carrier.

* * * * *

(e) For route air carriers, this schedule shall reflect at the end of each calendar quarter amounts reported in balance sheet accounts 1550 Special Funds and 1685 Equipment Purchase Deposits and Advance Payments representing funds segregated, or on deposit with manufacturers, for the purchase of equipment, including any capitalized interest thereon. (See section 2-10 Capitalization of Interest.)

* * * * *

(g) Each route air carrier shall include on this schedule * * *

(h) Each route air carrier * * *

(i) Route air carriers shall note on this schedule all dividends declared in the current period on stocks of investor controlled companies.

(j) Route air carriers shall report on this schedule on a quarterly basis all revenue from airline employees, officers and directors, or other persons, except for ministers of religion, who are traveling under reduced-rate transportation authorized by section 403(b) of the Federal Aviation Act and Part 223 of the Board's Economic Regulations as well as travel agents, cargo agents and tour conductors traveling at reduced fares (included in account 3919 on Schedule P-1.1 or P-1.2) and related nonrevenue passenger miles (included in item K160 on Schedule T-1(a)) shall be reported in this schedule on a quarterly basis.

(k) Amounts of adjustments resulting from the physical vertification of passenger revenue accounting practices required by section 2-17 shall be reported herein for the quarter in which the adjustment takes place.

(l) Supplemental air carriers shall note on this schedule the balances in subaccounts 87 and 88.2 of profit and loss account 8100 as reported on the P-1 schedules, together with dividends declared in the current period on the stocks of investor controlled companies.

(m) Disclosure presented on Schedule B-2—General Notes to Financial Statements need not be duplicated on Schedule P-2 submitted during the same quarter.

D. By revising paragraph (a) of Schedule P-2(a) to read as follows:

Schedule P-2(a)—Revenue Market Report

(a) This schedule shall be filed by all Group III route air carriers conducting operations set forth in paragraph (c) below.

E. By adding a new Schedule P-3.1 the title and text of which to read as follows:

Schedule P-3.1—Transport Revenues

(a) This schedule shall be filed by all supplemental air carriers.

(b) This schedule shall reflect the distribution of revenues by geographic area. (See section 21(g).)

(c) Revenues reported shall reflect the aggregate revenue from each indicated class of traffic. In the case of military contracts, type of service shall be reported under the appropriate objective account. Abbreviations may be used in reflecting type of service, such as CAM's (Commercial Air Movements), CAF's (Commercial Air Freight Movements), MAC-FC (Military Airlift Command Fixed Contracts), MAC-CC (Military Airlift Command Call Contracts). The type of aircraft shall also be reported for each type of service, e.g., CAM's—DC-4. Type of service would also include maintenance, equipment, modification, personnel training, etc.

(d) The sum of the subdivisions of each objective account reported in this schedule shall agree with the corresponding amounts reported in Schedule P-1—Statement of Operations.

F. By revising paragraph (a) of Schedule P-3(a) to read as follows:

Schedule P-3(a)—Income Taxes

(a) This schedule shall be filed by all Group III route air carriers.

G. By revising the title and paragraph (a) of Schedule P-4 to read as follows:

Schedule P-4—Transport-related Revenues and Expenses, Explanation of Extraordinary Items and Cumulative Effect of Accounting Changes on Prior Years; Explanation of Prior Period Adjustments and Dividends Declared

(a) This schedule shall be filed by all Group II and Group III route air carriers and all Group I subsidized carriers.

H. By revising the text of Schedules P-5.1 and P-5.2 to read in pertinent part as follows:

Schedules P-5.1 and P-5.2—Aircraft Operating Expenses

(a) Schedule P-5.1 shall be filed by all Group I air carriers and Schedule P-5.2 by all Group II and Group III air carriers.

(b) Air carriers shall file separate sets of this schedule for each separate operating entity of the air carrier.

(c) Route air carriers shall file two sets of this schedule each quarter for each operating entity. One set shall reflect the indicated data applicable to the current quarter. The second set shall reflect the indicated data applicable to the 12-month period ended with the current quarter. An "x" shall be inserted in the box designated "Qr" at the head of each column of the set covering quarterly data and an "x" shall be inserted in the box designated "Yr" at the head of each

column of the set covering 12 months-to-date data.

(d) Data applicable to each aircraft type operated by the air carrier shall be reported in separated columns of this schedule and each aircraft type for which report is being made shall be identified at the head of each column in the space provided opposite "Aircraft Type." However, each air carrier may group on a uniform basis, data applicable to small single-engine aircraft types of approximately equivalent size, flight principles and characteristics. For this purpose, all single-engine piston and twin-engine piston fixed-wing aircraft with a gross maximum takeoff weight of 12,500 pounds or less may be separately grouped and reported as single aircraft types. All other aircraft shall be separately reported as distinct aircraft types as established by the Director, Bureau of Accounts and Statistics. (All route air carrier expenses applicable to the operation on the accounting carrier's routes of aircraft provided by other under aircraft interchange agreements shall be separately reported, in aggregate for all such aircraft, as if for a distinct aircraft type. Those expenses applicable to aircraft of the same type as those owned or operated by the accounting air carrier shall be distributed in summary memo form as items 98.1 and 98.2 to each aircraft type owned or operated by the accounting air carrier.) Aircraft types not generally used in revenue services shall be separately reported. If more than one type of aircraft is involved, a separation of data relating to each type of aircraft shall not be required.

(e) "Aircraft type" refers to models, such as B-707-100, B-707-300, CV-240, DC-6, etc., as designated by the manufacturer. Data applicable to aircraft designed primarily for cargo services and only incidentally used for passenger services shall be reported in separate columns, and the word "cargo" shall be inserted after the aircraft type at the head of the column. The prescribed reporting by aircraft types may be reviewed from time to time upon request by individual air carriers, or upon the initiative of the Board, and groupings of aircraft types for reporting purposes may be prescribed or amended in specific instances.

(f) Italized codes and item titles do not constitute accounts or account numbers prescribed for air carrier accounting but shall be used for reporting purposes only.

(g) Item 79.6 Applied Maintenance Burden shall reflect a memorandum allocation by each air carrier of the total expenses included in subfunction 5300 Maintenance Burden between maintenance of flight equipment, by aircraft types, and maintenance of ground property and equipment (exclusive of maintenance equipment and maintenance buildings) in accordance with item (g) of the instructions for Schedule P-6. The amount reported for this item, in aggregate for all aircraft types, shall agree with the amount reported for the same item reflected on Schedule P-6.

* * * * *

(j) The total of function 5100 Flying Operations reported on this schedule shall agree with corresponding amounts reported on Schedule P-1; the total of item 5278 Total Direct Maintenance—Flight Equipment shall agree with the corresponding amount reported in Schedule P-6 and for route air carriers, the total of item 75.6 Total Depreciation—Flight Equipment shall agree with the corresponding amount in Schedule P-3.

I. By revising paragraphs (a) and (d) of Schedule P-5(a) to read as follows:

Schedule P-5(a)—Components of Flight Equipment Depreciation

(a) This schedule shall be filed by all Group III route air carriers and Group I subsidized and Group II subsidized air carriers.

* * * * *

(d) Data applicable to each aircraft type operated by the air carrier shall be reported in separate columns of this schedule and each aircraft type for which report is being made shall be identified at the head of each column in the space provided opposite "Aircraft Type." However, each aircarrier may group on a uniform basis, data applicable to small single-engine aircraft types of approximately equivalent size, flight principles and characteristics. For this purpose, all single engine piston and twin engine piston fixed-wing aircraft with a gross maximum takeoff weight of 12,500 pounds or less may be separately grouped and reported as single aircraft types. All other aircraft shall be separately reported as distinct aircraft types as established by the Director, Bureau of Accounts and Statistics. Aircraft types not generally used in revenue services shall be separately reported. If more than one type of aircraft is involved, a separation of data relating to each type of aircraft shall not be required.

* * * * *

J. By revising the text of Schedule P-6 to read as follows:

Schedule P-6—Maintenance, Passenger Service and General Services and Administration Expense Functions

(a) This schedule shall be filed by all route and supplemental air carriers.

(b) Route air carriers shall file a separate set of this schedule for each separate operating entity of the air carrier.

(c) Also, route air carriers shall file two sets of this schedule for each operating entity with the Form 41 report filed for the fourth calendar quarter of each calendar year. One set shall me filed for each operating entity for the first three quarters of each calendar year. One of the two sets filed for the fourth quarter of each year shall reflect the indicated data applicable to the 12 months ended December 31. All other sets shall reflect the indicated data applicable to the current quarter. An "x" shall be inserted in the box designated "'Qr" at the head of each column of each report covering quarterly data and an "x" shall be inserted in the box designated "Yr" at the head of each column of each report covering 12-month data.

(d) Supplemental air carriers shall file this schedule for quarterly data only. The caption "Operation" at the head of each column is not applicable to supplemental air carriers.

(e) Group I air carriers shall report the indicated data for all except function 5500 Passenger Service.

(f) Group II and Group III air carriers shall report the indicated data for all except function 6900 General Services and Administration.

(g) Item 79.6 Applied Maintenance Burden—Flight Equipment and 79.8 Applied Maintenance Burden—General Ground Property, respectively, shall reflect a memorandum allocation by each air carrier of the total expenses included in subfunction 5300 Maintenance Burden between maintenance of flight equipment (by aircraft types) and maintenance of ground property and equipment (exclusive of maintenance equipment and maintenance buildings for which costs are included in subfunction). Where airframe and aircraft engine overhauls are accounted for on the accrual basis to produce a matching of costs with the operation of aircraft, the allocation of maintenance burden shall give effect to charges and credits to profit and loss account 5272 Flight Equipment Airworthiness Provisions in order to effect an equitable allocation of such maintenance burden costs. In accordance with the provisions of section 22(d), each air carrier shall file with the Civil Aeronautics Board a statement in which the procedures to be followed in allocating maintenance burden are fully explained. At the option of the air carrier standard burden rates may be employed for quarterly allocations of maintenance burden provided the rates are reviewed at least once each accounting year and the amounts allocated are adjusted to reflect the actual costs incurred for the full accounting year. Any differences between actual burden costs incurred during each quarter and amounts applied at standard rates shall be entered as item 79.9 Over or Under Applied Burden.

(h) The sum of the totals of subfunctions 5200 Direct Maintenance and 5300 Maintenance Burden shall agree with the corresponding amount reported in function 5400 Maintenance on schedule P-1. The total of function 6900 General Services and Administration reported in this schedule by Group I air carriers shall agree with the corresponding amount reported on Schedule P-1.

K. By revising the text of Schedule P-7 to read in pertinent part as follows:

Schedule P-7—Aircraft and Traffic Servicing, Promotion and Sales, and General and Administrative Expense Functions

(a) This schedule shall be filed by all Group II and Group III air carriers.

(b) Separate sets of this schedule shall be filed for each separate operating entity of the air carrier.

(c) Route air carriers shall file two sets of this schedule for each operating entity with the Form 41 Report * * *

(d) Supplemental air carriers shall file this schedule for quarterly data only.

(e) Group II air carriers and Group III supplemental carriers shall report the indicated data for all except subfunction 6100 Aircraft Servicing.

(f) Group III route air carriers shall report the indicated data for subfunction 6100 Aircraft Servicing and function 6800 General and Administrative and shall disregard the data indicated for functions 6400 Aircraft and Traffic Servicing and 6700 Promotion and Sales.

(g) For route air carriers, the item "12-months to date" shall reflect the total expenses of each functional expense classification reported on this schedule for the cumulative 12-month period ended with each current quarter for which report is made.

(h) The total of each functional expense classification reported in this schedule shall agree with the corresponding amount reported in Schedule P-1.

L. By deleting the title of Schedule P-9.1 and revising the text of Schedule P-9.2 to read in pertinent part as follows:

Schedule P-9.2—Distribution of Ground Servicing Expenses by Geographic Location—Group II and Group III Route Air Carriers

(a) This schedule shall be filed by all Group II and Group III route air carriers.

(b) Separate sets of this schedule shall be filed for each separate operating entity of the air carrier.

(c) This schedule shall reflect a distribution of expenses by the geographic locations at which the goods or services to which related are applied. This schedule shall embrace for all air carrier groups direct maintenance, and depreciation expenses applicable to general ground properties recorded in subfunction 5200 Direct Maintenance, exclusive of account 78 Direct Maintenance—Flight Equipment, plus subaccount 75.9 Depreciation—General Ground Property and Expenses recorded in functions or subfunctions of 6400 Aircraft and Traffic Servicing and 6700 Promotion and Sales.

* * * * *

M. By revising paragraph (a) of Schedule P-10 to read as follows:

Schedule P-10—Employment Statistics by Labor Category

(a) This schedule shall be filed by all Group air carriers.

N. By revising paragraph (a) of Schedule P-11(a) to read as follows:

Schedule P-11(a)—Charges by Foreign Governments and Foreign Entities for En Route Facilities and Services

(a) This schedule shall be filed by all Group III air carriers and Group II supplemental air carriers that are performing international operations.

O. By revising paragraph (a) of Schedule P-11(b) to read as follows:

Schedule P-11(b)—Charges by Foreign Governments for Airport Facilities and Services

(a) This schedule shall be filed by all Group III air carriers and Group II supplemental air carriers that are performing international operations.

P. By revising paragraph (a) of Schedule P-12 to read as follows:

Schedule P-12—Fuel Inventories and Consumption

(a) This schedule shall be filed monthly by air carriers.

Q. By revising paragraph (a) of Schedule P-12(a) to read as follows:

Schedule P-12(a)—Fuel Consumption by Type of Service and Specific Operational Markets

(a) This schedule shall be filed monthly by all air carriers.

21. Amend Section 25 "Traffic and Capacity Elements" as follows:

A. By revising paragraph (b) of the "General Instructions" to read as follows:

(b) Schedules T-1, T-2, and T-3 shall be in a form prescribed by the Board or in the form of approved machine listings. The same information reported in these schedules shall be submitted on magnetic tape or punched cards at the time the schedules are submitted; however, those air carriers not having access to automatic data processing equipment shall utilize conventional documentary mediums of transmitting data to the Board.

B. By revising the title and paragraph (a) of Schedule T-1 to read as follows:

Schedule T-1(a)—Traffic and Capacity Statistics by Class of Service

Schedule T-1(b)—Traffic and Capacity Statistics by Class of Service—Scheduled Services

Schedule T-1(c)—Traffic and Capacity Statistics by Class of Service—Nonscheduled Services

(a) Schedule T-1 shall be filed monthly as follows:

Schedule No.:	*Applicability*
T-1(a)	All air carriers.
T-1(b)	All Group II and Group III route air carriers.
T-1(c)	All Group II and Group III air carriers; All Group I supplemental air carriers.

C. By revising the title and paragraph (a) of Schedule T-2 to read as follows:

Schedule T-2(a)—Traffic, Capacity, Aircraft Operations and Miscellaneous Statistics by Type of Aircraft

Schedule T-2(b)—Traffic, Capacity, Aircraft Operations and Miscellaneous Statistics by Type of Aircraft

(a) Schedule T-2 shall be filed quarterly as follows:

Schedule No.:	*Applicability*
T-2(a)	All route air carriers.
T-2(b)	All air carriers.

D. By revising the title and paragraph (a) of Schedule T-3 to read as follows:

Schedule T-3(a)—Airport Activity Statistics—Revenue Service

Schedule T-3(b)—Airport Activity Statistics—Revenue Service

Schedule T-3(c)—Airport Activity Statistics—Nonscheduled Revenue Service

(a) Schedule T-3 shall be filed quarterly as follows:

Schedule No.:	*Applicability*
T-3(a)	All route air carriers.
T-3(b)	All route air carriers.
T-3(c)	All air carriers.

E. By revising paragraph (a) of Schedule T-6 to read as follows:

Schedule T-6—Report of Civil Aircraft Charters

(a) This schedule shall be filed by all Group III air carriers and by all Group I and Group II supplemental air carriers.

F. By revising paragraph (a) of Schedule T-7 to read as follows:

Schedule T-7—Statistical Market Report

(a) This schedule shall be filed by all Group III route air carriers conducting operations set forth in paragraph (c) below.

G. By revising paragraph (a) of Schedule T-41 to read as follows:

Schedule T-41—Charter and Special Services Revenue Aircraft-Miles Flown; Calculation of Limitation of Charter Trips

(a) This schedule shall be filed by all Group III route air carriers.

22. Amend Section 26 "General Corporate Elements" as follows:

A. By revising paragraph (a) of Schedule G-41 to read as follows:

Schedule G-41—Persons Holding More than 5 Per Centum of Respondent's Capital Stock or Capital

(a) This schedule shall be filed by all air carriers.

B. By revising paragraph (a) of Schedule G-42 to read as follows:

Schedule G-42—Security Interests of All Officers and Directors and Compensation Paid to Principal Officers and Directors

(a) This schedule shall be filed by all route and supplemental air carriers and all persons controlling a route and/or supplemental air carrier.

C. By revising paragraph (a) of Schedule G-43 to read as follows:

Schedule G-43—Compensation and Expenses of Persons and Firms (Other than Directors, Officers and Employees) Earning $20,000 or More During the Calendar Year

(a) This schedule shall be filed by all air carriers.

D. By revising the text of Schedule G-44 to read as follows:

Schedule G-44—Corporate and Securities Data

(a) This schedule shall be filed by all air carriers.

(b) The information to be reported on this schedule shall be prepared in accordance with the detailed instructions set forth on the schedule, as follows: (Corporations shall complete all of the following items; partnerships and sole proprietorships are not required to report items 4, 5, and 7.)

(1) The air carrier's exact name at the close of the year. Also, indicate whether the air carrier is a corporation, partnership, or sole proprietorship.

(2) Date of incorporation or other organization.

(3) State or other sovereign power under which incorporated or otherwise organized.

(4) Date of termination of charter.

(5) Date and place of annual meetings.

(6) A complete statement setting forth dates of all consolidations, mergers, reorganizations, changes in name, etc., occurring during the year. If, during the year, an original charter of incorporation or a modification of an existing charter was granted, furnish the name of each Government, State or Territory, and reference to each statute under which such grant was made.

(7) With respect to any options outstanding at the close of the fiscal year to purchase securities of the air carrier from the air carrier, the following information shall be reported:

(i) The amount, with the title of the issue, called for by such options.

(ii) A brief outline of the prices, expiration dates, and other material conditions on which such options may be exercised.

(iii) The name and address of each person holding such options calling for more than 5 percent of the total amount subject to option, and the amount called for by the options of each person.

(iv) For each class of such options not previously reported, state the consideration for the granting thereof.

Sections 31–36 [Amended]

23. Delete Section 31 "Introduction to System of Reports" from the Uniform System of Accounts and Reports.

24. Delete Section 32 "General Reporting Instructions" from the Uniform System of Accounts and Reports.

25. Delete Section 33 "Certification and Balance Sheet Elements" from the Uniform System of Accounts and Reports.

26. Delete Section 34 "Profit and Loss Elements" from the Uniform System of Accounts and Reports.

27. Delete Section 35 "Traffic and Capacity Elements" from the Uniform System of Accounts and Reports.

28. Delete Section 36 "General Corporate Elements" from the Uniform System of Accounts and Reports.

CAB Form 41 [Amended]

29. Amend CAB Form 41 Schedule P-3.1 "Transport Revenues" to reflect the revised reporting entities for supplemental air carriers, as shown in Exhibit A attached hereto and made a part hereof.

REQUEST FOR COMMENTS

Interested persons may take part in this rulemaking by submitting 20 copies of written data, views, or arguments on the subjects discussed. All relevant material received by the dates shown at the beginning of this notice will be considered by the Board before taking final action on the proposed rules.

Individual members of the general public who wish to express their interest as consumers by informally taking part in this proceeding may do so by submitting comments in letter form to the Docket Section, without having to file additional copies.

(Sections 204(a) and 407 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743 and 769; 49 U.S.C. 1324, 1377.)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

Budget Bureau No. 39-R0032

EXHIBIT A

TRANSPORT REVENUES	Air Carrier.. _____ Quarter ended .. .., 19____

ACCT NO.	ITEM	DOMESTIC	ATLANTIC	PACIFIC	LATIN AMERICA
3900	TRANSPORT REVENUES				
	Individual Sales:				
01	Passenger				
06.2	Freight				
06.3	Excess passenger baggage				
	Charter:				
07.1	Passenger — civilian				
07.1	Passenger — military:				
	_____				
	_____				
	_____				
	_____				
	_____				
07.2	Property — civilian				
07.2	Property — military:				
	_____				
	_____				
	_____				
	_____				
	_____				
19.9	Other transport revenues:				
	Civilian				
	Military				
3999	Total transport revenues:				
	Civilian				
	Military				
	Total				

U. S. GOVERNMENT PRINTING OFFICE: 3C9-343

SCHEDULE P-3.1

CAB Form 41

[FR Doc.77-12199 Filed 4-28-77;8:45 am]

CONSUMER PRODUCT SAFETY COMMISSION

[16 CFR Part 1401]

SELF-PRESSURIZED CONSUMER PRODUCTS CONTAINING CHLOROFLUOROCARBON PROPELLANTS

Proposed Labeling and Data Submission Requirements

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed rule.

SUMMARY: In this document the Commission proposes to require manufacturers (including importers) to label aerosol consumer products containing chlorofluorocarbon propellants to state a warning that they contain chlorofluorocarbons that may harm the public health and environment by reducing ozone in the upper atmosphere. The Commission believes this labeling will help reduce unreasonable risks of injury and assist consumers in evaluating the comparative safety of such products. For purposes of enforcing the rule, the Commission also proposes to require manufacturers (including importers) to submit to the Commission information about aerosol products that contain chlorofluorocarbons.

In addition, the Commission is considering proposing in the future a requirement that all aerosol consumer products be labeled to identify the propellants. and requests comment on this concept.

COMMENT DATES: Comments concerning this proposal should be received on or before May 31, 1977.

EFFECTIVE DATES: *See* Supplemental Information, G.

ADDRESS: Office of the Secretary, Consumer Product Safety Commission, 1111 18th Street NW., Third floor, Washington, D.C. 20207.

FOR FURTHER INFORMATION CONTACT:

Charles M. Jacobson, Bureau of Compliance, Consumer Product Safety Commission, Washington, D.C. 20207 (301-492-6400).

SUPPLEMENTARY INFORMATION:

A. PRODUCT DEFINITION

The requirements set forth in proposed 16 CFR Part 1401 apply to self-pressurized products containing fully halogenated chlorofluoroalkane (chlorofluorocarbon) propellants, that are consumer products as defined in section 3 (a)(1) of the Consumer Product Safety Act (15 U.S.C. 2052(a)(1)). These chemical compounds contain no hydrogen and have only carbon-carbon single bonds. They contain only chlorine, fluorine, and carbon. The principal chlorofluorocarbon propellants presently used in products subject to the Commission's jurisdiction are chlorofluorocarbon-11 (CCl_3F, or trichlorofluoromethane), chlorofluorocarbon-12 (CCl_2F_2, or dichlorodifluoromethane), and chlorofluorocarbon-114 ($C_2Cl_2F_4$, or dichlorotetrafluoroethane).

B. BACKGROUND

Chlorofluorocarbons are widely used as propellants in self-pressurized (aerosol) containers of a variety of products subject to the Commission's jurisdiction. Scientific research in recent years has indicated that chlorofluorocarbons may pose a risk of depletion of the stratospheric ozone. The stratospheric ozone shield is of great importance in protecting life on earth from short wave ultraviolet rays of the sun. The consequences of ozone reduction include a possibility of a significant increase in skin cancer and other effects of unknown magnitude on man, animals, and plants. Chlorofluorocarbon release may also cause climatic change both by reducing stratospheric ozone and by increasing infrared absorption in the atmosphere.

The Commission's formal consideration of the possible depletion of the earth's ozone layer from the release of chlorofluorocarbon propellants began with the receipt of a petition, on November 20, 1974, from the Natural Resources Defense Council. This petition requested a ban on all aerosol products containing certain chlorofluorocarbon compounds based on the allegation that their release into the atmosphere causes depletion of the ozone layer in the stratosphere resulting in an increase of ultraviolet rays from the sun reaching the surface of the earth. It was alleged that this increase in ultraviolet radiation would, among other things, increase the incidence of skin cancer in humans.

In June 1975, a Federal interagency study group known as the "Task Force on Inadvertent Modification of the Stratosphere" (IMOS), having analyzed the problem, issued a report entitled "Fluorocarbons and the Environment." This report recommended Federal regulatory action to eliminate the use of certain fluorocarbons allegedly associated with ozone reduction unless an in-depth scientific study being conducted by the National Academy of Sciences (NAS) were to demonstrate that such action was unnecessary. The Commission, as announced in a FEDERAL REGISTER notice of August 20, 1975 (40 FR 36419), denied the petition because of a lack of sufficient information and the fact that the scientific study being conducted by NAS was scheduled to be completed in 1976.

The NAS study was completed in August 1976 and a report, entitled "Halocarbons: Environmental Effects of Chlorofluorocarbon Release," was issued. This report essentially confirmed the eventual need for regulatory action unless further scientific experimentation and study demonstrated such action to be unnecessary. Thereafter, the Commission, on November 22, 1976, preliminarily found that aerosol consumer products which use certain chlorofluorocarbon propellants present an unreasonable risk of injury to consumers from the destruction of ozone in the stratosphere and that no feasible consumer product safety standard would adequately protect the public. This finding was based upon information contained in two petitions received by the Commission on December 23, 1975 and July 26, 1976 from the Natural Resources Defense Council and others, the IMOS and NAS reports, and other available information. The Commission staff was directed to prepare a draft proposed banning regulation under section 8 of the Consumer Product Safety Act (15 U.S.C. 2057). The Commission, however, recognizing that the Environmental Protection Agency (EPA), under the Toxic Substances Control Act, planned to propose regulatory action with respect to the non-essential uses of certain chlorofluorocarbon propellants by April 26, 1977, stated that if EPA proposed a rule which would render banning action by the Commission unnecessary, the Commission might terminate its proceeding.

C. RESPONSE TO PETITION

On October 14, 1976, the Commission received a petition from the Chemical Specialties Manufacturers Association, Inc. (CSMA) requesting the Commission to require self-pressurized containers of consumer products propelled by chlorofluorocarbon-11 or chlorofluorocarbon-12 to state the presence of either of these ingredients on the label. The petition requested that this be done by an amendment to 16 CFR 1500.130, a regulation issued under the Federal Hazardous Substances Act (FHSA) (15 U.S.C. 1261 et seq.) which relates to the labeling of self-pressurized containers. Since labeling requirements under the FHSA are based upon classification of the product as a habardous substance, and since hazardous substances are products presenting one or more of certain enumerated hazardous substance, and since hazardspheric ozone layer is not included, the Commission, on January 6, 1977, denied the petition under the FHSA.

The Commission did find, however, that a regulation similar to the one requested by CSMA could be issued under section 27(e) of the Consumer Product Safety Act 15 U.S.C. (2076(e)), and that such a regulation would be desirable because of the substantial amount of time required for either a banning action under the Consumer Product Safety Act or a regulation phasing out the non-essential uses of chlorofluorocarbon propellants under the Toxic Substances Control Act. Therefore, for the reasons stated below, the Commission is proposing to issue a regulation which would require manufacturers of aerosol consumer products containing certain chlorofluorocarbon propellants to (1) notify the Commission of the consumer products containing such propellants, (2) notify consumers at the point of purchase, by labeling, that the product contains a chlorofluorocarbon propellant, and (3) include a warning statement on chlorofluorocarbon-containing aerosol consumer products that such compounds may harm the public health and environment by reducing ozone in the upper atmosphere.

D. GROUNDS FOR PROPOSAL

Section 27(e) of the Consumer Product Safety Act authorizes the Commis-

sion, by rule, to "require any manufacturer of consumer products to provide to the Commission such performance and technical data related to perfomance and safety as may be required to carry out the purposes of this Act, and to give such notification of such performance and technical data at the time of original purchase to prospective purchasers and to the first purchaser of such product for purposes other than resale, as it determines necessary to carry out the purposes of this Act." As provided in section 2(b) of the Consumer Product Safety Act (15 U.S.C. 2051(b)), two purposes of the act are (1) "to protect the public against unreasonable risks of injury associated with consumer products;" and (2) "to assist consumers in evaluating the comparative safety of consumer products."

Based on the information referred to in section B of this preamble, above, the Commission has made a preliminary finding that aerosol consumer products propelled by certain chlorofluorocarbon propellants present an unreasonable risk of injury to consumers from the destruction of ozone in the stratosphere and the likely significant increase in the incidence of skin cancer in humans. While it is anticipated that the use of chlorofluorocarbons will ultimately be halted, such regulatory action may take one year or longer to become effective. In the meantime, however, labels on the containers of aerosol consumer products propelled by chlorofluorocarbons informing consumers of the presence of the propellant and warning them of the possible hazard of ozone depletion could decrease the sale of such products by allowing consumers to choose between products that contain chlorofluorocarbons and products that are either non-aerosols or that contain another propellant. Thus, by reducing the use of chlorofluorocarbons during this interim period, the amount of ozone ultimately depleted could be reduced.

Since there has previously been no requirement that the propellant contained in self-pressurized products be identified, it is not possible to determine which products contain chlorofluorocarbon propellants. In order for the Commission to determine whether such products are properly labeled, therefore, the regulation proposed below would require manufacturers of self-pressurized consumer products containing chlorofluorocarbons to also submit to the Commission information identifying products containing chlorofluorocarbons. Therefore, the Commission finds that to help protect consumers from the unreasonable risk of injury associated with self-pressurized consumer products containing chlorofluorocarbons, and to assist consumers in evaluating the comparative safety of such products, the rules proposed below are necessary.

E. Environmental Considerations

Based on an assessment of the potential environmental impact of the proposal set forth below the Commission concludes that the environment will not be significantly affected and that an environmental impact statement is not necessary. The environmental assessment is available for review in the Office of the Secretary of the Commission.

F. Other Propellants

This proposal will require the identification by labeling only of the presence in consumer products of chlorofluorocarbon propellants. The Commission, believes, however, that it may be desirable for the protection of the public health and safety, in the event future problems arise concerning other propellants of self-pressurized consumer products, to label all such products with the name of the propellant. While no such regulation is being proposed at this time, the Commission is requesting all interested persons to comment on the merits of such a regulation.

G. Effective Date

The effective date for the regulations proposed below is separated into two parts. The proposed effective date for § 1401.3, which requires manufacturers to submit data to the Commission, is 180 days from the date of issuance of any final rule in the Federal Register. An additional 30 days after the effective date is provided for manufacturers to assemble and submit to the Commission the required data.

The proposed effective date of § 1401.4, which requires labeling, is 180 days from issuance of any final regulation in the Federal Register. The labeling requirement would apply to all self-pressurized consumer products containing chlorofluorocarbons imported or introduced into commerce after the 179th day following publication of any final regulation in the Federal Register.

H. Conclusion and Proposal

On the basis of the information discussed above, the Commission concludes that (1) a requirement for a chlorofluorocarbon identification and warning statement on self-pressurized containers of consumer products containing chlorofluorocarbon propellents, and (2) a requirement for manufacturers of self-pressurized consumer products containing chlorofluorocarbons, to inform the Commission of a certain identification information, are necessary to help protect the public against the unreasonable risks of injury associated with such products and to assist consumers in evaluating the comparative safety of such products.

Therefore, under provisions of the Consumer Product Safety Act (section 27(e), 86 Stat. 1227–29, as amended; 15 U.S.C. 2076(e)), the Commission proposes that Title 16, Chapter II, be amended by adding to Subchapter B the following new Part 1401:

PART 1401—SELF-PRESSURIZED CONSUMER PRODUCTS CONTAINING CHLOROFLUOROCARBONS: REQUIREMENTS TO PROVIDE THE COMMISSION WITH PERFORMANCE AND TECHNICAL DATA; REQUIREMENTS TO NOTIFY CONSUMERS AT POINT OF PURCHASE OF PERFORMANCE AND TECHNICAL DATA

Sec.
1401.1 Scope.
1401.2 Purpose.
1401.3 Submission of performance and technical data to the Commission.
1401.4 Providing performance and technical data to purchasers by labeling.

Authority: Sec. 27(e), Pub. L. 92-573, 86 Stat. 1227–29 (15 U.S.C. 2076(e)).

§ 1401.1 Scope.

This part establishes, pursuant to section 27(e) of the Consumer Product Safety Act (15 U.S.C. 2076(e)), requirements for manufacturers (including importers) of self-pressurized consumer products containing chlorofluorocarbons to (a) notify by labeling, at the time of original purchase to prospective purchasers and to the first purchaser of such products for purposes other than resale, of certain performance and technical data consisting of identification of chlorofluorocarbon as a propellant and a warning statement, and (b) provide to the Commission certain performance and technical data concerning the identification of self-pressurized consumer products containing chlorofluorocarbons.

For the purposes of this part, the term "chlorofluorocarbon" shall include fully halogenated chlorofluoroalkanes.

§ 1401.2 Purpose.

Chlorofluorocarbons are widely used as propellants in self-pressurized containers of a variety of products subject to the Commission's jurisdiction. Scientific research in recent years has indicated that chlorofluorocarbons may pose a risk of depletion of the stratospheric ozone. The stratospheric ozone shield is of great importance in protecting life on earth from short wave ultraviolet rays of the sun. The consequences of ozone reduction include a possibility of a significant increase in skin cancer and other effects of unknown magnitude on man, animals, and plants. Chlorofluorocarbon release may also cause climatic change both by reducing stratospheric ozone and by increasing infrared absorption in the atmosphere. While various agencies of the federal government have expressed an intent to ultimately ban or phase out the use of cholofluorocarbons as propellants in self-pressurized products, it may require a significant amount of time for such regulatory action to become effective. Therefore, the data submission and notification requirements of this part are intended to serve as an interim measure until chlorofluorocarbon usage has been phased out. The Commission anticipates that the purposes of the Consumer Product Safety Act of helping to protect the public against the unreasonable risk of

injury associated with self-pressurized consumer products containing chlorofluorocarbons and assisting consumers in evaluating the comparative safety of such products will be advanced by the requirements of this part by affording consumers the ability to discriminate and choose between products that contain chlorofluorocarbons and products that do not.

§ 1401.3 Submisison of performance and technical data to the Commission.

(a) The following performance and technical data shall be submitted to the Commission by manufacturers (including importers) of self-pressurized consumer products containing a fully halogenated chlorofluoroalkane (chlorofluorocarbon) as a propellant. These requirements shall apply to those products that were imported or first distributed in commerce after the 179th day following publication of any final regulation in the FEDERAL REGISTER.

(1) Identification of specific self-pressurized products by type and brands, including identifying features, such as package size or design, label, or production codes, which contain a fully halogenated chlorofluoroalkane (chlorofluorocarbon) propellant.

(2) A claim for confidentiality, if any, and identification of the material submitted for which confidentiality is claimed, pursuant to the provisions of the Commission's regulations under the Freedom of Information Act (16 CFR Part 1015, 42 FR 10490 (February 22, 1977)).

(b) The data required by this section shall be submitted in writing to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. The data shall be submitted so as to be received by the Commission within 30 days after the effective date of this section or within 30 days after a new product or new size is imported or first distributed in commerce. The data shall also be submitted so as to be received by the Commission within 30 days after each subsequent 6-month period.

§ 1401.4 Providing performance and technical data to purchasers by labeling.

(a) The following performance and technical data shall be provided, as specified, by manufacturers (including importers) to prospective purchasers and to first purchasers, for purposes other than resale, of self-pressurized consumer products containing a fully halogenated chlorofluoroalkane (chlorofluorocarbon) as a propellant that were imported or first distributed in commerce after 179 days following publication of any final regulation in the FEDERAL REGISTER.

(b) In addition to any other required labeling, products subject to this section shall bear the following identification and warning statement:

"WARNING.—Contains a chlorofluorocarbon that may harm the public health and environment by reducing ozone in the upper atmosphere."

(c) The warning required by paragraph (b) of this section shall appear on an appropriate panel with such prominence and conspicuousness as to render it likely to be read and understood by ordinary individuals under normal conditions of purchase. This warning shall appear on the immediate container of the consumer product and additionally on any outside container or wrapper in which the product is normally offered for sale at retail. The warning may appear on a firmly affixed tag, tape, card, or sticker or similar overlabeling attached to the package.

Interested persons are invited to submit, on or before May 31, 1977, written comments regarding this proposal. Comments received after this date will be considered to the extent practicable. Comments and any accompanying material should be submitted, preferably in five copies, addressed to the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. Comments may by accompanied by a memorandum or brief in support thereof. Received comments may be seen in the Office of the Secretary, Third Floor, 1111 18th Street NW., Washington, D.C., during working hours Monday through Friday.

Dated: April 22, 1977.

SADYE E. DUNN,
Secretary, Consumer Product Safety Commission.

[FR Doc.77-12077 Filed 4-28-77;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 210]

[Release Nos. 33-5823, 34-13457, 35-19995, IC-9730]

FORM AND CONTENT OF FINANCIAL STATEMENTS OF BANK HOLDING COMPANIES AND BANKS

Proposed Amendments

AGENCY: Securities and Exchange Commission.

ACTION: Proposed Rules.

SUMMARY: The proposed rules would replace the existing Article 9 of Regulation S-X with a new article which will contain specific requirements as to form and content for consolidated and unconsolidated financial statements of bank holding companies and banks. The proposal of these requirements has been made necessary by the continuing increase in the complexity of the operations of bank holding companies. It is expected that the proposed requirements will result in more informative financial statements for investors in securities of these companies.

COMMENT DATE: Comments on or before: July 1, 1977.

ADDRESS: Comments in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549. All comments will be available for public inspection. File No. S7-689.

FOR FURTHER INFORMATION CONTACT:

Lawrence J. Bloch, Assistant Chief Accountant, Securities and Exchange Commission, Washington, D.C. 20549 (202-755-1182)

SUPPLEMENTAL INFORMATION:

GENERAL

The substantial number of bank holding company registrants and the complexity of their operations makes it appropriate to propose amendment of the financial statement requirements in Regulation S-X [17 CFR Part 210] by the addition of a completely revised Article 9 [17 CFR 210.9-01 to 9-05] to be applicable to bank holding companies and banks. These requirements would be applicable to the consolidated and unconsolidated financial statements of bank holding companies. In addition, the requirements would be appropriate for financial statements presented for banks. Existing Article 9 which contains requirements for unconsolidated statements of bank holding companies and requirements for banks by reference to Regulation F of the Board of Governors of the Federal Reserve System [12 CFR 206] will be rescinded at such time as the proposed revision is adopted.

The proposal combines elements of financial reporting requirements of the three Federal bank regulatory agencies and provisions of Regulation S-X applicable to commercial and industrial companies and to all registrants generally. Additionally, the proposal reflects experience gained in examining financial statements of bank holding companies and banks filed with the Commission and discussion of accounting and disclosure problems with registrants, accountants and banking associations.

Generally the proposal is separate and apart from the statistical disclosure requirements of Guides 61 and 3 except for some of the requirements as to foreign activities. A definition of foreign activities is included and is discussed below. Comments are specifically requested on this point.

PRINCIPAL FEATURES

For many years banks and bank holding companies have issued essentially unclassified financial statements. On the balance sheet, assets and liabilities are listed in what has become a traditional order but the statement does not present classifications corresponding to the current and fixed categories found almost universally on the statements of commercial and industrial enterprises. Similarly, the income statement lists the items of revenue followed by expenses without classification or breakdown to show the interrelationship of specific categories of revenue and costs and expenses. The proposed balance sheet would show earning assets separately from all other assets and deposits and borrowed funds apart from all other liabilities. The income statement proposal calls for a format in which the various components of revenue and expense are

presented in the following order and classification:

Revenue from earning assets
Cost of funds
Net revenue from earning assets before provision for loan losses
Provision for loan losses
Net revenue from earning assets
Other revenue
Other expenses
Income or loss before income tax expense and appropriate other items.

A separate requirement will elicit information concerning foreign activities from companies to which they are material (§ 210.9-04). Although some bank holding companies have included disclosures of foreign activities in their financial statements in the past, there has been no comparability between registrants. It is hoped that, by detailing the areas in which disclosure is to be made and defining the term "foreign activities," uniformity and comparability among registrants will be achieved. Foreign activities are defined to include loans and other revenue producing assets and transactions in which the debtor or customer is domiciled outside the United States. The definition would cover operations located and conducted entirely outside the United States as in the definition of foreign operations in the Financial Accounting Standards Board's Standard No. 14 which is concerned with reporting for segments of a business enterprise. The definition would also include loans made from a location in the United States to a customer located outside the United States. While this latter category is a type of lending transaction not explicitly considered in the FASB's definition, these loans appear to have similar characteristics as those in the FASB's definition. It is not determinable at this time whether bank holding companies would interpret standard No. 14 to include such loans and transactions as falling within the ambit of the FASB standard. Guides 61 and 3 include a requirement for disclosure of foreign operations but leave the determination of which components are foreign operations to the registrant. Therefore, we now believe that the significance of foreign activities to some banks is such that there is a need for a clear definition in order to achieve a degree of uniformity in reporting and to facilitate comparison between registrants.

Specifically, disclosure is proposed concerning loans, allowance for loan losses, balances in foreign banks, deposits, borrowings and revenue and income. These are the only items in the proposed Article 9 which are derived directly from Guides 61 and 3, and in most cases registrants will be able to comply with the requirements for statistical disclosure elsewhere in the annual report or registration statement. No specific format is prescribed for these disclosures which may be made in the form of notes or separate financial statements as may be appropriate. However, by including them as a financial statement requirement, the information will be covered by the accountant's report.

In view of the relative insignificance of securities gains and losses on investment securities, it no longer appears appropriate to continue to report this amount as a separate category at the foot of the income statement immediately preceding net income. The proposal consequently considers such gains or losses as an element of other revenue. This change will have the further effect of eliminating reporting of earnings and earnings per share on the dual basis of income before securities gains or losses and net income, which currently do not vary significantly.

In the period since the revision of Article 9 in 1972, the requirement for schedule disclosure of amounts receivable from underwriters, promoters, directors, officers, employees and holders of securities has been the subject of widely varying interpretations by registrant bank holding companies. The nature and extent of disclosure, consequently, has also differed between companies. Some multi-bank holding company systems argue that it is difficult to accumulate information as to transactions involving persons who are directors of one subsidiary bank with other affiliates of the holding company to which they have no direct connection. Other holding companies can ascertain the information but state that its reporting results in a long detailed schedule which is of very limited value.

The requirement for this disclosure is based on the provision in Schedule A of the Securities Act of 1933 that a balance sheet shall show various items of assets and liabilities "including any loan in excess of $20,000 to any officer, director, stockholder, or person directly or indirectly controlling or controlled by the issuer, or person under direct or indirect common control with the issuer." Although concern over a company's relationships with insiders continues to be important, it appears that under current conditions $20,000 is too low an amount to be of significance. Consequently the proposal would require that indebtedness in excess of $40,000 be reported on a schedule (§ 210.12-05 Schedule V). An exemption is provided for indebtedness related to the purchase of a person's principal residence and for travel and expense advances. When commenting on the proposal it should be kept in mind that it appears that the majority of recent bank failures resulted not so much from mismanagement or weakness in the economy, but rather from insider dealings such as improper and excessive loans to officers, directors, and employees. Hopefully, a requirement for disclosure of these loans will play a part in the reduction of such occurrences in the future.

Other Important Features

Although, as noted above, the proposed article draws heavily from existing financial reporting requirements, it contains a number of features which have not been frequently observed in bank and bank holding company financial statements. The most significant are the classified financial statements and foreign banking operations disclosure. Set forth below are a number of significant features of the proposal:

1. Inasmuch as loans are the most significant asset, they are specified as the first asset caption on the balance sheet (§ 210.9-02-1).

2. In accordance with generally accepted accounting terminology, the caption "Allowance for loan losses" is proposed in place of the technically incorrect "Reserve for loan losses" (§ 210.9-02-3).

3. Disclosure would be required as to the aggregate amount of investment in securities of an issuer which exceeds five percent of stockholders' equity of the bank holding company. In addition, consideration would have to be given to disclosure of risk characteristics as may be appropriate (§ 210.9-02-5). The proposed requirement is derived from the proposal in Securities Act Release No. 5668 (41 FR 4833) which was concerned with concentration of investments in securities of an issuer.

4. Trading account securities are proposed to be carried at market value (§ 210.9-02-6). This would provide for a uniform manner of carrying these securities and is consistent with the nature and manner of operation of a securities trading account.

5. Interest-bearing deposits in other banks are to be reported under the earning assets classification (§ 210.9-02-8), while other cash balances would be excluded from earning assets (§ 210.9-02-10).

6. Disclosures concerning compensating balances and other restrictions on cash deposits applicable to commercial and industrial companies (§ 210.5-02-1) are to be made applicable also to bank holding companies. Arrangements of this nature relate primarily, but not exclusively, to the operations of a holding company and its nonbank subsidiaries (§ 210.9-02-10(d)).

7. Other real estate owned would be reported separately and excluded from the earning assets classification. In addition, there should be disclosure of details of any allowance for losses on real estate owned (§ 210.9-02-13). Costs and expenses related to these properties would be disclosed separately on the income statement (§ 210.9-03-20(b)).

8. At several places in the proposal, provision is made to reflect accounts and activities which are primarily those of the holding company and its nonbank subsidiaries. One such example is the disclosure concerning compensating balances referred to above; others are included in requirements for disclosures concerning short-term debt (§ 210.9-02-21), long-term debt (§ 210.902-22) and investments in affiliates and other persons (§ 210.902-15).

9. Disclosure of interest rates and terms of various categories of short-term borrowings and commitment fees and lines

of credit would be required by subsections § 210.9–02–21 (d) and (e). These requirements are applicable both to bank operations and nonbank operations and are adopted from comparable provisions applicable to commercial and industrial companies (§ 210.5–25).

10. Disclosures concerning long-term debt of commercial and industrial companies (§ 210.5–02–29) are extended to bank holding companies by cross reference (§ 210.9–02–22).

11. The portion of retained earnings representing amounts which in the accounts of a subsidiary bank have been capitalized by transfer from undivided profits to surplus should not be classified on the balance sheet as retained earnings unappropriated (§ 210.9–02–30(b)).

12. In accordance with practice which has developed recently, the proposal provides that in the income statement of a parent bank holding company dividends received from unconsolidated subsidiaries should be shown as the first item on the statement. Equity in undistributed earnings of such subsidiaries would be reported at the bottom of the income statement (§ 210.9–03–24(c)).

13. Schedule requirements are proposed which will conform to requirements applicable to other classes of registrants filing in accordance with Regulation S–X (§ 210.9–05).

14. A summary schedule of investment securities similar to a schedule in Regulation F of the Federal Reserve System is proposed (§ 210.12–32).

COMMISSION ACTION: The Commission hereby proposes revision of § 210.5–01, § 210.9–01—09–05, § 210.12–02 and § 210.12–32, Chapter II of Title 17 of the Code of Federal Regulations as indicated below:

1. In § 210.5–01 (a) (7) is revised, (b) is deleted, and (c) is redesignated as (b) as set forth below:

§ 210.5–01 Application of §§ 210.5–01 to 210.5–04.

(a) * * *

(7) Bank holding companies and banks

* * * * *

(b) (Deleted)

(c) (Redesignated as (b))

2. The Subpart entitled "Bank Holding Companies and Banks," containing §§ 210.9–01 through 210.9–05 is revised to read as follows:

BANK HOLDING COMPANIES AND BANKS

§ 210.9–01 Application of §§ 210.9–01 to 210.9–05.

(a) *Bank holding companies.*—This article shall be applicable to financial statements filed for bank holding companies and banks.

(b) The requirements of the general rules in §§ 210.1–01—210.1–02, 210.2–01—210.2–05, 210.3–01—210.3–17 and 210.4–01—210.4–08 shall be applicable except where they differ from requirements of § 210.9–01 to 9–05.

§ 210.9–02 Balance sheets.

Except as otherwise permitted by the Commission, the balance sheets filed for persons to whom this article is applicable shall comply with the following provisions (see paragraph (a) of § 210.3–01):

ASSETS AND OTHER DEBITS

EARNING ASSETS

1. *Loans.*—(a) State separately each of the following categories of loans which exceeds ten percent of total loans: (1) Real estate loans; (2) loans to financial institutions; (3) loans for purchasing or carrying securities; (4) loans to farmers; (5) commercial and industrial loans; (6) loans to individuals (consumer loans); (7) all other loans of bank subsidiaries; and (8) loans of the holding company and its nonbank subsidiaries. All other loans may be combined in one amount. Under real estate loans include loans secured by buildings under construction, land being developed, residential properties and commercial properties. Include under loans to financial institutions loans to real estate investment trusts, mortgage companies, banks and other financial and depositary institutions. Exclude from loans to farmers, loans secured by real estate owned. Loans attributable to foreign banking operations may be included in the foregoing captions or, if it is impractical to classify such loans in accordance with these categories, a separate caption stating the total amount of such loans may be provided.

(b) Exclude contracts of sale or loans indirectly representing bank premises or other real estate owned. Such amounts shall be included in the appropriate caption below.

(c) Do not deduct bona fide deposits of borrowers accumulated for repayment of loans.

2. *Unearned income.*—The total of unearned discounts, finance charges, and interest included in loans shall be shown separately and deducted from total loans.

3. *Allowance for loan losses.*—(a) The allowance for loan losses shall be shown separately on the face of the statement and deducted from total loans.

(b) For each period for which an income statement is filed furnish in a note a statement of changes in the allowance for loan losses showing balances at beginning and end of the period, provision charged to income, recoveries of amounts charged off and losses charged to the allowance.

4. *Lease financing.*—State the net investment in leases accounted for by the financing method. Summarize in a note the balances of lease payments receivable and estimated residual value reduced by related nonrecourse debt and interest and unearned income.

5. *Investment securities.*—(a) State the aggregate book value of investment securities showing parenthetically or otherwise the aggregate amount on the basis of market quotations or fair value at the balance sheet date. (See § 210.9–02–15.)

(b) State parenthetically or in a note, book value and value on the basis of market quotations or fair value on the basis of market quotations or fair value of securities of (1) the U.S. Treasury; (2) U.S. Government agencies and corporations; (3) states of the U.S. and political subdivisions; (4) other bonds, notes and debentures including obligations of foreign governments and political subdivisions; and (5) corporate stock.

(c) State in a note the basis by which book value is determined. Bond premium shall be amortized and discount shall be accreted.

(d) Include securities pledged, loaned or sold under repurchase agreements and similar arrangements. Exclude borrowed securities and securities purchased under resale agreements or similar arrangements.

(e) State in a note the name of issuer, aggregate book value and aggregate amount on the basis of market quotations or fair value of the securities of any issuer for which the aggregate book value exceeds five percent of stockholders' equity of the person. For the purpose of this disclosure, the term "issuer" shall have the meaning given in Section 2(4) of the Securities Act of 1933, except that (1) the United States Government and its agencies shall be considered as one issuer, (2) any State of the United States and its agencies shall be considered as one issuer, (3) a political subdivision of a State of the United States and its agencies shall be considered as one issuer, and (4) a foreign government and its agencies and political subdivisions shall be considered as one issuer. For purposes of determining amounts to be reported, securities guaranteed by or considered liabilities or moral obligations of another entity shall be considered as securities of both the issuer and the guarantor or obligor. Consideration shall be given to disclosure of risk characteristics of the securities of an issuer and of differences in risk characteristics of different issues of securities of an issuer as may be appropriate.

6. *Trading account securities.*—Securities carried in dealer trading accounts that are held principally for resale to customers shall be stated at market value.

7. *Other short-term investments.*—(a) State the aggregate value of Federal funds sold and securities purchased under resale agreement or similar arrangements. All securities purchased under transactions of this type shall be included regardless of (1) whether they are called simultaneous purchases and sales, buybacks, turnarounds, overnight transactions, delayed deliveries, or other terms signifying the same substantive transaction, and (2) whether the transactions are with the same or different institutions if the purpose of the transactions is to resell identical or similar securities.

(b) Federal funds sold and purchases of securities under resale agreements shall be reported gross and not netted against purchases of Federal funds and sales of securities under repurchase agreements.

8. *Deposits in other banks, interest bearing.*

9. *Total earning assets.*

10. *Cash and due from banks.*

(a) Reciprocal demand balances with banks in the United States, except those of private banks and American branches of foreign banks, shall be included net.

(b) The classification and disclosure required by § 210.5–02–1 shall be given with regard to cash and cash items of the parent bank holding company and all non-bank consolidated subsidiaries.

11. *Property and equipment.*—State separately here, or in a not referred to herein, if practicable, each major class used in the ordinary course of business such as land, building, vaults, office of leasehold improvements and the basis of determing the amounts.

12. *Accumulated depreciation and amortization of property and equipment.*

13. *Other real estate owned.*—(a) Include all real estate owned other than that used in the ordinary course of business. State separately in a note the basis of determining the amounts at which the assets are shown in the balance sheet and the amount included under each basis.

(b) Any reduction in book value resulting from the recognition of fair market value at the time of acquisition of a property shall be

accounted for as a loan loss. (See § 210.9-03-20(b).)

(c) Any allowance for real estate losses shall be shown separately on the face of the statement and deducted from total other real estate owned. For each period for which an income statement is filed, furnish in a note a statement of changes in the allowance for real estate losses showing balances at beginning and end of period, provision charged to income, and losses charged to the allowance.

14. *Customers' acceptance liability.*—(a) State amounts receivable from customers on drafts and bills of exchange that have been accepted by a consolidated subsidiary bank or by other banks for the account of a consolidated subsidiary and that are outstanding—that is, not held by the subsidiary bank, on the reporting date. (If held by the subsidiary bank, they should be reported as "loans".)

15. *Investments in affiliates and other persons.*—State separately amount representing investments in affiliates (including banks) and investments in other persons which are accounted for by the equity method, and state the basis of determining these amounts. Show investments in banks separately from other investments. State separately in the registrant's balance sheet the amounts which in the related consolidated balance sheet are (a) eliminated and (b) not eliminated.

16. *Indebtedness of affiliates and other persons.*—Include under this caption indebtedness of affiliates (including banks) and indebtedness of other persons the investments in which are accounted for by the equity method. Show indebtedness of banks separately from indebtedness of other persons. State separately in the registrant's balance sheet the indebtedness which in the related consolidated balance sheet is (a) eliminated and (b) not eliminated.

17. *Other assets.*—(a) State amounts receivable from underwriters, promoters, directors, officers, employees and principal holders (other than affiliates) of equity securities of the person and its affiliates. The amount receivable shall be shown separately on the balance sheet if it exceeds five percent of stockholders' equity. Exclude amounts receivable from such persons for ordinary travel and expense advances and similar items arising in the ordinary course of business.

(b) State separately (1) legally restricted deposits held as compensating balances against long-term borrowing arrangements; (2) excess of cost over assets acquired (net of amortization); (3) other intangible assets (net of amortization); and (4) any other asset which is in excess of five percent of total assets.

18. *Total assets.*

LIABILITIES AND STOCKHOLDERS' EQUITY

LIABILITIES

19. *Deposits.*—State separately (a) demand deposits in domestic bank offices; (b) time and savings deposits in domestic bank offices; and (c) deposits in foreign banking offices.

20. *Bank acceptances outstanding.*—State the aggregate of unmatured drafts and bills of exchange accepted by a subsidiary bank, or by some other bank as its agent (other than those reported in demand deposits), less the amount of such acceptances acquired by the subsidiary bank through discount or purchase and held on the reporting date.

21. *Short-term borrowings.*—(a) State separately amounts payable for (1) Federal funds purchased and securities sold under agreements to repurchase; (2) commercial paper; and (3) other short-term borrowings.

(b) Federal funds purchased and sales of securities under repurchase agreements shall be reported gross and not netted against sales of Federal funds and purchases of securities under resale agreements.

(c) Include as securities sold under agreements to repurchase all transactions of this type regardless of (1) whether they are called simultaneous purchases and sales, buybacks, turnarounds, overnight transactions, delayed deliveries, or other terms signifying the same substantive transaction, and (2) whether the transactions are with the same or different institutions if the purpose of the transactions is to repurchase identical or similar securities.

(d) The weighted average interest rate and general terms (as well as formal provisions for the extension of the maturity) of each category of borrowed funds reflected on each balance sheet required shall be disclosed along with the maximum amount of borrowings in each category outstanding at any month-end period for which an end-of-period balance sheet is required. In addition, the approximate average short-term borrowings outstanding during the period and the approximate weighted average interest rate (and a brief description of the means used to compute such averages) for such aggregate short-term borrowings shall be disclosed in the notes to the financial statements.

(e) The amount and terms (including commitment fees and the conditions under which lines may be withdrawn) of unused lines of credit for short-term financing shall be disclosed, if significant, in the notes to the financial statements. The amount of these lines of credit which support a commercial paper borrowing arrangement or similar arrangements shall be separately identified.

22. *Bonds, mortgages and similar debt.* (a) Include bonds, capital notes, debentures, mortgages and similar debt.

(b) State in a note the information required under § 210.5-02-29. (See also § 210.5-02-30.)

(c) State separately in the registrant's balance sheet the indebtedness to affiliates which in the related consolidated balance sheet is (i) eliminated and (ii) not eliminated.

(d) State in notes with appropriate explanations (i) the title and amount of each issue of debt of a subsidiary included in (a) above which has not been assumed or guaranteed by registrant; and (ii) any liens on bank premises or other real estate owned by a subsidiary bank or its consolidated subsidiaries which have not been assumed by the bank subsidiary or its consolidated subsidiaries.

23. *Total deposits and borrowings.*

24. *Accounts payable and accrued liabilities.* (a) State amounts payable to underwriters, promoters, directors, officers, employees and principal holders (other than affiliates) of equity securities of the person and its affiliates. Exclude amounts included in deposits and amounts payable to such persons for ordinary travel and expense advances and for similar items arising in the ordinary course of business.

(b) State separately (1) income taxes payable; (2) deferred income taxes; (3) any other liability which is in excess of five percent of total liabilities.

25. *Indebtedness to affiliates and other persons.* Include under this caption indebtedness to affiliates (including banks) and indebtedness to other persons the investments in which are accounted for by the equity method. Show indebtednes to banks separately from indebtedness to other persons. State separately in the registrant's balance sheet the indebtedness which in the related consolidated balance sheet is (a) eliminated and (b) not eliminated.

26. *Total liabilities.*

27. *Commitments and contingent liabilities.* (a) See § 210.3-16(1).

(b) State in a note the amount of outstanding standby letters of credit. For the purpose of this disclosure "standby letters of credit" shall include every letter of credit (or similar arrangement however named or designated) which represents an obligation to the beneficiary on the part of an issuing consolidated subsidiary bank (2) to repay money borrowed by or advanced to or for the account of the account party; (2) to make payment on account of any evidence of indebtedness undertaken by the account party; or (3) to make payment on account of any default by the account party in the performance of an obligation. Do not include standby letters of credit for which the issuing bank has either been paid an amount equal to its liability under the standby letter of credit, or has set aside sufficient funds in a segregated deposit account to cover its maximum liability.

28. *Minority interest in consolidated subsidiaries.*

STOCKHOLDERS' EQUITY

29. *Capital shares.* The classification and disclosure required by § 210.5-02-38 shall be given.

30. *Other stockholders' equity.* (a) The classification and disclosure required by § 210.5-02-39 shall be given.

(b) Exclude from retained earnings, unappropriated, amounts which in the accounts of a subsidiary bank have been transferred from undivided profits to surplus. State in a note the amount of any undistributed earnings of a subsidiary or 50% or less owned bank which cannot be distributed without obtaining approval of a Federal or State regulatory agency (See §210.3-16(h)).

31. *Total stockholders' equity.*

32. *Total liabilities and stockholders' equity.*

§ 210.9-03 Income statements.

(a) Except as otherwise permitted by the Commission, the income statements filed for persons to whom this article is applicable shall comply with the provisions of this rule (see paragraph (a) of § 210.3-01).

REVENUE FROM EARNING ASSETS

1. *Interest and fees on loans.* (a) State interest and fees in the same categories as loans are stated on the balance sheet. (See § 210.9-02-1(a).)

(b) Include interest, fees, and service charges on loans. Include interest on notes, bills, and drafts that have been rediscounted with Federal Reserve or other banks or pledged as collateral to secure bills payable or for any other purpose and profits or losses resulting from the sale of acceptances and commercial paper at discount rates other than those at which such paper was purchased.

(c) Current amortization of premiums on mortgages or other loans shall be deducted from interest on loans and current accumulation of discount on such items shall be added to interest on loans.

2. *Lease financing revenue.*

3. *Interest (and dividends if material) on investment securities.* (a) State separately income from (1) U.S. Treasury and other U.S. Government agency and corporation securities; (2) obligations of states and political subdivisions; and (3) other securities.

(b) Include accretion of discount on securities and deduct amortization of premiums on securities.

4. *Trading account revenue.* Include profits and losses, interest and other income and expense related to securities carried in a dealer trading account or accounts that are held principally for resale to customers, but do not deduct salaries, commissions and other indirect expenses.

5. *Revenue from temporary investments.* Show separately (a) interest on deposits with other banks, and (b) total gross revenue from Federal funds sold and securities purchased under agreements to resell.

6. *Total revenue from earning assets.*

COST OF FUNDS

7. *Interest on deposits.* Include interest on all deposits. State separately on the income statement or in a note, interest on deposits detailed in the same categories as those by which deposits are stated on the balance sheet. (See § 210.9-02-19(a).)

8. *Interest on borrowed funds.* Include interest on borrowed funds including Federal funds purchased, securities sold under agreements to repurchase, commercial paper and other short-term borrowings.

9. *Interest on long-term debt.* Include interest on bonds, capital notes, debentures and similar debt. Interest on mortgages on bank premises shall be included under caption 19 below.

10. *Total cost of funds.*

11. *Net revenue from earning assets before provision for loan losses.*

12. *Provision for loan losses.*

13. *Net revenue from earning assets.*

OTHER REVENUE

14. *Income from fiduciary activities.* Include commissions and fees for services performed in any authorized fiduciary capacity.

15. *Service charges, commissions and fees.* Include income from services to or for customers such as service charges on deposit accounts, other service charges, collection and exchange charges, commissions on securities underwritings, securities brokerage income and similar items.

16. *Gains or losses on investment securities.* State in a note, the method followed in determining the cost of investments sold, e.g., "average cost," "first-in, first-out," or "identified certificate." Gains or losses on the person's own equity securities shall not be included under this caption.

17. *Other income.* State separately any item of other income which is in excess of ten percent of net income.

OTHER EXPENSE

18. *Salaries and employee benefits.*

19. *Occupancy expense.* Report in one amount the cost of occupancy of bank office premises reduced by rental income from premises leased to others.

20. *Other operating expenses.* (a) Include all operating expenses not included in a caption above.

(b) State separately in one amount the cost of operation of other rtal estate owned reduced by rental or other related income. Include adjustments of book value subsequent to acquisition, provisions for real estate losses, and gains or losss on disposition of assets.

(c) State separately any amount which is in excess of ten percent of net income.

21. *Income or loss before income tax expense and appropriate items below.*

22. *Income tax expense.* (See § 210.3-16 (o).)

23. *Minority interest in income of consolidated subsidiaries.*

24. *Equity in earnings of unconsolidated subsidiaries and 50 percent or less owned persons, less applicable tax.* (a) State separately for bank subsidiaries and for nonbank subsidiaries (1) dividends received from such persons, and (2) equity in undistributed income. Disclose, parenthetically or otherwise, the tax applicable to each item reported.

(b) The amounts to be reported shall exclude equity in extraordinary items.

(c) In the income statement of a bank holding company (unconsolidated), dividends received from unconsolidated subsidiaries shall be shown as the first item on the statement.

25. *Income or loss before extraordinary items.*

26. *Extraordinary items, less applicable tax.* State separately (a) extraordinary items of the person and (b) equity in extraordinary items of (1) unconsolidated subsidiaries and (2) 50 percent or less owned persons for which the equity in earnings was reported under caption 23. Indicate the nature of any material items and disclose parenthetically or otherwise the tax applicable to each.

27. *Cumulative effects of changes in accounting principles.* State separately (a) changes of the person and (b) equity in changes of (1) unconsolidated subsidiaries and (2) 50 percent or less owned persons for which the equity in earnings was reported under caption 24. Indicate the nature of any material items and disclose parenthetically or otherwise the tax applicable to each.

28. *Net income or loss.* (See § 210.9-02-30 (a).)

29. *Earnings per share data.* Refer to the pertinent requirements in the appropriate filing form.

§ 210.9-04 Foreign activities.

(a) *General requirement.* Separate disclosure concerning foreign activities (banking and nonbanking) as specified in paragraph (c), (d), (e), (f), (g) and (h) of this section shall be made if during each of the two most recent fiscal years (1) revenue associated with foreign activities exceeded ten percent of total revenue or (2) income (loss) before taxes associated with foreign activities exceeded ten percent of income (loss) before income tax expense, or assets associated with foreign activities exceeded ten percent of total assets as reported in the related financial statements.

(b) *Definitions.* As used in this article the following terms shall have the meanings indicated:

(1) *Foreign activities.* The term "foreign activities" includes loans and other revenue producing assets and transactions in which the debtor or customer, whether an affiliated or unaffiliated person, is domiciled outside the United States.

(2) *Revenue.* The term " revenue" includes the total of amounts reported at § 210.9-03-7, 15, 16, and 17.

(c) *Loans.* (1) State separately each of the following categories of loans which exceeds ten percent of total loans related to foreign activities (i) real estate loans, (ii) loans to banks and other financial institutions, (iii) commercial and industrial loans, (iv) loans to individuals (consumer loans), (v) loans to governments and official organizations, and (vi) other loans.

(2) State also the amount of loans made from affiliated enterprises located outside the United States to unaffiliated persons within the United States which are not included in the amounts reported as foreign activities.

(d) *Allowance for loan losses.* For each period for which an income statement is filed, furnish in a note a statement of changes in the allowance for loan losses applicable to loans related to foreign activities showing balances at beginning and end of the period, provision charged to income, recoveries of amounts charged off and losses charged to the allowance.

(e) *Balance and deposits in banks located outside the United States.* Show separately (1) interest bearing deposits and balances, and (2) all other balances.

(f) *Deposit liabilities.* State separately deposits of (1) banks in foreign countries (including balances of foreign branches of other United States banks), (2) deposits of foreign governments and official organizations, and (3) other foreign deposits.

(g) *Other borrowings.* State separately (1) bank acceptances outstanding, (2) borrowed funds, (3) bounds, mortgages and similar debt; and (4) other liabilities related to foreign activities corresponding to the amounts reported on the balance sheet of § 210.9-OZ-20, 21, 22, 24 and 25.

(h) *Revenue and income (loss) before taxes.* For each period for which an income statement is filed state the amount of revenue, expenses and income (loss) before taxes associated with foreign activities. Information may be presented in the form of the income statement in § 210.9-03. State in a note the nature of significant estimates and assumptions made in allocating revenue and expenses to foreign activities.

§ 210.9-05 What schedules are to be filed.

(a) Except as expressly provided otherwise in the applicable form:

(1) The schedules specified below in this section as Schedules I, VI, VII, VIII, IX, X, and XI shall be filed as of the dates of the most recent audited balance sheet and any subsequent unaudited balance sheet being filed for each person or group, provided that any such schedule (other than Schedules I and IX) may be omitted if both of the following conditions exist:

(i) The financial statements are being filed as part of an annual or other periodic report; and

(ii) The information that would be shown in the respective columns of such schedule would reflect no changes in any issue of securities of the registrant or any significant subsidiary in excess of 5 percent of the outstanding securities of such issue as shown in the most recently filed annual report containing the schedule.

(2) Schedule IX, Capital shares, may also be omitted if the above two conditions exist and any information required by column G of the schedule is shown in the related balance sheet or in a note thereto.

(3) All other schedules specified below in the rule as Schedules II, III, IV, V, and XII shall be filed for each period for which an income statement is required to be filed for each person or group.

(b) When information is required in schedules for both the registrant and the registrant and its subsidiaries consolidated it may be presented in the form of a single schedule, provided that items pertaining to the registrant are separately shown and that such single schedule affords a properly summarized presentation of the facts. If the information required by any schedule (including the notes thereto) may be shown in the related financial statement or in a note thereto without making such statement unclear or confusing, that procedure may be followed and the schedule omitted.

(c) The schedules shall be examined by the independent accountant if the related financial statements are so examined.

Schedule I.—Investment securities. The schedule prescribed by § 210.12–32 shall be filed in support of caption 5 of a balance sheet.

Schedule II.—Investments in, equity in earnings of, and dividends received from affiliates (including banks) and other persons. The schedule prescribed by § 210.12–04 shall be filed in support of caption 15 of each balance sheet. This schedule may be omitted if (1) neither the sum of captions 15 and 16 in the related balance sheet nor the amount of caption 25 in such balance sheet exceeds 10 percent of stockholders' equity as shown by the related balance sheet at either the beginning or end of the period, or (2) there have been no material changes in the information required to be filed from that last previously reported.

Schedule III.—Indebtedness of affiliates (including banks) and other persons. The schedule prescribed by § 210.12–05 shall be filed in support of caption 16 of each balance sheet; however, the required information may be presented separately on Schedule II or Schedule VII. This schedule may be omitted if (1) neither the sum of captions 15 and 16 in the related balance sheet nor the amount of caption 25 in such balance sheet exceeds 10 percent of stockholders equity as shown by the related balance sheet at either the beginning or end of the period, or (2) there have been no material changes in the information required to be filed from that last previously reported.

Schedule IV.—Valuation and qualifying accounts and reserves. The schedule prescribed by § 210.12–13 shall be filed in support of valuation and qualifying accounts and reserves included in each balance sheet excluding the allowances for loan losses and real estate losses.

Schedule V.—Amounts receivable from underwriters, promoters, directors, officers, employees, and principal holders (other than affiliates) of equity securities of the person and its affiliates. The schedule prescribed by § 210.12–03 shall be filed with respect to each person among the underwriters, promoters, directors, officers, employees and principal holders (other than affiliates) of equity securities of the person and its affiliates, for whom an aggregate indebtedness of more than $40,000 is owed or, at any time during the period for which related income statements are required to be filed, was owed. For the purpose of this schedule it shall not be necessary to disclose amounts receivable from any such person for either (1) a loan made for the purchase of their principal place of residence made in the ordinary course of business that (i) was made on substantially the same terms, including interest rates and collateral, as those prevailing at the time for comparable transactions with other persons, and (ii) did not involve more than normal risk of collectibility or present other unfavorable features, or (2) ordinary travel and expense advances and similar items arising in the ordinary course of business.

Schedule VI.—Bonds, mortgages, and similar debt. The schedule prescribed by § 210.12–10 shall be filed in support of caption 22 of a balance sheet.

Schedule VII.—Indebtedness to affiliates (including banks) and other persons. The schedule prescribed by § 210.12–11 shall be filed in support of caption 25 of each balance sheet; however, the required information may be omitted if (1) neither the sum of captions 15 and 16 in the related balance sheet nor the amount of caption 25 in such balance sheet exceeds 10 percent of stockholders' equity as shown by the related balance sheet at either the beginning or end of the period, or (2) there have been no material changes in the information required to be filed from that last previously reported.

Schedule VIII.—Guarantees of securities of other issuers. The schedule prescribed by § 210.12–12 shall be filed with respect to any guarantees of securities of other issuers by the person for which the statement is filed.

Schedule IX.—Capital shares. The schedule prescribed by § 210.12–14 shall be filed in support of caption 30 of a balance sheet.

Schedule X.—Warrants or rights. The schedule prescribed by § 210.12–15 shall be filed with respect to warrants or rights granted by the person for which the statement is filed to subscribe for or purchase securities to be issued by such person.

Schedule XI.—Other securities. If there are any classes of securities not included in Schedules VI, VIII, IX, or X, set forth in this schedule information concerning such securities corresponding to that required for the securities included in such schedules. Information need not be set forth, however, as to notes, drafts, bills of exchange, or bankers' acceptances, having a maturity at the time of issuance of not exceeding 1 year.

Schedule XII.—Supplementary income statement information. The schedule prescribed by § 210.12–16 may be omitted for each income statement in which operating revenues (the aggregate of § 210.9–03–6, 14, 15 and 16) were not of significant amount. This schedule may also be omitted if the information required by column B and instructions 3 and 4 thereof is furnished in the income statement or in a note thereto.

§ 210.12–02 Marketable securities—other security investments.

* * * * *

1(b) (Deleted)

* * * * *

3. Instruction 1(b) to the table in § 210.12–02 is deleted.

4. Section 210.12–32 is added under a new subpart as set out below:

INVESTMENT SECURITIES FOR BANK HOLDING COMPANIES AND BANKS

§ 210.12–32 Investment securities.

Total Investment Securities

Col. A	Col. B	Col. C
Type and maturity grouping.	Amount at which shown in the balance sheet.[1]	Value based on market quotations or fair value at balance sheet date.[2][3]

[1] Col. B shall be totaled to correspond to the respective balance sheet caption.
[2] State the basis of determining amounts in col. C.
[3] Col. C shall be totaled.

1. U.S. Treasury securities: (a) Within 1 year; (b) after 1 year through 5 years; (c) after 5 years through 10 years; and (d) after 10 years. Total U.S. Treasury securities.

2. Securities of U.S. Government agencies and corporations: (a) Within 1 year; (b) after 1 year through 5 years; (c) after 5 years through 10 years; and (d) after 10 years. Total securities of U.S. Government agencies and corporations.

3. Obligations of states of the U.S. and political subdivisions:[1] (a) Within 1 year; (b) after 1 year through 5 years; (c) after 5 years through 10 years; and (d) after 10 years. Total obligation of states and political subdivisions.

4. Other bonds, notes and debentures:[2] (a) Within 1 year; (b) after 1 year through 5 years; (c) after 5 years through 10 years; and (d) after 10 years. Total other bonds, notes and debentures.

5. Corporate stock.

* * * * *

[1] Include obligations of the States or the United States, their political subdivisions, agencies and instrumentalities and obligations of territorial and insular possessions. Do not include obligations of foreign states.

[2] Include securities of the Federal Reserve Bank; and foreign governments and political subdivisions thereof. State separately any significant amount and securities of any bank included hereunder indicating the number of shares or units or principal amount of bonds or notes.

These amendments are proposed to be adopted pursuant to authority in Secs. 6, 7, 8, 10 and 19(a) [15 U.S.C. 77f, 77g, 77h, 77j, 77s] of the Securities Act of 1933; Secs. 12, 13, 15(d), and 23(a) [15 U.S.C. 78l, 78m, 78o(d), 78w] of the Securities Exchange Act of 1934; Secs. 5(b), 14, and 20(a) [15 U.S.C. 79c, 79n, 79t] of the Public Utility Holding Company Act of 1935; and Secs. 8, 30, 31(c) and 38(a) [15 U.S.C. 80a–8, 80a–29, 80a–30(c), 80a–37(a)] of the Investment Company Act of 1940.

Pursuant to Sec. 23(a)(2) of the Securities Exchange Act, the Commission has considered the impact of these proposals on competition and is not aware, at this time, of any burden that such rule amendments, if adopted, would impose on competition. However, the Commission specifically invites comments as to the competitive impact of these proposals, if adopted.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

APRIL 21, 1977.

[FR Doc.77–12312 Filed 4–28–77;8:45 am]

[17 CFR Parts 230, 239]

[Release No. 33-5822; File No. S7-688]

PRIVATE PLACEMENT EXEMPTIVE RULE

AGENCY: Securities and Exchange Commission.

ACTION: Proposed amendment of rule and adoption of related form.

SUMMARY: The Commission proposes to amend Rule 146 (17 CFR 230.146) under the Securities Act of 1933 ("Act") (15 U.S.C. 77a, et seq.) to require issuers to file reports of offerings made in reliance upon the rule. This amendment is proposed in light of apparent abuses of the rule, and to provide the Commission, investors and other interested persons basic information concerning the use of the rule. In this connection, reference is made to the Commission's recent request for information from the public on the operation of rule 146.

DATE: Comments must be received on or before June 30, 1977.

ADDRESSES: Comments should be addressed in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549. All such communications should refer to File No. S7-688 and will be available for public inspection in Room 6101, 1100 L Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Thomas D. Hamill, Division of Enforcement, Securities and Exchange Commission, Washington, D.C. 20549, 202-376-8131.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission today invited public comment on a proposed amendment to rule 146 (17 CFR 230.146) which would require issuers to file reports of offerings made in reliance upon the rule. Rule 146 relates to section 4(2) of the Act (15 U.S.C. 77d (2)), which exempts from the Act's registration provisions any transaction by an issuer not involving a public offering. Essentially, the rule is designed, consistent with the public interest and the protection of investors, to provide objective standards for determining when offers or sales of securities by an issuer do not involve a public offering within the meaning of section 4(2).

At the time rule 146 was adopted,[1] the Commission indicated that although it was not imposing a filing or notification requirement in connection with the rule, it would reexamine the need for such a requirement after it had gained experience with the rule. The release further stated that if the Commission's experience indicated that a requirement of that nature was appropriate for the protection of investors and in the public interest, it would propose changes in the rule to institute such a requirement.

Although the Commission's experience with Rule 146 has been limited due to the absence of a notification requirement, the Commission has become aware that the rule apparently has been abused on several occasions by various issuers. In this regard, there appear to have been numerous instances in which issuers have made offerings of securities ostensibly in reliance upon rule 146, although they have failed to comply with all of the requirements of the rule. These abuses seem to have occurred most frequently in connection with offerings of interests in oil and gas partnerships.

In light of the foregoing, the Commission deems it appropriate to propose the amendment to Rule 146 discussed herein. This action is being taken in conjunction with the Commission's recent request for information from the public on the operation of Rule 146.[2] All of these actions are intended to foster the Commission's current evaluation of the utility of rule 146.

The amendment proposed herein would require issuers to file reports with the Commission containing certain information about offerings made by such issuers in reliance upon Rule 146. Such reports would be filed on proposed Form 146, the text (not the final format) of which is set forth at the end of this release. However, no report would be required for offerings the proceeds of which total, cumulatively, less than $50,000 during any twelve month period.

Under the proposed amendment, two reports would generally be necessary in connection with each offering subject to the notice requirement. The first would be filed within 10 days after the first sale of securities in the offering. This report would serve the purpose of providing both the Commission and interested members of the public with current information about the offering. The second report would be required to be filed within 10 days after the termination of the offering. This second report would have the effect of indicating any unexpected changes which may have occurred in the offering between the date of initiation and the date of completion and of providing information which may have been unavailable at the time of the first sale of securities. However, the second report would not be necessary in those instances in which the offering is completed within ten days after it is commenced, and the issuer has included in its initial report all of the information which would have been contained in the second report. In addition, for any offering which continues for a period greater than one year, the issuer must file a report annually within ten days after each anniversary date of the first sale of securities in the offering for so long as the offering continues.

In consideration of the foregoing, it is proposed to amend 17 CFR Chapter II as follows:

1. By amending § 230.146 by adding new paragraph (i) to read as follows:

§ 230.146 Transactions by an issuer deemed not to involve any public offering.

* * * * *

(i) *Report of offering.* The issuer shall file five copies of a report on Form 146 with the Commission at its principal office in Washington, D.C. within 10 days after the first sale of securities in any offering effected in reliance on this rule, within 10 days after termination of any such offering and, for any offering which continues for a period greater than one year, annually within 10 days after each anniversary date of the first sale of securities in any such offering for so long as such offering continues. No report need be filed for any offering or offerings in reliance on Rule 146 the proceeds of which total, cumulatively, less than $50,000 during any twelve month period.

2. By amending Part 239 by adding a new § 146 to read as follows:

§ 239.146 Form 146, report by issuer of sales of securities pursuant to § 230.146 of this chapter.

Five copies of this form shall be filed within 10 days after the first sale of securities in any offering of securities effected in reliance upon rule 146 (§ 230.146 of this chapter), within 10 days after termination of any such offering and, for any offering which continues for a period greater than one year, annually within 10 days after each anniversary date of the first sale of securities in any such offering for so long as such offering continues. Only one such report need be filed in connection with an offering if the last sale thereof occurs within ten calendar days after the first sale, and the issuer has included in its initial report all of the information which would have been contained in the second report. No report need be filed for any offering or offerings in reliance on rule 146 the proceeds of which total, cumulatively, less than $50,000 during any twelve month period.

SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C.

Form 416.—Report of offering made in reliance upon rule 146

1. (a) Name, address and telephone number (including area code) of the issuer of the securities offered and sold;

(b) Form of organization (check one). __Corporation __Partnership __Unincorporated Association __Other (Specify).

(c) Type of business (check one). __Oil/Gas __Real Estate __Other (specify).

(d) Name (in full), address and telephone number of chief executive officer (if corporation), general partner (if partnership), promoter or controlling person (if unincorporated association), or controlling person (if other);

Instruction: If the general partner, promoter or controlling person is not a natural person, provide similar information for a natural person having primary responsibility for the affairs of the issuer.

(e) Issuer's state of incorporation or jurisdiction of organization and the date of such incorporation or organization;

[1] Release No. 33-5487 (April 23, 1974) (39 FR 15266).

[2] Release No. 33-5779 (December 6, 1976) (41 FR 53808).

(f) Issuer's IRS identification number;
(g) Issuer's SEC file number, if any;
(h) Issuer's CUSIP number, if any.

2. (a) Title of the class of securities sold in this offering in reliance upon Rule 146;

(b) Total number of shares or other units of securities sold to date in this offering and the aggregate dollar amount of such sales;

(c) Total number of shares or other units to be offered in the future in this offering and the aggregate dollar amount of such securities;

(d) Price per share (or other unit of securities) sold to date.

As to any securities sold other than for cash or partly for cash and partly for other consideration, state the nature of the transaction and the source and aggregate amount of consideration received or to be received by the issuer.

3. (a) Total number of persons to whom securities were sold in the offering pursuant to subsection (g)(1) of Rule 146 and the date and amount of each sale;

(b) Total number of persons to whom securities were sold but who are excluded from Item 3(a) by virtue of subparagraph (g)(2) of Rule 146.

4. (a) List all offerings in reliance upon Rule 146 made by the issuer (other than the offering reported on this form) during the twelve months immediately preceding the date of this form. Indicate the date on which each offering was commenced, the date each was concluded and the aggregate dollar amount of the securities sold in each offering;

(b) Give the date of sale and the amount of all securities of the same or similar class as those of the offering reported on this form sold by the issuer during the twelve month period immediately preceding such offering. If the securities were not registered with the Commission, indicate the section of the Act or the rule of the Commission under which exemption from registration was claimed and state briefly the facts relied upon to make the exemption available. If the securities were registered, indicate the file number assigned by the Commission to the registration statement.

5. State the names and addresses of all offeree representatives involved in the offering reported on this form. State the source and amount of compensation received or to be received by each.

6. State the names and addresses of all brokers, finders and other persons (other than employees of the issuer not specially compensated in connection with the offering) acting on behalf of the issuer in connection with the offering reported on this form, indicating the capacity in which they acted. State the source and amount of compensation received or to be received by each.

7. (a) State the names and addresses of all underwriters, organizers, promoters and sponsors of the offering reported on this form, indicating the capacity in which they acted. State the source and amount of compensation received or to be received by each in connection with the offering.

(b) For each person named in response to Item 7(a), furnish the following information with respect to each offering under Rule 146 in which that person participated during the twelve months immediately preceding the date of this form: name of the issuer; title of the class of securities sold; dates on which sales were made by the person; total dollar amount of securities sold by the person; and the aggregate dollar amount raised by the issuer in the offering.

Pursuant to the requirements of Rule 146 under the Securities Act of 1933, the issuer has duly caused this report to be signed on its behalf by the undersigned officer or person acting in a similar capacity.

Date of Report _____

Issuer _____

Signature of Issuer's Representative _____

Instruction. Print the name and title of the signing representative under his signature. At least one copy of the report shall be manually signed. Any copies not manually signed shall bear typed or printed signatures.

Attention: Intentional misstatements or omissions of facts constitute Federal criminal violations (See 18 U.S.C. 1001).

(Secs. 4(2), 19(a), 48 Stat. 77, 85; secs. 203, 209, 48 Stat. 906, 908; sec. 12, 78 Stat. 580; 15 U.S.C. 77d(2), 77s(a)).

Authority: The foregoing proposed actions are being taken pursuant to the Securities Act of 1933, particularly sections 4(2) and 19(a).

All interested persons are invited to submit their views and comments on the proposed amendment and form.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

APRIL 18, 1977.

[FR Doc.77-12313 Filed 4-28-77;8:45 am]

DEPARTMENT OF LABOR

Employment Standards Administration

[20 CFR Part 702]

LONGSHOREMEN'S AND HARBOR WORKERS' COMPENSATION ACT AND RELATED STATUTES

Administration and Procedure

AGENCY: Employment Standards Administration, Labor.

ACTION: Extension of comment period on proposed rulemaking.

SUMMARY: This document extends the comment period on proposed amendments to regulations concerning the Longshoremen's and Harbor Workers' Compensation Act, because of requests received from numerous members of the public.

DATE: Comments will be received until on or before May 16, 1977.

ADDRESSES: Comments should be addressed to: George M. Lilly, Counsel for Longshore Programs, Office of the Solicitor, New DOL Building, Suite N-2716, 200 Constitution Avenue NW., Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT:

George M. Lilly, 202-523-7651.

SUPPLEMENTARY INFORMATION: The time for receipt of comments on FEDERAL REGISTER document (FR Doc. 77-7463), published in the March 15, 1977 issue at 42 FR 14284, which amends Part 702 of Title 20 is extended as stated above. The substance of the proposal in the above mentioned document is not changed.

Signed at Washington, D.C. this 20th day of April 1977.

DONALD ELISBURG,
Assistant Secretary for Employment Standards.

[FR Doc.77-12024 Filed 4-28-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 109]

[Docket No. 77N-0080]

POLYCHLORINATED BIPHENYLS (PCB'S)

Unavoidable Contaminants in Food and Food Packaging Materials; Reduction of Temporary Tolerances

Correction

In FR Doc. 77-9432 appearing at page 17487 in the issue for Friday, April 1, 1977, in the third column on page 17489, 16 lines from the top, insert the word "origin" after "animal".

[21 CFR Part 342]

[Docket No. 76N-0482]

OVER-THE-COUNTER-DRUGS

Establishment of a Monograph for OTC Topical Antibiotic Products

Correction

In FR Doc. 77-9170 appearing at page 17641 in the issue for Friday, April 1, 1977, make the following corrections:

(1) On page 17652, in the first column, third full paragraph, in the 6th line, "lowest concentration" should have read "lowest blood concentration". In the 12th line, "toxic levels" should have read "toxic blood levels".

(2) On page 17660, in the first column, 2nd full paragraph, in the 3rd line "0.5 mg/c" should have read "0.5 mg/cc".

(3) On page 17670, third column, paragraph "(3)" the 5th line now reading "* * * age form, and not less than 15 mg, * * *" should have read "* * * age form, not less than 30 mg of oxytetracycline per gm of finished ointment dosage form, and not less than 15 mg. * * *".

(4) On page 17680, first column, 4th full paragraph, in the 4th line "1050-1953" should have read "1050-1053", and in the 6th line "U.S." should have read "U.S.C.".

(5) Also on page 17680, in the table of contents listing in the middle column, "342.40" should have read "342.30".

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

[29 CFR Part 2200]

RULES OF PROCEDURE

Elimination of Complaint and Answer

AGENCY: Occupational Safety and Health Review Commission.

ACTION: Proposed rule.

SUMMARY: This proposed rule prescribes changes in the Rules of Procedure of the Occupational Safety and Health Review Commission. It intends to eliminate the requirement for the filing of a complaint and answer in Commission proceedings. The proposed new rule will eliminate unnecessary paperwork, simplify the prehearing process, and shorten the time it takes to obtain

a hearing before an administrative law judge.

DATES: Comments must be received on or before June 28, 1977.

ADDRESSES: All communications should be addressed to: Executive Secretary, Occupational Safety and Health Review Commission, 1825 K Street, NW., Washington, D.C. 20006.

FOR FURTHER INFORMATION CONTACT:

Paul R. Wallace, Counsel to the Commission, 202-634-7970.

SUPPLEMENTARY INFORMATION: On June 29, 1976, there was published in the FEDERAL REGISTER (41 FR 26707), as an advanced notice of proposed rulemaking, a complete revision of the Rules of Procedure of the Occupational Safety and Health Review Commission, published in Part 2200 of this title. Included in that publication was a list of further changes in the existing rules which were suggested by the Counsel to the Commission. At an earlier date, February 6, 1974, a document was published in the FEDERAL REGISTER (39 FR 4674) proposing a new addition to the existing rules designed to simplify the hearing procedures in those cases which did not involve complicated issues of law.

The Commission has held a number of meetings over the past several months to consider the matters stated in its June 29, 1976, advanced notice of proposed rulemaking and the numerous comments which were filed in response thereto. This series of meetings has now been suspended in view of the fact that there will be a vacancy in the membership of the Commission for an uncertain period of time beginning on April 28, 1977, and a wholesale revision of these rules could not be completed prior to that date. The Commission will resume this consideration after that vacancy has been filled. The Commission has decided, however, to propose at this time a change in Section 33 of the Rules (29 CFR 2200.33) in order to eliminate unnecessary paperwork, simplify the pre-hearing process, and shorten the time it takes to obtain a hearing before an administrative law judge. It is also believed that the elimination of burdensome and technical pleading requirements would prove beneficial to the large number of respondents appearing pro se.

The proposed new Rule 33 would replace existing Rule 33 which presently requires the filing of complaints and answers in all cases initiated by an employer notice of contest. The proposed new rule would be a partial adoption of the changes proposed in 39 FR 4674 and would implement one of the suggestions made by the Counsel to the Commission as part of the document published in 41 FR 26707.

The comments made in response to the notice of the proposed adoption of rules for informal procedure published in 39 FR 4674 generally favored the elimination of written complaints and answers. The comments made in response to the June 29, 1976, suggestions of the Counsel to the Commission (41 FR 26707) to eliminate these pleadings were generally unfavorable. All such comments have been considered prior to the decision to propose this new rule.

The objections to the elimination of complaints and answers which were received by the Commission focused on the absence of any method of narrowing the issues for trial if these pleadings were eliminated. These objections are meritorious because adversary proceedings cannot be conducted in an orderly and expeditious manner unless there is a method for ascertaining in advance of trial the issues which are in dispute. Consequently, the new Rule 33 would provide that no pleadings would be necessary in those cases where the only issues in dispute between the parties involve the facts of the violation and the amount of proposed penalties. The Commission's experience to date is that such cases constitute the majority of all proceedings. The proposal would further provide that, in those cases where the parties wish to raise any additional issues, they shall, within 10 days of their receipt of notice of docketing of the case, specify such issues in writing. Issues thus joined would be set forth in a preliminary order by the administrative law judge assigned to hear the case. If the parties differed as to the issues in dispute, exceptions could be filed with, and appropriate orders would be issued by, the assigned judge.

The Commission believes that the proposal would have the effect of simplifying the prehearing process in the majority of cases, yet provide for a pretrial narrowing of the issues in all cases. Where neither party notified the Commission within the time allotted that it planned to raise additional issues, the trial would be confined to a hearing on the facts of the alleged violation and the amount of proposed penalty. Where the parties, within the time permitted, state their intent to raise additional issues, the proposal would permit those issues to be raised. Consequently, the issues in dispute would be joined prior to hearing.

Interested persons are invited to submit such written data, views, or arguments as they may desire. All communications should be addressed to: Executive Secretary, Occupational Safety and Health Review Commission, 1825 K Street, NW., Washington, D.C. 20006. All communications received on or before June 28, 1977, will be considered before action is taken on the proposal. The proposals may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date, in the office of the Executive Secretary. Telephone inquiries concerning any matters on the proposal may be made to the Counsel to the Commission, Paul Wallace, 202-634-7970, or the Executive Secretary 202-634-7950.

In consideration of the foregoing, and under the authority of section 12(g), Pub. L. 91-596 (29 U.S.C. 661(f)), it is proposed to amend 29 CFR 2200.33 to make it read as follows:

§ 2200.33 Employer contests.

(a) Upon receipt of the notice of contest and accompanying documents as specified in Rule 32, the Commission, by its Executive Secretary, shall notify the parties of the docketing of the case and shall request that the parties advise him whether they wish to raise any issues other than (1) whether the facts established the alleged violations, and (2) whether the amount of the proposed penalty is appropriate.

(b) The parties shall, within 10 days of receipt of the request of the Executive Secretary under Rule 33(a), respond in writing thereto by stating with particularity any other issues or affirmative defenses they wish to raise. No such response is necessary if a party does not wish to raise additional issues or defenses.

(c) Except for good cause shown, any other issues or affirmative defenses will be deemed waived unless raised in accordance with paragraph (b) of this section.

(d) As soon as practicable after a case is assigned to a judge, he will issue a preliminary order setting forth the issues to be tried. The parties can file exceptions to this order within 10 days after receipt thereof.

(Sec. 12(b), Pub. L. 91-596 (29 U.S.C. 661 (f)).)

Issued in Washington, D.C., on April 26, 1977.

For the Commission.

WILLIAM S. MCLAUGHLIN,
Executive Secretary.

[FR Doc.77-12337 Filed 4-28-77;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Navy

[32 CFR Part 701]

[SECNAVINST 5211.5A]

PRIVACY ACT OF 1974

Proposed Additional Exemption

AGENCY: Department of the Navy, DOD.

ACTION: Proposed Rule.

SUMMARY: This proposed rule would add an exemption to the Department of the Navy Privacy Act rules for records compiled by the Bureau of Medicine and Surgery that pertain to the discovery and reporting of incidents of child abuse and neglect. Exemptions are needed in order to encourage persons having knowledge of abusive or neglectful acts toward children to report such information, and to protect such sources from embarrassment or recriminations, as well as to protect their right to privacy.

COMMENT DATE: Comments must be received on or before May 31, 1977.

ADDRESSES: Send comments to:

Director, Naval Records Management Division, Office of the Chief of Naval Operations (OP-09B1), Department of the Navy, Washington, DC 20350.

COMMENTS RECEIVED: Will be available for public inspection at:

Office of the Judge Advocate General, Department of the Navy, Law Library, Room 2527, Navy Annex (Federal Office Building No. 2), Southgate Road and Columbia Pike, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT:

Mr. W. M. Kincaid, Deputy Director, Naval Records Management and Administration Services Division, (OP-O9B1B), Washington, DC 20350, 202-697-2311.

SUPPLEMENTARY INFORMATION: On November 17, 1976, there was published in the FEDERAL REGISTER (41 FR 50661) the final adopted rules (32 CFR 701, Subparts F and G) of the Department of the Navy for implementation of the Privacy Act of 1974 (5 U.S.C. 552a). An amendment to those rules was subsequently published in the FEDERAL REGISTER of February 16, 1977 (42 FR 9382). Pursuant to 5 U.S.C. 552a(k), the Secretary of the Navy proposes to amend Subpart G of Part 701 of 32 CFR (41 FR 50661), entitled "Privacy Act Exemptions," by adding a new subparagraph (m) entitled "Bureau of Medicine and Surgery" to § 701.123 which would exempt portions of a Navy system of records identified as N0001810, entitled "Child Advocacy Program Files."

Interested persons are invited to participate in the formulation of this proposed rule by submitting written data, views or arguments. Oral presentations are not desired. All written material received on or before May 31, 1977 will be considered prior to formal adoption of this rule.

It is therefore proposed to establish in Subpart G of Part 701 of 32 CFR, a new subparagraph (m) to § 701.123 as follows:

§ 701.123 Exemptions for specific Navy record systems.

* * * * *

(m) Bureau of Medicine and Surgery.

(1) ID—N0001810.

SY S/NAME: Child Advocacy Program Files.

Exemption: Portions of this system of records are exempt from the following subsections of 5 U.S.C. 552a: (c) (3) and (d).

AUTHORITY: 5 U.S.C. § 552a(k) (2) and (5).

REASONS: Exemptions are needed in order to encourage persons having knowledge of abusive or neglectful acts toward children to report such information, and to protect such sources from embarrassment or recriminations, as well as to protect their right to privacy. It is essential that the identities of all individuals who furnish information under an express promise of confidentiality be protected. Additionally, granting individuals access to information relating to criminal and civil law enforcement, as well as the release of certain disclosure accountings, could interfere with ongoing investigations and the orderly administration of justice, in that it could result in the concealment, alteration, destruction, or fabrication of information; could hamper the identification of offenders or alleged offenders and the disposition of charges; and could jeopardize the safety and well being of parents and their children.

Dated: APRIL 26, 1977.

JOHN S. JENKINS,
Captain, JAGC, U.S. Navy, Assistant Judge Advocate General (Civil Law).

MAURICE W. ROCHE,
Director, Correspondence and Directives (OASD) (Comptroller).

[FR Doc.77-12340 Filed 4-28-77;8:45 am]

DEPARTMENT OF AGRICULTURE

Forest Service

[36 CFR Part 251]

LAND USES

Rights-of-Way For Electric Power Transmission Lines

AGENCY: Forest Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Forest Service is proposing to amend its regulations relating to the issuance of rights-of-way for electric transmission lines crossing Forest Service land. The Government has received complaints about delays in the processing of applications for rights-of-way for transmission lines, and the purpose of this amendment is to expedite the processing of applications.

DATES: Comments must be received on or before May 31, 1977.

ADDRESSES: Send comments to:

USDA, Forest Service
Engineering Staff
P.O. Box 2417
Washington, D.C. 20013

Copies of comments will be available for public inspection during regular business hours (8:15 a.m. to 4:45 p.m.) at the following location:

USDA, Forest Service
Engineering Staff
Room 1108, Rosslyn Plaza E
1621 North Kent Street
Arlington, Virginia

FOR FURTHER INFORMATION, CONTACT:

Harry Coorsh, 703-235-8084

SUPPLEMENTARY INFORMATION: It is proposed to amend 36 CFR Part 251 relating to the issuance of rights-of-way for electric transmission lines crossing Forest Service lands. It is proposed that the voltage relating to the wheeling stipulation be increased from 33 kV to 66 kV. Under the proposed rule change, the wheeling stipulation would be required for electric transmission facilities rated 66 kV and above.

The Department of the Interior is proposing a similar amendment in Title 43 for lands under its jurisdiction.

The regulations in 36 CFR Part 251 govern the granting of rights-of-way for transmission lines over National Forest and other lands under the jurisdiction of the Secretary of Agriculture. These regulations require that grantees of rights-of-way for electric transmission lines permit a Department of the Interior power marketing agency to use surplus transmission capacity in powerlines rated 33 kV and above. This requirement is commonly referred to as the wheeling stipulation. The wheeling stipulation is for the purpose of facilitating the transmission of electric power and energy, by and at the expense of the United States, by utilizing capacity in an electric transmission line in excess of capacity needed by the holder of a right-of-way from the United States.

It has been determined that requiring the wheeling stipulation for transmission lines at levels below 66 kV is of little value to the Federal power marketing program. The burden on the power marketing agencies in processing applications for rights-of-way for transmission lines below 66 kV is unnecessary. No significant effect on the Federal power marketing program is anticipated because the capacity of transmission lines rated at 33 kV up to 66 kV is relatively small. Transmission lines at these voltages are now used primarily as subtransmission and, in some areas, for distribution service. These lower voltages are not generally suited for bulk power transmission by the Department of the Interior's power marketing agencies.

An environmental assessment of the proposed rule change has been made, and it is concluded that there will be no significant impact on the environment.

It has been determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended by Executive Order 11949 and OMB Circular A-107.

§ 251.52 [Amended]

Accordingly, it is proposed to amend 36 CFR Part 251 by deleting the number "33" and inserting in its place the number "66" in paragraphs (b) and (d) of § 251.52.

BOB BERGLAND,
Secretary.

APRIL 8, 1977.

[FR Doc.77-12411 Filed 4-28-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 720-7]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Revision to Ventura County Air Pollution Control Rules and Regulations in the State of California

AGENCY: Environmental Protection Agency.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: It is the purpose of this notice to acknowledge receipt of and invite public comments on revisions to the Ventura County Air Pollution Control District Rules and Regulations which were submitted to EPA by the California Air Resources Board for inclusion in the California State Implementation Plan. These revisions were received on December 13, 1972, July 25, 1973, July 19, 1974, October 23, 1974, November 3, 1975, April 21, 1976 and November 10, 1976. Regulations concerning Emergency Episodes, New Source Review, Vapor Recovery, and Stack Monitoring are not being considered in this notice, and will be the topic of separate FEDERAL REGISTER notices.

DATES: Comments may be submitted up to May 31, 1977.

ADDRESS: Send comments to: Regional Administrator, Attn: Air and Hazardous Materials Division, Air Programs Branch, California SIP Section, EPA, Region IX, 100 California Street, San Francisco CA 94111.

FOR FURTHER INFORMATION CONTACT:

Frank M. Covington, Director, Air and Hazardous Materials Division, Environmental Protection Agency, Attn: David Souten, San Francisco CA 94111, 415-556-7288.

SUPPLEMENTARY INFORMATION: The December 13, 1972, July 25, 1973, July 19, 1974, October 23, 1974, November 3, 1975, April 21, 1976 and November 10, 1976 submittals contained revisions to the following rules:

Rule 2, Definitions
Rule 3, Advisory Committee
Rule 4, Rules Supplemental
Rule 31, Public Disclosure of Data
Rule 32, Upset Conditions, Breakdown or Scheduled Maintenance
Rule 36, Circumvention
Rule 37, Source Recordkeeping and Reporting
Rule 40, Permit Fees
Rule 41, Hearing Board Fees
Rule 42, Schedule of Fees
Rule 43, Technical Reports
Rule 56, Open Fires
Rule 57, Combustion Contaminants—Specific
Rule 59, Oxides of Nitrogen Emissions
Rule 60, New Non-Mobile Equipment
Rule 65, Gasoline Specifications
Rule 66, Organic Solvents
Rule 72, New Source Performance Standards
Rule 73, National Emission Standards for Hazardous Air Pollutants
Rule 101, Sampling and Testing Procedures
Rule 104, Arrest Authority
Rule 110, Hearing Board—General
Rule 112, Contents of Petitions
Rule 113, Petitions for Variances
Rule 114, Appeal from Denial, Suspension or Conditional Approval
Rule 115, Petitions for Abatement Orders or Revocation of Permits
Rule 116, Failure to Comply with Rules
Rule 117, Answers
Rule 118, Dismissal of Petition
Rule 119, Place of Hearing
Rule 120, Notice of Hearing
Rule 121, Evidence
Rule 122, Official Notice
Rule 123, Decision
Rule 124, Abatement Order
Rule 125, Findings
Rule 126, Effective Date of Decision
Rule 127, Lack of Permit
Rule 128, Compensation — Hearing Board Members
Rule 129, Burden of Proof
Rule 200, Public Records
Rule 201, District's Request for Information
Rule 202, Inspection of Public Records—Disclosure Policy
Rule 203, Inspection of Public Records—Disclosure Procedures
Rule 204, Trade Secrets

Pursuant to section 110 of the Clean Air Act as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the regulations as an SIP revision. The Regional Administrator hereby issues this notice setting forth these revisions as proposed rulemaking and advises the public that interested persons may participate by submitting written comments to the Region IX Office. Relevant comments received on or before May 31, 1977 will be considered.

Comments received will be available for public inspection at the Region IX office and the EPA Public Information Reference Unit.

Copies of the proposed revision are available for public inspection during normal business hours at the following locations:

Ventura County Air Pollution Control District, 625 E. Santa Clara Street, Ventura, CA 93001.

California Air Resources Board, 1709 11th Street, Sacramento, CA 95814.

Environmental Protection Agency, Region IX, 100 California Street, San Francisco, CA 94111.

Public Information Reference Unit, Room 2922 (EPA Library), 401 M Street SW., Washington, D.C. 20460.

(Sec. 110 of the Clean Air Act as amended (42 U.S.C. 1857c-5).)

Dated: April 19, 1977.

PAUL DE FALCO, Jr.,
Regional Administrator.

[FR Doc.77-12254 Filed 4-28-77;8:45 am]

[40 CFR Part 52]

[FRL 720-6]

REDESIGNATION OF NORTHERN CHEYENNE INDIAN RESERVATION FOR PREVENTION OF SIGNIFICANT DETERIORATION

Approval and Promulgation of Implementation Plans

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The purpose of this action is to propose for public comment approval of the request by the Northern Cheyenne Tribal Council to redesignate the Northern Cheyenne Indian Reservation in Montana to Class I under EPA's regulations for Prevention of Significant Deterioration (PSD). On March 7, 1977, after public hearing, the Northern Cheyenne submitted to EPA a proposal to reclassify the entire Northern Cheyenne Reservation to Class I. If the request is approved, the reservation would be designed as Class I for purposes of implementing the PSD regulation. Class I applies to areas in which practically any change in air quality levels would be considered significant.

DATES: Comments must be received on or before May 31, 1977. Proposed effective: If approved, the redesignation will be effective immediately.

ADDRESSES: Comments should be sent to: Louis W. Johnson, Chief, Planning and Operations Section, Air Programs Branch, U.S. Environmental Protection Agency, Region VIII, 1860 Lincoln Street, Denver, Colorado 80295 (303-837-3711).

Copies of the analysis are available at:

U.S. Environmental Protection Agency, Region VIII, Office of Public Affairs, Suite 900, 1860 Lincoln Street, Denver, Colorado 80295.

U.S. Environmental Protection Agency, Re-323, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Louis W. Johnson, Chief, Planning and Operations Section (303-837-3711).

SUPPLEMENTARY INFORMATION: On December 5, 1974 (39 FR 42510), EPA promulgated regulations for the prevention of significant deterioration. The intent of these regulations is to prevent deterioration of existing air quality. The regulations provide, inter alia, for three classifications applicable to all lands in the United States, except those counties that pervasively exceed any national ambient air quality standard for sulfur oxides or suspended particulates. Associated with each classification are increments which represent the increase in air pollutant concentration that would be considered significant. Class I applies to areas in which practically any change in air quality would be considered significant; Class II applies to areas in which deterioration normally accompanying moderate well-controlled growth would be considered insignificant; and Class III applies to those areas in which deterioration up to the national standards would be considered insignificant. Under the regulation, all areas of the country were designated Class II initially, with provisions allowing states, Federal Land Managers, and Indian governing bodies to reclassify any area to accommodate the social, economic, and environmental needs and desires of the public.

The regulation is implemented through a preconstruction review pro-

gram affecting nineteen categories of major sources. Such sources cannot receive permission to construct if their emissions, together with emission changes since January 1, 1975, would violate the applicable increment.

On May 3, 1976, the Northern Cheyenne Tribal Council passed a resolution to redesignate the Northern Cheyenne Indian Reservation to Class I. The Tribal Council notified EPA and others of its intent in July, 1976, and made an analysis of the redesignation available to the public on December 14, 1976. Following a public hearing in Lame Deer, Montana, on January 17, 1977, the Tribe responded to all comments and formally submitted the request to EPA on March 7, 1977.

The EPA regulation for prevention of significant deterioration sets forth a number of procedural requirements and review criteria which must be met by any redesignation request if it is to be approved. The following is a brief discussion of these requirements and the actions taken by the Northern Cheyenne Tribal Council to meet them.

PUBLIC HEARING AND RATIONALE

Section 52.21(c)(3) requires that at least one public hearing be held in the area affected and that a discussion of the reasons for the proposed action be available for public inspection at least 30 days prior to the public hearing. The Tribal Council held a public hearing in Lame Deer, Montana, on January 17, 1977, and accepted comments submitted on or before January 31, 1977. The redesignation report prepared prior to the public hearing cited the following as reasons for their proposed action:

1. A desire to preserve the lifestyle of the reservation and the existing culture without disruption caused by further air quality deterioration.

2. Adverse effects on human health caused by further degradation of air quality. The report cites the existing high rate of respiratory illness among residents of the reservation.

3. Impacts of further air quality degradation on the growth of vegetation, especially the ponderosa pine forests.

4. Potential impacts on visibility of further air quality degradation.

NOTIFICATION OF AFFECTED PARTIES

Section 52.21(c)(3) further requires that states which may be affected by the proposed redesignation be notified at least 30 days prior to the hearing. In July and August, 1976, the Northern Cheyenne Tribal Council notified all government offices that might be affected by the proposed redesignation, including numerous federal agencies, the Governor of Montana, the Montana Department of Health and Environmental Sciences, and the Governor of Wyoming.

REQUIRED CONSIDERATIONS

The regulation requires that the proposed redesignation be based upon the record of the public hearing including consideration of growth, social, economic and environmental effects and the impact on national or regional interests. There were 43 verbal and written statements regarding the proposed redesignation. The majority of the statements supported the redesignation. Many provide specific support for the social, health, and economic arguments favoring measures to minimize air quality deterioration as much as possible. There were also a number of comments presented after the hearing expressing concerns of the impact of the proposed redesignation on energy development in areas surrounding the reservation. The analysis presented by the Tribal Council responds to each of the comments presented during and following the hearing.

There were two major issues related to the impact of the redesignation upon utilization of energy resources. First, there were several comments expressing concerns of the impacts on coal mining in the areas surrounding the reservation. As discussed above, the PSD regulation is implemented through a program of preconstruction review of major new sources that fall into one of nineteen source categories. Since coal mining is not one of the nineteen source categories requiring preconstruction review, and hence would not require a PSD construction permit, redesignation of the Northern Cheyenne Reservation would not directly affect mining either on the reservation or in areas adjacent to the reservation.

The second issue is related to the actual use of the energy resources in areas adjacent to the reservation. This is a legitimate concern and it is likely that coal-fired power plants and coal conversion facilities would be impacted at least to the extent that their impact on the Class I increment would affect decisions on siting and pollution control equipment.

The analysis submitted with the request predicts the impacts of several energy utilization scenarios on air quality levels on the reservation, and indicates that facilities located near the reservation would violate the Class I increment within reservation borders.

CONSULTATION

The regulation requires that where an Indian governing body proposes reclassification, such proposal be made following consultation with the State in which the reservation is located and with elected leadership of sub-State governments in the area proposed for redesignation. This requirement has been met by the Northern Cheyenne. They have coordinated their efforts with the Montana Department of Health and Environmental Sciences and received assistance from that Department in predicting the impact of the various energy development scenarios on air quality levels on the reservation. Additionally, the July and August notifications went to sub-State governments and requested them to provide information pertaining to the redesignation.

INTERIOR APPROVAL

The final requirement is that, for Indian lands held in trust, the approval of the Secretary of Interior must be given. On March 21, 1977, EPA received a letter from the Bureau of Indian Affairs in Lame Deer, Montana, who, representing the Secretary of the Interior, gave the Department's endorsement of the Tribal resolution. There may be some question as to whether that letter satisfies the procedural requirement stated above. EPA is seeking further clarification before reaching a final decision.

The regulation provides that EPA would approve a redesignation request unless the Administrator determines that: (i) The procedural requirements have not been met, or (ii) the Indian governing body has arbitrarily or capriciously disregarded the relevant considerations required. EPA's preliminary judgment is that, with the possible single exception discussed above, the Northern Cheyenne Tribal Council has complied with all of the requirements of the regulation, have not acted arbitrarily or capriciously in their action, and have properly considered regional and national interests.

Interested parties are invited to comment on the proposal with respect to the two review criteria discussed above. All comments received on or before (30 days following publication) will be accepted for consideration.

AUTHORITY: Section 110 of the Clean Air Act, as amended (42 U.S.C. 1857c-5).

Dated: April 20, 1977.

JOHN A. GREEN,
Regional Administrator.

[FR Doc.77-12319 Filed 4-28-77;8:45 am]

[40 CFR Part 52]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Air Pollution Control, Pima County Rules and Regulations, State of Arizona

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: Through this notice EPA proposes to approve the Air Quality Maintenance Area (AQMA) Analysis and Plan entitled "AQMA Analysis for Photochemical Oxidants and Plan for Attainment and Maintenance of the Oxidant Standard in Pima County, Arizona". This AQMA analysis and plan was prepared by the Pima County Air Quality Control District and submitted by the State of Arizona to EPA as a revision to the State Implementation Plan (SIP) on January 10, 1977. The plan provides for the attainment of the oxidant standard and for maintenance of that standard through 1995.

COMMENT DATE: May 31, 1977.

ADDRESSES: Send comments to:

Regional Administrator, Attn: Air and Hazardous Materials Division, Air Programs Branch (A-4), EPA Region IX, 100 California Street, San Francisco, CA 94111.

AVAILABILITY OF DOCUMENTS: Copies of the AQMA analysis and plan,

the EPA Evaluation Report, and this FEDERAL REGISTER notice are available for public inspection during normal business hours at the EPA Region IX Library at the above address and at the following locations:

Public Information Reference Unit, Room 2922 (EPA Library), 401 M Street SW., Washington, D.C. 20460.
Arizona Department of Health Services, Bureau of Air Pollution Control, 1740 West Adams Street, Phoenix, Arizona 85007.
Pima County Health Department, Air Quality Control District, 151 West Congress Street, Tucson, Arizona 85701.

FOR FURTHER INFORMATION CONTACT:

Richard Hennecke (415) 556-7720.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On March 9, 1973 (38 FR 6279) EPA disapproved the Arizona SIP with respect to maintenance of the National Ambient Air Quality Standard (NAAQS). Following this action, the State identified metropolitan Tucson as an AQMA. This designation is based on an analysis which indicates that the NAAQS for photochemical oxidants in the Tucson area will not be maintained by the present SIP throughout the period 1975 through 1985. On September 9, 1975 EPA formally designated Tucson as an AQMA for photochemical oxidants and on July 12, 1976 formally requested that the State submit an AQMA analysis and plan as a SIP revision by December 1, 1976. This Air Quality Maintenance Plan must provide for the attainment of the NAAQS and also provide for the maintenance of the NAAQS through 1995.

On October 21, 1976 the Pima County Air Quality Control District submitted to the Arizona Department of Health Services an AQMA analysis and plan as a proposed SIP revision. The State held a public hearig on he proposed SIP revision November 23, 1976 in Tucson. Testimony presented at that hearing is available for inspection at the Bureau of Air Quality Control, Division of Environmental Health Services in Phoenix. The AQMA was subsequently adopted by the State as a SIP revision and submitted to EPA on January 10, 1977.

DISCUSSION OF ACTION

The proposed SIP revision consists of an AQMA analysis and AQMA plan for photochemical oxidants. The AQMA analysis extends from the base year 1973 through the year 2000. The AQMA plan is comprised of four control measures:

1. Vehicular Inspection and Maintenance;
2. Computerized Traffic Signal System;
3. Mass Transit Improvements; and
4. Carpooling.

All of the above measures have been implemented, and in conjunction with the Federal vehicle emission standards, are projected to attain the NAAQS in 1982 and to maintain the NAAQS through 1998. Maintenance of the NAAQS after that date may require additional controls such as vapor recovery on fuel handling and storage facilities.

The AQMA plan also contains a procedure for monitoring the effectiveness of each of the adopted control measures on an annual basis to ensure that the necessary reduction in hydrocarbon emissions in fact does occur.

Adoption of the AQMA analysis and plan was in conformance with the procedural requirements of 40 CFR 51.4 for a thirty-day notice by prominent advertisement of the public hearing on the proposed analysis and plan, that the proposed analysis and plan were made available for public inspection, and that the appropriate Federal, State, and local agencies were notified at least thirty days prior to the hearing.

EPA has reviewed the analysis and plan for their consistency with the requirements of the Clean Air Act and 40 CFR Part 51, particularly Subpart D, Maintenance of National Ambient Air Quality Standards, and has determined that the analysis and plan do not conflict with those requirements. Therefore, the Regional Administrator proposes approval of the AQMA analysis and plan as submitted.

AUTHORITY

Section 110, Clean Air Act, as amended (42 U.S.C. 1857c-5).

Dated: April 19, 1977.

PAUL DE FALCO, Jr.
Regional Administrator.

[FR Doc.77-12321 Filed 4-28-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

[45 CFR Part 168]

GENERAL PROVISIONS RELATING TO STUDENT ASSISTANCE PROGRAMS: PROCEDURES FOR THE LIMITATION, SUSPENSION, OR TERMINATION OF INSTITUTIONAL ELIGIBILITY FOR PROGRAMS UNDER TITLE IV OF THE HIGHER EDUCATION ACT OF 1965, AS AMENDED

Proposed Rulemaking

Correction

In FR Doc. 10127, appearing at page 18743, in the issue for Friday, April 8, 1977, on page 18747, change the third line of § 168.83(b) which now reads, "instatement of its eligibility before the," to read as follows: "Instatement. The request must be in."

DEPARTMENT OF COMMERCE

Maritime Administration

[46 CFR Chapter II]

PARTICIPATION BY VESSELS BUILT WITH CONSTRUCTION-DIFFERENTIAL SUBSIDY IN THE CARRIAGE OF OIL FROM ALASKA IN THE DOMESTIC TRADE

AGENCY: Maritime Administration, DOC.

ACTION: Proposed rulemaking.

SUMMARY: The Maritime Administration proposes to prescribe regulations to be published in Subchapter C of 46 CFR Chapter II, concerning the eligibility and other requirements for the carriage of oil from its source in Alaska in the domestic trade of the United States by vessels which were built with construction-differential subsidy (CDS).

DATES: Comments must be received on or before May 13, 1977.

ADDRESS: Send comments to the Secretary, Maritime Administration, Washington, D.C. 20230. All comments will be made available for public inspection during normal business hours in Room 3099-B, Department of Commerce.

FOR FURTHER INFORMATION CONTACT:

James S. Dawson, Jr., Secretary, Maritime Administration, Washington, D.C. 20230. 202-377-2188.

SUPPLEMENTARY INFORMATION: It is anticipated that within one month after completion of the Trans Alaska Pipeline, scheduled for June 1977, oil from the North Slope of Alaska will have begun flowing through the pipeline, and will be available for shipment by water in the domestic trade of the United States. Under section 27 of the Merchant Marine Act, 1920 (46 U.S.C. 833) merchandise may be carried in such trade, either directly or via a foreign port, only on vessels built in the United States and owned by persons who are citizens of the United States. However, if any such vessel has been constructed with CDS assistance pursuant to Title V of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1101-1294), "to be used in the foreign commerce of the United States," the written consent of the Secretary of Commerce is required for temporary employment of that vessel in the domestic trade (not to exceed six months in any year). The purpose of these proposed regulations is to prescribe rules of eligibility for participation by CDS vessels in the carriage of Alaskan oil in the United States domestic trade, with the primary consideration by the Assistant Secretary of Commerce for Maritime Affairs being that the vessel requirements for such carriage of Alaskan oil are satisfied after utilization of suitable available unsubsidized vessels.

[1] PART ____—PARTICIPATION BY VESSELS BUILT WITH CONSTRUCTION-DIFFERENTIAL SUBSIDY IN THE CARRIAGE OF OIL FROM ALASKA IN THE DOMESTIC TRADE

Sec.

____.1 Purpose.
____.2 Definitions.
____.3 Applications.
____.4 Approval.
____.5 Extent of participation.
____.6 CDS repayment, ODS termination.

[1] Part 250 or 252 requested.

AUTHORITY: Part ____ is issued pursuant to Sections 204(b) and 506, Merchant Marine Act, 1936, as amended (46 U.S.C. 1114(b) and 1156), Reorganization Plans No. 21 of 1950 (64 Stat. 1273), and No. 7 of 1961 (75 Stat. 840), as amended by Pub. L. 91-469 (84 Stat. 1036), and Department of Commerce Organization Order 10-8 (38 FR 19707, July 23, 1973).

§ _____.1 Purpose.

This part prescribes regulations implementing section 506 of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1156), with respect only to the conditions for approval of participation by vessels built with CDS, pursuant to authority of Title V of that Act, in the carriage of oil from Alaska in the domestic trade of the United States.

§ _____.2 Definitions.

For the purpose of this part—

(a) "Act" means th Merchant Marine Act, 1936, as amended (46 U.S.C. 1101-1294).

(b) "CDS" means construction-differential subsidy, as provided for in Title V of the Act.

(c) "Competitor" means any owner or operator of an American-flag vessel, that has been built or is being constructed without CDS, and is eligible for operation in the domestic trade, pursuant to section 27 of the Merchant Marine Act, 1920 (46 U.S.C. 883).

(d) "Assistant Secretary" means the Assistant Secretary of Commerce for Martime Affairs, or his authorized representative to whom is duly delegated the authority, from time to time, to perform the functions of the Assistant Secretary.

§ _____.3 Applications.

The owner or bareboat charterer of a tank vessel built with CDS may make application to the Assistant Secretary for permission to carry oil from Alaska in the domestic trade of the United States. A separate application shall be required with respect to each vessel for which the applicant seeks approval for such carriage of Alaskan oil, and shall disclose the following information:

(a) The name and description of the vessel and the MA/MSB contract numbers relating to CDS;

(b) The number of voyages and length of time the vessel would operate in the trade; and

(c) A statement that, to the applicant's knowledge, suitable vessels owned or operated by a competitor would not be available for the prospective voyage or voyages.

§ _____.4 Approval.

(a) *Time limits, protest procedure.* The Assistant Secretary shall publish in the FEDERAL REGISTER notice of receipt of each application. The Assistant Secretary shall consider a protest of an application by a competitor, if the protest is in writing, states facts which show cause why the Assistant Secretary should deny the application, and is received by the Assistant Secretary within five days after the date of publication in the FEDERAL REGISTER of the application notice. The Assistant Secretary shall make a determination with respect to each application within five working days after expiration of the notice period.

(b) *Requisite findings.* The primary consideration of the Assistant Secretary in approving an application shall be to satisfy the vessel requirements for the carriage of Alaskan oil in the domestic trade of the United States, after utilization of suitable available unsubsidized vessels. An application will ordinarily be granted in the case of physical unavailability of suitable vessels of competitors within the time reasonably required to assure the orderly shipment of Alaskan oil. The Assistant Secretary shall approve an application made under this Part only after determining:

(1) The grant of the application would not be unduly prejudicial to competitors and is consistent with the purposes and policies of the Act; or

(2) That the reasons for granting the application outweigh any adverse impact on competitors.

(c) *Actions.* The Assistant Secretary's determinations shall include or be accompanied by a concise statement of the reasons for the action taken.

§ _____.5 Extent of participation.

Pursuant to section 506 of the Act, the Assistant Secretary shall not approve an application where the result would be to allow a vessel of the applicant to participate in the trade for a period exceeding six months in any consecutive 12-month period commencing with the entry date of the applicant's vessel for the carriage of Alaskan oil in the domestic trade of the United States.

§ _____.6 CDS repayment; ODS termination.

Pursuant to section 506 of the Act, the owner of each vessel subject to the provisions of this Part 250 shall pay to the Secretary an amount which bears the same proportion to the CDS paid by the Secretary of Commerce as the temporary period of operation in the trade bears to the entire economic life of the vessel. No operating-differential subsidy shall be paid for the operation of such vessel for such temporary period.

AUTHORITY: Part ____ is issued pursuant to sections 204(b) and 506, Merchant Marine Act, 1936, as amended (46 U.S.C. 1114(b) and 1156), Reorganization Plans No. 21 of 1950 (64 Stat. 1273), and No. 7 of 1961 (75 Stat. 840), as amended by P.L. 91-469 (84 Stat. 1036), and Department of Commerce Organization Order 10-8 (38 FR 19707, July 23, 1973).

By order of the Assistant Secretary for Maritime Affairs, Maritime Administration.

Dated: April 22, 1977.

JAMES S. DAWSON, Jr.,
Secretary,
Maritime Administration.

[FR Doc.77-12270 Filed 4-28-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 21311; RM-2715]

FM BROADCAST STATIONS IN KNOXVILLE, CLINTON, SWEETWATER, AND CLEVELAND, TENNESSEE

Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rule Making and Order to Show Cause.

SUMMARY: Notice of Proposed Rule Making and Order to Show Cause to assign FM Channel 282 to Knoxville, Tennessee, as that community's fourth commercial FM assignment. The assignment complies with the Commission's population criteria which provides for four to six FM channels for communities of over 100,000, and would requre substitution of one unused and two occupied channels in order to meet spacing requirements. Comments are sought on reimbursement for channel changes and the possible preclusion of future assignments to La Follette, Tennessee.

COMMENT DATES: Comments are to be filed on or before June 6, 1977, and reply comments on or before June 27, 1977.

ADDRESSES: Send Comments to Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

James J. Gross, Broadcast Bureau (202-632-7792).

SUPPLEMENTARY INFORMATION:

Adopted: April 21, 1977.

Released: April 28, 1977.

In the Matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Knoxville, Clinton, Sweetwater, and Cleveland, Tennessee) by the Chief, Broadcast Bureau:

1. The Commission has been petitioned by James F. Stair, II and Hillery K. Duckett, II, to assign FM Channel 282 to Knoxville, Tennessee (1970 pop. 174,587), as that community's fourth commercial FM assignment. The requested assignment would require substitution of one unused and two occupied channels in order to meet the Commission's separation requirements. The required changes are Channel 237A for vacant Channel 252A at Cleveland, Tennessee; Channel 252A for 237A (WDEH-FM) at Sweetwater, Tennessee; and Channel 237A for 285A (WYSH-FM) at Clinton, Tennessee. The petition is opposed by Multimedia, Inc. ("Multimedia"), licensee of WBIR, WBIR-FM, and WBIR-TV, of Knoxville; South Central Broadcasting Corporation ("South Central"), licensee of WEZK(FM), at Knoxville; and Clinton Broadcasters, Inc. ("Clinton") licensee of WYSH and WYSH-FM, Clinton, Tennessee. Two ap-

plications for a construction permit on vacant Channel 252A at Cleveland have been accepted for filing by the Commission: Thomason Broadcasting, Inc., File No. BPH-10093; and Bradley Enterprises, Inc., File No. BPH-10346. The cut-off date for filing competing applications for this channel has passed.

2. In support of the proposal, petitioners state that Knoxville, the seat of Knox County (1970 pop. 276,293), is the metropolitan hub of East Tennessee and a leading trade and manufacturing center of the South. It is near the Great Smoky Mountains National Park and surrounded by five lakes. The main campus of the University of Tennessee and headquarters of the Tennessee Valley Authority are located in Knoxville. Petitioners detail other social, economic, and historical information, stating that Knoxville is endowed with industry, finance, transportation, education, cultural activities, print and visual media, but lacks sufficient FM broadcast radio services.

3. Petitioners tell us that Knoxville is served by two daily newspapers and several weekly publications. Three commercial and one noncommercial television stations are currently licensed to Knoxville, and a cable TV system is now under construction. The city has nine AM radio stations, three commercial Class C FM stations, and two noncommercial educational FM stations. Of the three FM stations, one is affiliated with a Knoxville television station, one with a television and AM station, and the third with an AM station. Petitioners also point to the fact that only one of these FM stations is locally owned.

4. Petitioners show that Knoxville's 1970 Census population of 174,587 is a 57% increase over its 1960 population. A 1975 estimate places the population at 184,400 and the 1985 population at 194,445. Petitioners direct our attention to the Commission's 1962 population criteria for the assignment of FM channels, set forth in paragraph 4 of the Further Notice of Proposed Rule Making, Docket No. 14185, FCC 62-867, and incorporated by reference in paragraph 25 of the Third Report, Memorandum Opinion and Order, 23 R.R. 1859, 1871 (1963). Those criteria specify that a city with a population of 100,000 or over may be allotted four to six FM channels. Petitioners also point to dictum in Greenville, Kentucky (Report and Order), Docket 19074, FCC 72-46 (1972), in which the Commission recognized at n. 12 that Knoxville is entitled to more than its present three commercial FM channels on the basis of the population criteria.

5. Petitioners propose to add Channel 282, which would require the change of three other assignments and state their intent to promptly apply for the channel if assigned, and to construct a station if authorized. Two potential transmitter sites are mentioned by petitioners, but one would not meet the Commission's minimum separation requirements contained in § 73.207 of the Rules because it would be short-spaced to adjacent Channel 285A at Waynesville, North Carolina. See also § 73.208(a)(4). Petitioners state that this site is the preferable one due to coverage and accessibility and ask for a waiver of the spacing rule on the basis of terrain shielding by mountains separating Knoxville and Waynesville.

6. The Commission has decided to adhere, essentially without exception, to its FM separation requirements, finding that the benefits from individual waivers would not outweigh the costs of disrupting a coherent nationwide assignment plan. Portland, Tennessee, 35 F.C.C. 2d 601 (1972). Nothing offered here provides the basis for concluding that this case warrants exceptional treatment. Therefore, petitioners' preference for the sport-spaced site cannot be controlling, especially since there would be no first or second new service provided by this proposal. However, the second proposed site, on Comb Ridge, complies with the minimum separation requirements of § 73.207 and the minimum field intensity requirements of § 73.315 of the FCC rules. Therefore, petitioners have made the transmitter site availability showing of § 73.208(a)(4). Petitioners state that there would be some shadowing in Knoxville from the short-spaced site, but no statement is made regarding the Comb Ridge site. We would expect petitioners to submit in comments a pictorial showing of the Knoxville area so that it would be possible to determine if it would be subject to shadowing.

7. Preclusion of future assignments by this proposal would affect Channel 282 only in a small area in the vicinity of Comb Ridge, and Channel 285A in a larger area which includes the community of La Follette, Tennessee (1970 pop. 6,902, 1960 pop. 6,204). La Follette is assigned Channel 288A, but that channel is used in Oneida, Tennessee, which is almost 25 miles away. A Commission study indicates that no other channels are available for La Follette without changing other assignments. High among the Commission's priorities in FM channel assignments is the provision of first local broadcast service to small communities. Therefore we are very much concerned that the proposed fourth FM service to Knoxville may preclude La Follette from obtaining its first local FM service in the future. We shall therefore give consideration to comments and any solutions put forth which address the La Follette preclusion issue.

8. Opposition comments, filed by Multimedia, Inc. ("Multimedia"), licensee of WBIR, WBIR-FM and WBIR-TV, Knoxville, contend that a Channel 282 signal at Knoxville would interact with the existing educational Channel 220 signal of Station WUOT to produce a harmonic frequency falling in the visual band of TV Channel 10, assigned to Multimedia's station WBIR-TV. Multimedia asserts that serious interference would result to the reception of WBIR-TV's signal which is not susceptible to technical correction. Petitioners counter that four other possible combinations are now present in the Knoxville area from existing stations that would create a harmonic in the Channel 10 TV band, one of which is Multimedia's Station WBIR-FM (Channel 278) and WUOT (Channel 220). Multimedia does not address the existence of interference from the present operations, and without this information, it is not possible to conclude that there is a likelihood of future problems.

9. South Central Broadcasting Corporation ("South Central"), licensee of WEZK(FM), Knoxville, Tennessee, raises several objections to the proposed assignments. South Central argues that Knoxville is adequately provided with aural services, including those from Class C FM stations at Oak Ridge and Sevierville, Tennessee, which provide coverage of Knoxville. South Central attacks petitioners' engineering showing because it is based upon a superseded FM propagation chart (deleted from the Commission's rules August 1, 1975, see § 73.333), and upon an assumption of circular coverage area in the mountainous terrain of the Knoxville area. Finally, South Central argues that the required disruption by channel substitutions is not justified by the less than maximum facility likely at the undeveloped Comb Ridge site. Petitioners respond that stations in adjacent communities are not substitutes for local service, that Knoxville's population justifies an additional assignment, and that while the Comb Ridge site has no adequate access road or electrical power source at this time, it is nonetheless usable.

10. We agree with petitioners that service from stations in other cities is not a substitute for the service which would be provided by an additional Knoxville station. Use of the correct chart shows that such a station would be able to provide the required signal level to Knoxville as required by our rules, and since we have already determined that no first or second service would be provided from Comb Ridge, the contour location is otherwise not of decisional significance here. We require only that petitioners make a showing of an available transmitter site which meets our separation requirements. Petitioners have made such a showing with regard to the Comb Ridge site.

11. Clinton Broadcasters, Inc. ("Clinton"), licensee of WYSH and WYSH-FM, Clinton, Tennessee, submitted an untimely response on August 20, 1976. Responses to the petition were due July 29, 1976, and replies August 13, 1976. (§ 1.405, FCC Rules.) Clinton gives no explanation for the late filing and petitioners have moved that it not be considered in this proceeding. The thrust of Clinton's filing is that it is opposed to the change from Channel 285A to 237A for its FM station that would be required by the proposal. Clinton states that it has just completed a major change in its FM operations by increasing tower height and transmitter power, that the resulting increase in coverage area has been widely publicized, and that a frequency change would be disruptive and confusing to its listeners. Clinton also contends that slight interference may be

caused to a Channel 237A station at Clinton from the second adjacent Channel 235 at Greenville, Tennessee (WOFM), even though there would be no short-spacing. Clinton's comments are not crucial to our consideration of the petitioners' proposal at this preliminary stage of the proceeding. Clinton will have ample time to present its arguments to the Commission during the comment and reply comment periods following issuance of a Notice of Proposed Rule Making.

12. Accordingly, we find that all of the objections necessary to consider have been answered sufficiently to remove any obstacle to our consideration of petitioners' proposal in rule making. The question still to be resolved is whether the public benefit in providing Knoxville with a new FM service, a step which is consistent with our population criteria, is warranted under the facts of this case. In particular, we refer to the preclusion at La Follette and the proposed channel substitutions at Clinton and Sweetwater where reimbursement for frequency changes would be expected from the grantee of any new FM assignment authorized at Knoxville.

13. Therefore, *it is proposed to amend* the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as follows for the below named communities:

City	Channel No.	
	Present	Proposed
Knoxville, Tenn	248, 278, 299	248, 278, 282, 299
Clinton, Tenn	285A	237A
Sweetwater, Tenn	237A	252A
Cleveland, Tenn	252A	[1] 237A

[1] Applicants for channel 252A would be required to amend their applications to specify the new channel if channel 237A is substituted at Cleveland.

14. It is ordered, That, pursuant to section 316 of the Communications Act of 1934, as amended, Sweetwater Radio, Inc., licensee of Radio Station WDEH-FM, Sweetwater, Tennessee, shall show cause why its license for Station WDEH-FM (Channel 237A) should not be modified to specify operation on Channel 252A in lieu of Channel 237A at Sweetwater, Tennessee.

15. Pursuant to § 1.87 of the Commission's Rules and Regulations, the licensee of Station WDEH-FM may, not later than June 6, 1977, request that a hearing be held on the proposed modification. Pursuant to § 1.87(f), if the right to request a hearing is waived, Sweetwater Radio, Inc. may not later than June 6, 1977, file a written statement showing with particularity why its license should not be modified or not so modified as proposed in the Order to Show Cause. In this case, the Commission may call on Sweetwater Radio, Inc. to furnish additional information, designate the matter for hearing, or issue without further proceeding an Order modifying the license as provided in the Order to Show Cause. If the right to request a hearing is waived and no written statement is filed by the date referred to above, Sweetwater Radio, Inc. is deemed to consent to the modification as proposed in the Order to Show Cause and a final Order will be issued by the Commission if the channel changes referred to in paragraph 13 above are found to be in the public interest.

16. It is further ordered, That, pursuant to Section 316 of the Communications Act of 1934, as amended, Clinton Broadcasters, Inc., licensee of Radio Station WYSH-FM, Clinton, Tennessee, shall show cause why its license for Station WYSH-FM (Channel 285A), should not be modified to specify operation on Channel 237A in lieu of Channel 285A at Clinton, Tennessee.

17. Pursuant to § 1.87 of the Commission's Rules and Regulations, the licensee of Station WYSH-FM may, not later than June 6, 1977, request that a hearing be held on the proposed modification. Pursuant to § 1.87(f), if the right to request a hearing is waived, Clinton Broadcasters, Inc. may, not later than June 6, 1977, file a written statement showing with particularity why its license should not be modified or not so modified as proposed in the Order to Show Cause. In this case, the Commission may call on Clinton Broadcasters, Inc. to furnish additional information, designate the matter for hearing, or issue without further proceedings an Order modifying the license as provided in the Order to Show Cause. If the right to request a hearing is waived and no written statement is filed by the date referred to above, Clinton Broadcasters, Inc. is deemed to consent to the modification as proposed in the Order to Show Cause and a final Order will be issued by the Commission if the channel changes referred to in paragraph 13 above are found to be in the public interest.

18. *It is further ordered,* That, the Secretary of the Commission shall send a copy of this Order by certified mail, return receipt requested, to Sweetwater Radio, Inc., Radio Station WDEH-FM, c/o R. L. Sherlin, North Main Street, Sweetwater, Tennessee, 37874; and Clinton Broadcasters, Inc., Radio Station WSYSH-FM, c/o George R. Gueryin, P.O. Box 70, Morristown, Tennessee, 37814, the parties to whom the Orders to Show Cause are directed.

19. Authority to institute rule making proceedings; showings required; cut-off procedures; and filing requirements are contained below and are incorporated herein.

20. Interested parties may file comments on or before June 6, 1977, and reply comments on or before June 27, 1977.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended and § 0.281(b)(6) of the Commission's Rules, *is it proposed to amend* the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule Making to which this is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420 (d) of Commission Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission Rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc.77-12334 Filed 4-28-77;8:45 am]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[50 CFR Part 285]

ATLANTIC TUNA FISHERIES

Bluefin Tuna Regulations

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Proposed rulemaking.

SUMMARY: National Oceanic and Atmospheric Administration amends its regulations on fishing for Atlantic bluefin tuna based on the recommendation of the Commission for the Conservation of Atlantic Tunas (ICCAT). The amendments are needed because additional fishing effort for Atlantic bluefin tuna has increased the risk of exceeding the annual quotas for these fish. The intended effect of these amendments is to ensure that fishing mortality of Atlantic bluefin tuna is limited to 1975 levels.

DATES: Hearing: May 16, 1977, 9:00 a.m.; submit comments on or before May 27, 1977.

ADDRESS: Hearing: The Holiday Inn, Peabody, Massachusetts; Send comments to: Regional Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Gloucester, Massachusetts 01930.

FOR FURTHER INFORMATION CONTACT:

Mr. William G. Gordon, 617/281-3600 ext. 200 at the above address.

SUPPLEMENTARY INFORMATION: Since the time the recommendations concerning Atlantic bluefin tuna went into effect on August 10, 1975, significant progress has been made by ICCAT members in adopting measures implementing the recommendations of the Commission. In countries where domestic procedures for promulgating regulations implementing the recommendations have not been completed, the recommendations have been observed on a voluntary basis.

In order to more effectively implement the Commission's recommendations several changes in the Atlantic bluefin tuna regulations are being proposed. Because of numerous editorial changes the entire Subpart B of the Atlantic bluefin tuna regulations are reprinted, including all of the several proposed changes.

The major changes are as follows:

1. Provisions that these regulations are effective until amended or repealed (§ 285.10).

2. Opening of the season for taking giant tuna, those weighing in excess of 300 pounds round weight, by purse seine on September 1 (§ 285.12).

3. Provisions establishing a special scientific and tagging quota for Atlantic bluefin tuna weighing between 115 and 300 pounds round weight (§ 285.13).

4. Provisions that vessel certificates issued for 1977 will remain valid until returned to the Regional Director or until the vessel otherwise leaves the fishery or changes ownership (§ 285.20).

5. Provisions prohibiting the catching and releasing of tuna without tagging the tuna with tags obtained from the NMFS (§ 285.21).

6. Provisions to allocate the purse seine quotas on a vessel basis (§ 285.16).

7. Provisions restricting the kind of purse seine net allowed in the fishery (§ 285.15).

8. Provisions requiring a port inspection of purse seine vessels by a particular date and in a particular place (§ 285.16) and requiring purse seine vessel inspection prior to offloading (§ 285.18).

9. Provisions requiring that purse seine vessels reports be made to the Regional Director when the vessel has achieved its assigned quota (§ 285.18).

10. Numerous editorial changes have been made for the purpose of improving readability and understanding of the regulations.

Issued in Washington, D.C. April 22, 1977

JACK W. GEHRINGER,
Deputy Director, National Marine Fisheries Service.

Subpart B—Atlantic Bluefin Tuna (Thunnus thynnus thynnus)

Sec.
285.10 Effective period of regulations.
285.11 Authorized fishing.
285.12 Open and closed seasons
285.13 Quotas.
285.14 Incidental catch.
285.15 Gear restrictions.
285.16 Purse seine vessel allocations.
285.17 General restrictions.
285.18 Reporting requirements.
285.19 Presumptions.
285.20 Certification.
285.21 Tag and release permits.

AUTHORITY: Atlantic Tuna Conventions Act of 1975, Pub. L. 94-70, 16 U.S.C. 971-971h.

Subpart B—Atlantic Bluefin Tuna (Thunnus thynnus thynnus)

§ 285.10 Effective period of regulations.

These regulations shall remain in force until superseded, amended, or otherwise suspended.

§ 285.11 Authorized fishing.

Fishing for Atlantic bluefin tuna that weigh between 14 pounds and 115 pounds round weight or in excess of 300 pounds round weight, by persons or fishing vessels subject to the jurisdiction of the United States, is authorized in the regulatory area only during open seasons. Fishing for Atlantic bluefin tuna that weigh less than 14 pounds round weight or in excess of 115 pounds round weight, but less than 300 pounds round weight, by persons or fishing vessels subject to the jurisdiction of the United States is not authorized at any time in the regulatory area except, however, as provided for in § 285.13 of this Subpart B. However, Altantic bluefin tuna that weigh less than 14 pounds or in excess of 115 pounds round weight, but less than 300 pounds round weight, may be taken incidentally in the course of fishing in the regulatory area by persons or fishing vessels subject to the jurisdiction of the United States but only in the manner and in the numbers or weights, as the case may be, as set forth in § 285.14.

§ 285.12 Open and closed seasons.

(a) The seasons for the taking of Atlantic bluefin tuna shall be closed when the Director or his representative announces such closing through direct or indirect communication with participants in the fishery or by announcement in the FEDERAL REGISTER.

(b) The season for taking Atlantic bluefin tuna weighing in excess of 300 pounds round weight, by purse seining, shall begin on September 1.

(c) The season for taking Atlantic bluefin tuna weighing between 14 and 115 pounds round weight, by purse seining, shall begin on the date such vessel allocations have been made pursuant to § 285.16.

(d) The season for taking Atlantic bluefin tuna, other than as specified in paragraphs (b) and (c) of this section, shall commence on January 1.

§ 285.13 Quotas.

(a) Purse seining:

(1) The total annual seine quota for Atlantic bluefin tuna that weigh between 14 pounds round weight and 115 pounds round weight is 1,000 short tons. Of this total annual quota of 1,000 short tons, 800 short tons may be taken during the open season and 200 short tons are reserved to be taken at any time during the year incidental to the conduct of a scientific bluefin tuna tagging project. Such tagging efforts shall be conducted under the direct supervision of the Center Director, Southeast Fisheries Center (SEFC), National Marine Fisheries Service (NMFS), Miami, Florida, or his representative and shall involve no more than four (4) purse seine vessels and associated crews to be selected by the Center Director or his representative.

(2) A special scientific quota not to exceed 25 short tons of Atlantic bluefin tuna is established for the purposes of obtaining age, sex, and other scientific research data, and for the tagging of Atlantic bluefin tuna weighing between 115 and 300 pounds round weight. Such research activity shall be conducted under the direct supervision of the Center Director, Southeast Fisheries Center, NMFS, or his representative.

(3) The total annual seine quota for Atlantic bluefin tuna that weigh in excess of 300 pounds round weight is 180 short tons.

(b) Fishing by other than purse seining:

(1) The total annual quota of Atlantic bluefin tuna which weigh in excess of 300 pounds round weight is 2,000 tuna. Each vessel fishing for Atlantic bluefin tuna with gear other than a purse seine may land no more than one (1) Atlantic bluefin tuna weighing over 300 pounds round weight each day through August 13. After August 13 no more than seven such tuna may be landed in any week, Sunday through Saturday, until the quota has been reached.

(i) Of this total annual quota of 2,000 Atlantic bluefin tuna, no more than 1,850 tuna may be taken north and east of a line drawn from a point on the southern coast of Massachusetts extending south through Gay Head Light, Massachusetts, into the Atlantic Ocean and no more than 150 tuna may be taken from waters west of said line, including the waters of Narragansett Bay.

(ii) Of this 1,850 Atlantic bluefin tuna allocation, 100 such tuna may be reserved for a scientific research program designed to identify the distribution and abundance of Atlantic bluefin tuna in the Northwest Atlantic. Such research shall be conducted in close cooperation with the Center Director, SEFC, but under the direct supervision of the Northeast Regional Director, National Marine Fisheries Service, Gloucester, Massachusetts, or his representative and shall take place at his discretion.

(2) In lieu of an annual quota, a daily bag limit of four (4) Atlantic bluefin tuna per person is authorized for persons who fish for Atlantic bluefin tuna which weigh between 14 pounds round weight and 115 pounds round weight.

(c) When the quota for a particular class of Atlantic bluefin tuna has been reached, the Director shall, in accordance with § 285.12 close the season for Atlantic bluefin tuna of that class, provided, however, that anglers may continue a tag and release program pursuant to § 285.21.

§ 285.14 Incidental catch.

(a) Purse seine vessels fishing for Atlantic bluefin tuna weighing more than 300 pounds round weight may take incidentally, during any trip, Atlantic bluefin tuna weighing less than 300 pounds round weight, provided that the amount of such tuna taken shall not exceed 3 percent, by weight, of the total amount of Atlantic bluefin tuna onboard the vessel. Purse seine vessels fishing for Atlantic bluefin tuna weighing more than 14 pounds round weight but less than 115 pounds round weight may take incidentally, during any trip, Atlantic bluefin tuna outside said weight class, provided that the amount of such tuna taken shall not exceed 3 percent, by weight, of the total amount of Atlantic bluefin tuna onboard the vessel.

(b) Persons angling for Atlantic bluefin tuna, which weigh between 14 pounds round weight and 115 pounds round weight, may include in their daily bag limit one Atlantic bluefin tuna less than 14 pounds round weight and one Atlantic bluefin tuna greater than 115 pounds round weight, but less than 300 pounds round weight, provided, however, that in no case may the daily bag limit of 4 Atlantic bluefin tuna, as specified in § 285.13(b)(2), be exceeded.

(c) Persons or fishing vessels subject to the jurisdiction of the United States fishing principally for species of fish other than Atlantic bluefin tuna, except operators of traps, may take, during any trip, Atlantic bluefin tuna, provided that the amount of Atlantic bluefin tuna taken does not exceed 1 percent, by weight, of all other fish onboard the vessel and provided further, that such vessels have been issued an Atlantic bluefin tuna certificate pursuant to this subpart. Operators of traps may retain Atlantic bluefin tuna taken incidentally in these operations, provided that said tuna do not exceed 2 percent, by weight, of the total amount of all other fish species taken within the preceding 30-day period.

(d) All Atlantic bluefin tuna taken incidentally shall be included in the appropriate quotas set forth in § 285.13.

§ 285.15 Gear Restrictions.

It shall be unlawful for any person or vessel subject to the jurisdiction of the United States to engage in a directed fishery for Atlantic bluefin tuna with nets, other than a trap net, if such net has a mesh size larger than 4.5 inches in the main body and 8 inches in the selvedge (stretched when wet), or has less than 30-count thread anywhere in the net.

§ 285.16 Purse seine vessel allocations.

(a) Each purse seine vessel, certified under § 285.20, shall receive a specific allocation of Atlantic bluefin tuna, for each weight class of tuna. Each such vessel allocation shall be determined by prorating the quota, on an equal basis, among all of the purse seine vessels certified under § 285.20. Such vessel allocations shall be determined separately for each weight class for which a purse seine quota has been established under § 285.13.

(b) In order to receive an allocation, all applications for a certificate to fish for Atlantic bluefin tuna must be received no later than June 15. Any application received after June 15 will not be considered for an allocation. All allocations will be assigned by June 22, except as provided for in paragraphs (c) and (d) of this section.

(c) Purse seine vessels that have been assigned an allocation of Atlantic bluefin tuna weighing between 14 and 115 pounds round weight, pursuant to this section, must enter the port of Norfolk, Virginia, or New Bedford, Massachusetts, to be inspected by an Agent of the NMFS, prior to entering the fishery. It shall be considered that any such vessel which has not been inspected prior to July 1 does not intend to utilize its assigned vessel allocation, and such allocation shall be reassigned on an equal basis, to those vessels satisfying the inspection requirements of this Subsection. Such reallocation will be made and assigned by July 5.

(d) Purse seine vessels that have been assigned an allocation of Atlantic bluefin tuna weighing in excess of 300 pounds round weight pursuant to this section must enter the port of New Bedford, Massachusetts, prior to September 1 to be inspected by an agent of the NMFS. It shall be considered that any such vessel which has not been inspected prior to September 1 does not intend to utilize its assigned vessel allocation and such allocation shall be reassigned, on an equal basis, to the remaining certified vessels. Such reallocation will be made and assigned no later than September 5.

(e) It shall be unlawful for any purse seine vessel to catch and retain more than its assigned allocation for each weight class.

(f) All vessels entering one of the ports, specified in paragraph (c) and (d) of this section, for the purpose of inspection by a NMFS agent, shall notify the Regional Director at least 48 hours prior to arrival in such port.

§ 285.17 General restrictions.

(a) It shall be unlawful for any person, master or operator of any fishing vessel subject to the jurisdiction of the United States to land any Atlantic bluefin tuna in other than the whole round form.

(b) It shall be unlawful for any person to submit an application for a vessel certificate, under § 285.20, unless such vessel is capable of travelling to and from the fishing ground under its own power, and is capable of landing Atlantic bluefin tuna with no assistance from other vessels.

(c) It shall be unlawful for any person, master, or operator, of any vessel subject to the jurisdiction of the U.S. to fail to release immediately, with a minimum of injury, any Atlantic bluefin tuna which will not be retained or to have in possession any Atlantic bluefin tuna which will not be retained. It shall be presumed that any Atlantic bluefin tuna in possession which is not tagged will not be retained.

(d) It shall be unlawful for any person to knowingly purchase, or have in possession, any Atlantic bluefin tuna taken in violation of this Subpart.

§ 285.18 Reporting requirements.

(a) Reports and records required by this section should be sent to:

Regional Director, Northeast Region, National Marine Fisheries Service, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930.

All tags, forms, and logbooks referred to in this section 285.18 may be obtained by writing to the same address.

(b) It shall be unlawful for any person, master or operator of any fishing vessel subject to the jurisdiction of the United States that takes an Atlantic bluefin tuna in excess of 300 pounds round weight to have in possession such fish without having affixed, at the time of taking, through the narrowest part of the fish just forward of the tail, an individually numbered tag furnished by the National Marine Fisheries Service.

(c) It shall be unlawful for any person to remove the tag affixed to the tuna in paragraph (b) until the fish is either cut into portions for sale or is exported from the United States. Such tag may be removed from tuna packed whole or headed and eviscerated for export, but, in such cases, the tag must be attached

to the container holding the fish until it is shipped from the United States.

(d) It shall be unlawful for any dealer to fail to maintain and forward on a weekly basis, on forms available from the National Marine Fisheries Service, a complete record of their commercial activity involving all Atlantic bluefin tuna handled during the reporting period. Such record shall include numbers of fish, disposition (names, addresses and, where applicable, country of destination), source (names, addresses and, where applicable, country of origin), tag numbers (where applicable), round weight (by individual fish for those over 300 pounds), and any other information requested by the Regional Director.

(e) It shall be unlawful for an owner or master of any vessel certified under § 285.20 and fishing for Atlantic bluefin tuna that weigh in excess of 300 pounds round weight, to fail to maintain an accurate record of operations in a logbook provided by the National Marine Fisheries Service, which contains duplicate logsheets. One of the duplicate logsheets is to be returned to the Regional Director at the end of each month during the season. Such record shall show, for each week that the vessel was engaged in fishing for Atlantic bluefin tuna the date, number and weight of Atlantic bluefin tuna landed, type of gear used, area fished, tag numbers used, and the amount of time fished. In the case of purse seine vessels, the record shall show the information for each set made rather than for each week.

(f) It shall be unlawful for an owner or master of any vessel certified under § 285.20, and taking Atlantic bluefin tuna under the provisions of § 285.13(b)(1), to fail to report each taking immediately upon returning to port, by completing and returning one of the cards provided for this purpose in the logbook. Each report shall show the Atlantic bluefish tuna vessel certificate number, the tag number affixed to the fish under § 285.18(b), the date landed, the port where landed, the round weight in pounds, gear used and area where caught.

(g) It shall be unlawful for the owner of a purse seine vessel, certified under § 285.20, or the owner's designated representative, to fail to notify the Regional Director when such vessel has landed the allocation assigned to it under § 285.16. Such notification shall be made by calling 617-281-3600, extension 200, between the hours of 8:00 a.m. and 4:30 p.m. on the first business day following the taking of the assigned allocation and the report shall include the name and telephone number of the person calling, the name of the vessel and its Atlantic bluefin tuna vessel certificate number, the estimated cumulative round weight of Atlantic bluefin tuna on board such vessel, the intended disposition of the tuna, and any other related information requested by the Regional Director.

(h) It shall be unlawful for any person, master or owner of any purse seine vessel certified under § 285.20, to off-load any Atlantic bluefin tuna taken pursuant to this subpart without first arranging to have the vessel inspected by an agent of the NMFS. Arrangements for such inspection shall be made at least 24 hours prior to off-loading, by calling 617-281-3600, extension 252.

§ 285.19 Presumptions.

For purposes of this Part, there shall be a rebuttable presumption that Atlantic bluefin tuna which are of the following lengths, when measured in a straight line from the tip of the nose to the fork of the tail, weigh the amount noted in association with the length: 27 inches (68 cm)—14 pounds (6.4 kg); 56 inches (142 cm)—115 pounds (53.3 kg); 75 inches (191 cm)—300 pounds (136.4 kg).

For any Atlantic bluefin tuna which is less than or in excess of the lengths set forth herein, there shall be a rebuttable presumption that such Atlantic bluefin tuna correspondingly weigh less than or in excess of, as the case may be, the appropriate associated weights.

§ 285.20 Certification.

(a) The owner of any vessel which fishes for Atlantic bluefin tuna weighing in excess of 300 pounds round weight within the regulatory area must obtain a certificate.

(b) The owner of any vessel which fishes with a purse seine for Atlantic bluefin tuna weighing between 14 and 115 pounds round weight within the regulatory area must obtain a certificate.

(c) All applications for a certificate to fish for Atlantic bluefin tuna by purse seine must be received by the Regional Director by June 15.

(d) To be eligible for a certificate, a fishing vessel must be properly documented under the laws of the United States, or registered under State law.

(e) Certificates may be obtained on submission of an application form, obtainable from the National Marine Fisheries Service, specifying the name(s) and address(es) of the vessel owner(s), the name of the vessel, official number(s), type of fishing gear to be used, capacity (if commercial), and home port of the vessel. The form shall be submitted to the Regional Director, National Marine Fisheries Service, 14 Elm Street, Gloucester, Massachusetts, 01930, who shall issue the required certificate without fee. The certificate will remain in effect until the vessel is destroyed, sold, or transferred to another owner, returned, or revoked pursuant to Subsection (f) of this section, provided however, that owners of purse seine vessels, certified under this section, must comply with the provisions of § 285.16 each year.

(f) It shall be unlawful to fail to carry such certificate at all times on board the vessel for which it was issued. The certificate shall be subject to inspection at reasonable times by authorized officials.

(g) Certificates issued under this Section may be revoked by the Regional Director for violations of the provisions of this Subpart B. Revocation will be in accordance with the hearing procedures referenced in § 285.6 of this part.

(h) It shall be unlawful for any vessel, required to have a certificate pursuant to paragraphs (a) and (b) of this section to fish for Atlantic bluefin tuna without a valid certificate.

§ 285.21 Tag and release permits.

(a) It shall be unlawful for any angler to catch and release Atlantic bluefin tuna weighing over 300 round weight, without first tagging such tuna with tags supplied by the National Marine Fisheries Service.

Such catching, tagging, and releasing must be conducted from a vessel which has applied for, and been issued, a tag and release permit pursuant to paragraph (b) of this section.

(b) Owners of vessels certified under § 285.20 who also desire to obtain a tag and release permit for their vessel should submit their application in writing to the Center Director, Southeast Fisheries Center, NMFS, 75 Virginia Beach Drive, Miami Florida, 33149, who will issue the permit along with appropriate tags and detailed instructions for the tagging procedure. Such application must include the name of the vessel, official Coast Guard and/or State number(s), names of the owner and master, and the general area(s) in which the tag and release activity will be carried out.

(c) It shall be unlawful for any person to tag and release Atlantic bluefin tuna without having obtained a tag and release permit pursuant to this section, and a certificate pursuant to § 285.20.

[FR Doc.77-12409 Filed 4-28-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[23 CFR Ch. I]

[FHWA Docket No. 77-7]

METRICATION OF THE NATIONAL STANDARDS FOR TRAFFIC CONTROL DEVICES

Advance Notice of Proposed Rulemaking

Correction

In FR Doc. 77-12044, appearing in the issue of Wednesday, April 27, 1977, on page 21487, the following changes should be made in the timetable appearing in the first column on page 21488: In "I" the date now reading "Sept. 30, 1978," should read "Sept. 30, 1980." In "J" the date now reading "Sept. 30, 1978" should read "Sept. 30, 1982." The corrected portion of the table will read as set out below.

RECOMMENDED TIMETABLE FOR PLANNING CONVERSION OF U.S. TRAFFIC SIGNS TO THE METRIC (SI) SYSTEM

		Completion
*	* * *	*
I.	Warning and regulatory signs.	Sept. 30, 1980.
J.	Guide signs, mileposts and other advisory signs.	Sept. 30, 1982.

notices

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

AMENDED NOTICE OF MEETING

The meeting notice for the subject meeting to be held on May 4–5, 1977 (published April 20, 1977, Volume 42, No. 76, 20481) is revised as detailed below. This revision involves the change in meeting room for Wednesday, May 4, and the change in scheduling items in the order they appear on the agenda.

The meeting will begin on Wednesday, May 4, at 9 a.m., in Room 2008 of the New Executive Office Building, 17th and H Streets, NW., Washington, D.C., reconvening on Thursday, May 5, 1977, 9 a.m., in the Cash Room, Department of the Treasury, 15th and Pennsylvania Avenue, NW., Washington, D.C. (use Pennsylvania Avenue entrance only).

A summary of the meeting agenda follows:

I. Consideration of Proposed Demolition of Lockefield Gardens, Indianapolis, Indiana, a Property Determined Eligible for the National Register of Historic Places.

A. Report of the Department of Housing and Urban Development.

B. Report of the Indiana State Historic Preservation Officer.

C. Statements of State and Local Officials.

D. Other Statements.

E. Report of the Executive Director.

F. Deliberation by the Council.

II. Consideration of the Report of the Task Force on Gettysburg.

III. Report by the Economic Development Administration, Department of Commerce, Concerning Reauthorization of the Emergency Local Public Works Program.

IV. Report by the Director, Office of Intergovernmental Programs and Planning, Concerning Recent Activities Under the Public Buildings Cooperative Use Act.

V. Report of the Chairman.

VI. Report of the Executive Director.

VII. Other Business.

VIII. Report of the Task Force on Organization of Federal Historic Preservation Programs.

A. Statements of State and Local Officials and Private Organizations and Individuals.

B. Deliberation by the Council.

IX. Consideration of Proposed Construction of Interstate 83 in Baltimore, Maryland (Continued from February 2–3, 1977, Council meeting).

A. Report of Federal Highway Administration/Interstate Division for Baltimore City.

B. Report of the Maryland State Historic Preservation Officer.

C. Report of the Executive Director.

D. Deliberation by the Council.

ROBERT R. GARVEY, Jr.,
Executive Director.

APRIL 21, 1977.

[FR Doc.77-12278 Filed 4-28-77;8:45 am]

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

[Amdt 4]

NONFAT DRY MILK—BUTTER—CHEDDAR CHEESE

Sales of Certain Commodities; Monthly Sales List (Period July 1, 1976 Through May 31, 1977)

The CCC Monthly Sales List for the period July 1, 1976 through May 31, 1977, published at 41 FR 29198, as amended, is further amended as follows:

1. Section 27 entitled "Nonfat Dry Milk—Unrestricted Use Sales" is deleted.

2. Section 27 is added which reads as follows:

27. NONFAT DRY MILK—UNRESTRICTED USE SALES (INSTORE-CARLOT QUANTITIES)

Market price, but not less than 74.8 cents per pound for U.S. Extra Grade spray process in 50 pound bags. Sales are made under Announcement PV-DS-2. In addition, from time to time CCC will issue an invitation for competitive offers under Announcement PV-DS-1 to buy from CCC nonfat dry milk which is 20 months old or older and/or has a moisture content of 4.2 percent but not more than 5.0 percent.

3. Section 28 is added which reads as follows:

28. BUTTER-UNRESTRICTED USE SALES (INSTORE-CARLOT QUANTITIES)

Market price, but not less than 10 cents per pound over CCC's purchase price at each location for U.S. Grade A or higher in 60 to 68-pound blocks. Sales are made under Announcement PV-DS-2.

4. Section 29 is added which reads as follows:

CHEDDAR CHEESE-UNRESTRICTED USE SALES (INSTORE-CARLOT QUANTITIES)

Market price, but not less than $1.07¾ per pound for U.S. Grade A or higher in 40 pound blocks. Sales are made under Announcement PV-DS-2.

(Sec. 4, 62 Stat. 1070, as amended (15 U.S.C. 714b); sec. 407, 63 Stat. 1055, as amended (7 U.S.C. 1427).)

Effective Date: Item 1 4:45 p.m. (EST) March 21, 1977. Items 2, 3 and 4 2:30 p.m. (EST) March 31, 1977.

Signed at Washington, D.C. on April 21, 1977.

VICTOR A. SENECHAL,
Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc.77-12294 Filed 4-28-77;8:45 am]

Forest Service

OREGON BUTTE PLANNING UNIT LAND MANAGEMENT PLAN

Availability of Final Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for Oregon Butte Planning Unit, USDA-FS-R6-FES (Adm)-76-12.

The environmental statement concerns a proposed land management plan to various resource uses and activities.

The final environmental statement was transmitted to CEQ on April 22, 1977.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Bldg., Room 3210, 12th St. and Independence Ave., SW., Washington, D.C. 20250.

USDA, Forest Service, Pacific Northwest Region, 319 S.W. Pine Street, Portland, Oregon 97204.

USDA, Forest Service, Umatilla National Forest, 2517 S.W. Hailey Avenue, Pendleton, Oregon 97801.

USDA, Forest Service, Umatilla National Forest, Pomeroy Ranger District, Pomeroy, Washington 99347.

USDA, Forest Service, Umatilla National Forest, Walla Walla Ranger District, 1415 W. Rose, Walla Walla, Washington 97362.

A limited number of single copies are available upon request to Forest Supervisor Herb Rudolph, Umatilla National Forest, 2517 S.W. Hailey Avenue, Pendleton, Oregon 97801.

Copies of the environmental statement have been sent to various Federal, state, and local agencies as outlined in the CEQ guidelines.

CURTIS L. SWANSON,
Regional Environmental Coordinator Planning, Programing and Budgeting.

APRIL 22, 1977.

[FR Doc.77-12279 Filed 4-28-77;8:45 am]

Office of the Secretary

ADVISORY COMMITTEE ON POULTRY HEALTH

Meeting

A meeting of the Advisory Committee on Poultry Health will be held at 9 a.m. on May 12 and 13, 1977, in Room 643A, Federal Building, 6505 Belcrest Road, Hyattsville, Md.

The functions of the committee include: advising the Secretary of Agriculture on outbreaks of avian diseases; studying and recommending extension of new and existing research; assisting in planning and disseminating information; recommending plans for eradication and control of avian diseases; and assisting in attaining the necessary cooperation from all segments of the poultry industry.

The purpose of this meeting is to hear recommendations formulated by the Fowl Plague, Mycoplasmosis and Area Quarantine Subcommittees for dealing with outbreaks of disease caused by these agents, and to further discuss program progress, problems and recommended actions in assisting the United States Department of Agriculture in program direction and effectiveness.

The meeting is open to the public. Written statements may be filed with the committee before or after the meeting. Any member of the public who wishes to file a statement or who has further questions may contact Dr. F. J. Mulhern, Administrator, Animal and Plant Health Inspection Service, United States Department of Agriculture, Room 316E, Washington, D.C. 20250. Area Code 202-447-3668.

Dated: April 25, 1977.

JOHN W. WALKER,
Executive Secretary.

[FR Doc.77-12241 Filed 4-28-77;8:45 am]

OFFICE OF THE INSPECTOR GENERAL

Reestablishment of Office

Notice is hereby given that effective March 23, 1977, the Office of the Inspector General was reestablished in the Department of Agriculture. The office is headed by an Inspector General who will report to the Secretary.

The office is assigned the following functions:

(1) To direct or control audit and investigation activities within the Department, including the formulation of audit and investigative policies and procedures regarding Department programs and operations, and analyze and coordinate program-related audit and investigation activities performed by other Departmental agencies; and

(2) To provide for physical protection of the Secretary and promulgate policies and procedures for security of Department facilities.

The delegations of authority appearing in 7 CFR Part 2 will be amended to reflect the above assignment.

Done at Washington, D.C., this 26th day of April, 1977.

BOB BERGLAND,
Secretary.

[FR Doc.77-12369 Filed 4-28-77;8:45 am

Office of the Secretary

[Docket No. N-77-746]

FEDERAL ASSISTANCE TO DROUGHT STRICKEN AREAS AND RELATED DETERMINATIONS

Memorandum of Agreement

CROSS REFERENCE: For a document issued jointly by the Housing and Urban Development Department, the Agriculture Department, and the other members of the Interagency Drought Emergency Coordinating Committee of 1977 regarding the above entitled matters, see FR Doc. 77-12528 in the notices section of this issue.

Rural Electrification Administration

CHUGACH ELECTRIC ASSOCIATION, INC.

Draft Environmental Impact Statement

Notice is hereby given that the Rural Electrification Administration has prepared a Draft Environmental Impact Statement in accordance with Section 102(2)(C) of the National Environmental Policy Act of 1969 in connection with a request for financing from Chugach Electric Association, Inc., P.O. Box 3518, Anchorage, Alaska 99501. The statement covers a 67.8 MW simple cycle combustion turbine generating unit at Beluga, Alaska, two 32.2 MW steam turbine units at Beluga along with waste heat boilers, an 18 MW gas turbine at Bernice Lake, a double circuit 230 kV line between Reed and the Chugach University Station, a 230 kV line between Point MacKenzie and Mule Creek, a 230 kV underwater cable across Knik Arm, a 230 kV line from Six Mile Creek to Junction, reinsulation of 138 kV transmission line to 230 kV between Point MacKenzie and Teeland, reinsulation of two parallel lines 44 miles long from 138 kV to 230 kV between Beluga and Point MacKenzie, removal of 26.5 miles of 115 kV line belonging to the Alaska Power Administration, and associated substations and switching facilities.

Interested persons are invited to submit comments which may be helpful in preparing the Environmental Impact Statement. Comments should be forwarded to the Assistant Administrator—Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250, with a copy to Chugach Electric Association, Inc., whose address was given above. Additional information may be obtained at Chugach's office during regular business hours.

Dated at Washington, D.C., this 25th day of April, 1977.

JOSEPH VELLONE,
Acting Administrator.

[FR Doc.77-12240 Filed 4-28-77;8:45 am]

CIVIL AERONAUTICS BOARD

DALLAS/FORT WORTH-WESTERN MEXICO ROUTE PROCEEDING

[Docket 29790]

Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding is assigned to be held on May 17, 1977, at 9:30 a.m. (local time), in Room 1003, Hearing Room D, Universal North Building, 1875 Connecticut Avenue, NW., Washington, D.C.

For details of the issues involved in this proceeding, interested persons are referred to the Prehearing Conference Report, served January 3, 1977, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., April 25, 1977.

WILLIAM J. MADDEN,
Administrative Law Judge.

[FR Doc.77-12400 Filed 4-28-77;8:45 am]

[Docket 29160; Order 77-4-103]

INVESTIGATION OF THE LOCAL SERVICE CLASS SUBSIDY RATE

Class Rate VIII

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 22nd day of April 1977.

Sections IV and VII of the Rate Formula in Order 76-11-12,[1] as finalized by Order 76-12-159,[2] require that a review of the local service carriers' subsidy-eligible and subsidy-inelegible services be performed each March and September based on 12-month periods ending those dates. The second review will be based on financial results for the 12 months ended March 31, 1977. An information report, "Distribution of Reported Services and Financial Data to Selected Categories," is required to be filed with the Board no later than 45 days following the close of the review period. Attachment A to Order 76-10-137 [3] sets forth the substantive requirements of the report.

Several technical adjustments were made to Tables II-C, III-C and IV to correct typographical errors in Order 76-10-137. In addition, we have added the standard weight of the B-727-100 aircraft type to the list on page 3 of Table IV to reflect Piedmont's use of that aircraft type.

As in past reviews, the Board has updated the revenue formulas found in Table V of Attachment A, so that the formulas for beyond-traffic yields reflect the current values for average hop, average haul, and the regression equations. These changes will enable beyond yields to the formulated on the same fare basis as local yields. The average hop and average haul are based on data for the year ended December 31, 1976, the fare/distance regression equations use the fares in effect 45 days prior to the close of the review period, and the dilution factors are based on data for the quarter ended December 31, 1976.

[1] Adopted November 4, 1976.
[2] Adopted December 30, 1976.
[3] Adopted October 29, 1976.

Accordingly, *it is ordered*, That:

1. The attached revised Table II-C, page 1 of Table III-C, pages 2 and 3 of Table IV, and pages 5, 6, and 7 of Table V of Attachment A be and they hereby are substituted for Table II-C, page 1 of Table III-C, pages 2 and 3 of Table IV, and pages 5, 6, and 7 of Table V, respectively, of Attachment A to Order 76-10-137;

2. This order shall become effective on the seventh calendar day after service hereof, unless prior to that date exceptions and supporting reasons shall have been filed with the Board by parties to this proceeding. If exceptions and supporting reasons are filed by any of the parties within the time prescribed above, the effective date of this order shall be stayed pending disposition of the exceptions; and

3. This order will be served upon all parties to this proceeding.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

Attachment A

TABLE II-C.—*Revised*

Carrier name—Financial data by city-pair and total service for the twelve months ended _____ Certificate-eligible non-hub scheduled services,—V-Z (city-pair, example)

	Type	Type	Total
City pair V-Z (A-D) miles;			
Transport revenues:			
Passenger			
U.S. Mail			
Foreign mail			
Security charge			
Express			
Freight			
Excess baggage			
Charter and special			
Transport, related			
Other			
Total			
Operating expenses:			
Direct expenses:			
Flying operations and direct maintenance			
For departures			
For plane-miles			
For revenue hours flown			
Rental expense			
Subtotal			
Reconciliation adjustment			
Total flying operations and direct maintenance			
Depreciation, flight			
Total direct expense			
Indirect expenses:			
Direct maintenance and burden, ground			
Passenger service			
Aircraft servicing and administration			
Traffic servicing and administration			
Incremental security costs			
Promotion and sales			
General and administrative			
Depreciation, ground equipment			
Amortization			
Transport, related			
Total indirect expenses			
Total operating expenses			
Operating breakeven need			
Return [1]			
Total need (before tax)			

[1] Return per revenue aircraft hour flown (Table III-C) times revenue aircraft hours flown (Table I-C).

Attachment A

TABLE III-C.—*Revised*

Carrier name—Computation of average investment, return, and taxes—Certificate-eligible nonhub services for the twelve months ended _____

	Type	Type	Type	Total
Adjusted average system investment: [1]				
Debt	x	x	x	x
Equity	x	x	x	x
Revenue aircraft hours flown, system	x	x	x	x
Adjusted average system investment per R.A.H. flown: [2]				
Debt	xxx.xxxx	xxx.xxxx	xxx.xxxx	
Equity	xxx.xxxx	xxx.xxxx	xxx.xxxx	
Nonhub rev. aircraft hours flown	x	x	x	x
Average nonhub investment as allocated: [3]				
Debt	x	x	x	x
Equity	x	x	x	x
Total	x	x	x	x
Adjustment [4]	x	x	x	x
Adjusted average nonhub investment:				
Debt	x	x	x	x
Equity	x	x	x	x
Total	x	x	x	x
Differentiated return on investment:				
Debt at 7.25 pct	x	x	x	x
Equity at 20 pct	x	x	x	x
Total	x	x	x	x
Differentiated rate of return, percent [5]				xx.xx
Recognized return [6]	x	x	x	x
Return per hour, nonhub services [7]	xx.xxxx	xx.xxxx	xx.xxxx	

Local Service Carriers Explanatory Notes

[1] Computed by formula; see table V.
[2] Local Service Air Carriers' Unit Costs, year ended _____.
[3] For aircraft types which have no stop and plane-mile rates available in the Local Service Air Carriers' Unit Costs book, the rate is derived by dividing Account 7098.9 Total Aircraft Operating Expenses less Account 7075.6 Total Depreciation-Flight Equipment and Account 5147 Rentals, Flight Equipment by revenue aircraft hours (for the particular aircraft).
[4] A factor (upward or downward) which when applied to the sum of the products from the unit rates shown in items (1), (2) and (4) under Direct expenses will yield an amount by equipment type, equal to Account 7098.9 Total aircraft operating expenses less Account 7075.6 Total depreciation, Flight Equipment of Schedule P-5.2 Aircraft operating expenses for the particular aircraft.
[5] Sum of all 5200 accounts on Schedule P-6, except Account 5278 Direct maintenance, Flight equipment plus Account 5379.8 Applied maintenance burden-general ground property.
[6] Account

$$6100+\left(\text{Account } 6300\times\frac{\text{Account } 6100}{\text{Account } 6100+\text{Account } 6200 \text{ less } 6252}\right).$$

[7] Account

$$6200 \text{ less } 6252+\left(\text{Account } 6300\times\frac{\text{Account } 6200 \text{ less } 6252}{\text{Account } 6100+\text{Account } 6300 \text{ less } 6252}\right).$$

[8] Direct assignment to charter operations.
[9] Revenues are to be allocated on the basis of system revenues.
[10] Weighted departures are used as the basis for allocation; see page 3 of this Table for standard weights used.
[11] Total system cargo tons enplaned plus passenger tons enplaned at 200 lbs. per enplaned passenger. Computed amount should reconcile with the total shown for system operations in Table II.
[12] Sum of accounts, 3901, 3906.1, 3906.2, 3906.3, and 3907.
[13] All other cash costs or sum of accounts 5100, 5400, 5500, 6400 and 6700.
[14] Security charges and incremental security costs should be allocated to scheduled services only, unless the carrier has a charter tariff on file with the Board which specifically includes security charges.
[15] Expenses are to be allocated on the basis of system expenses.

Attachment A

TABLE IV.—*Revised, page 3 of 3*

Local service carriers—Standard aircraft weights—by equipment type for computing weighted revenue aircraft departures performed [1]

Aircraft type	Standard weight [2]
B-727-200	[3] 95.3
B-727-100	80.0
DC-9-50	[3] 60.5
B-737-200	[3] 57.8
DC-9-30	49.0
DC-9-10	[3] 45.4
CV-580	27.5
YS-11	27.0
CV-600	23.0
M-404	22.5
FH-227	22.0
F-27	21.0
DHC-6	6.0

[1] From Exhibit BC-3701 (page 1 of 1) of the direct exhibits of the Bureau of Economics, volume 1, base year 1969 for the Domestic Passenger Fare Investigation, Phase 7—Fare Level (Docket 21866-7), Aug. 25, 1976, unless otherwise noted.
[2] Maximum gross takeoff weight in tons.
[3] From Jane's All the World's Aircraft, 1974-75.

Attachment A

TABLE V.—*Revised page 5 of 11*

Local service carriers—Dilution factors, hop-haul relationships formulas for beyond traffic yields [1]

	All traffic, by flight stage length (hop)
I. Average passenger haul:	
Frontier	X_1=hop plus 227—(.16368 * hop).
Hughes Airwest	X_1=hop plus 167—(.13758 * hop).
North Central	X_1=hop plus 108—(.10832 * hop).
Ozark	X_1=hop plus 143—(.12322 * hop).
Piedmont	X_1=hop plus 169—(.21619 * hop).
Southern	X_1=hop plus 144—(.13047 * hop).
Texas International	X_1=hop plus 147—(.16327 * hop).

	Beyond traffic, by flight stage length (hop)
II. Average passenger haul:	$X_2=\frac{(X_1 * \text{Total passengers})-\text{Local RPM's}}{\text{Beyond passengers}}$

[1] Based on fares in effect as of Feb. 15, 1977.

Attachment A

TABLE V.—*Revised page 6 of 11*

Local service carriers—Dilution factors, hop-haul relationships formulas for beyond traffic yields [1]

	Per revenue passenger-mile, beyond traffic (undiluted)
3. Yield:	
Frontier	$\frac{22.97+(0.07679 * X_2)}{X_1}$
Hughes Airwest	$\frac{21.10+(0.07569 * X_2)}{X_1}$
North Central	$\frac{21.41+(0.08371 * X_2)}{X_1}$
Ozark	$\frac{24.23+(0.07463 * X_2)}{X_1}$
Piedmont	$\frac{20.29+(0.08162 * X_2)}{X_1}$
Southern	$\frac{24.33+(0.06926 * X_2)}{X_1}$
Texas International	$\frac{25.13+(0.06985 * X_2)}{X_1}$

[1] Based on fares in effect as of Feb. 15, 1977.

Attachment A

TABLE V.—*Revised page 7 of 11*

Local service carriers—Dilution factors, hop-haul relationships formulas for beyond traffic yields

4. Dilution factors (percent) [1]	Percent
Carrier:	
Frontier	22
Hughes Airwest	15
North Central	16
Ozark	19
Piedmont	21
Southern	20
Texas International	23

[1] Based on revenue and traffic data for the quarter ended Dec. 31, 1976.

[FR Doc.77-12090 Filed 4-28-77;8:45 am]

CIVIL SERVICE COMMISSION

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Health, Education, and Welfare to fill by noncareer executive assignment in the excepted service the position of Assistant to the Secretary for Health Policy, Office of the Secretary.

UNITED STATES CIVIL SERVICE,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-12155 Filed 4-28-77;8:45 am]

DEPARTMENT OF JUSTICE

Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Justice to fill by noncareer executive assignment in the excepted service the position of Special Assistant to the Attorney General, Office of the Attorney General.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-12156 Filed 4-28-77;8:45 am]

DEPARTMENT OF JUSTICE

Grant of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Justice to fill by noncareer executive assignment in the excepted service the position of Confidential Assistant to the Attorney General, Office of the Attorney General.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-12153 Filed 4-28-77;8:45 am]

DEPARTMENT OF THE TREASURY

Grant of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of the Treasury to fill by noncareer executive assignment in the excepted service the position of Executive Assistant to the Under Secretary (Transition Planning), Office of the Under Secretary.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-12154 Filed 4-28-77;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

DUTY-FREE ENTRY OF SCIENTIFIC ARTICLES

Applications

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897). 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 article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, on or before May 19, 1977.

Amended regulations issued under cited Act, (15 CFR 301) prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C. 20230.

Docket Number: 77-00191. Applicant: State University of New York, Upstate Medical Center, 766 Irving Avenue Syracuse, N.Y. 13210. Article: Electron Microscope, Model Elmiskop 102 and accessories. Manufacturer: Siemens A. G., West Germany. Intended use of article: The article is intended to be used in a large number research programs including the following:

1. Studies of the secondary structure of RNA from a variety of bacteriophages and tumor viruses,
2. Studies of the arrangement of subunits of malic enzyme and fatty acid synthetase, and
3. Examination of chicken embryo fibroblasts infected with a variety of RNA tumor viruses in order to trace replication of the virus and transformation of cells.

The objectives of the investigations are to trace the roles of nucleic acid structure in regulation of replication and translation and the role of enzyme structure in enzymatic activity. The article will also be used in the course Microbiology 619M—Electron Microscope Techniques in which students are taught operation of the transmission electron microscope, specimen preparation procedures, photographic procedures. Application received by Commissioner of Customs: April 4, 1977.

Docket Number: 77-00192. Applicant: The Pennsylvania State University, University Park, Pa. 16802. Article: Goniometer stage assembly and scanning attachments for EM 300. Manufacturer: Philips Electronics Instruments NVD, The Netherlands. Intended use of article: The articles are accessories to an existing electron microscope which allows the electron microscope to be used to analyze suitably prepared thin sections of biological samples for a large aray of chemical elements. Some of the tissue and cells to be studied are bone (cells and matrix), avian oviduct mucosa, intestinal mucosa, and enamel organ. Experiments will be conducted to obtain an accurate description of the pathway of several physiologically important elements during their translocation across cells, to identify the cellular sites of localization of these elements and to ascertain quantitatively and qualitatively the changes in the subcellular distribution of their elements in certain pathological conditions. In addition, the article will be used for educational purposes in the courses: Biophysics 585—to develop an understanding of the structure and function of cells by observing them at the ultrastructural level and to learn how to prepare and interpret electron microscopes and Bio-

physics 600—in which students perform research for a graduate degree. Application received by Commissioner of Customs: April 4, 1977.

Docket Number: 77-00193. Applicant: University of Rochester, Dept. of Biology, Rochester, N. Y. 14627. Article: Ultrasonic Disintegrator, Model PG 100 and accessories. Manufacturer: Johns Scientific, Canada. Intended use of article: The article will be used for separating cells from each other and for breaking open cells in order to isolate various cellular constituents. Aplication received by Commissioner of Customs: April 5, 1977.

Docket Number: 77-00194. Applicant: The University of Texas System Cancer Center, 6723 Bertner Avenue, Houston, Tex. 77030. Article: Impulscytophotometer, Model ICP-11. Manufacturer: Phywe Co., West Germany. Intended use of Article: The article is intended to be used for high speed analysis of intracellular compounds by means of fluorescence. The material to be studied will be cultured human cells and biopsy material from patients with malignant diseases. The article will serve as a tool to assess the effect of physical and chemical agents on cell cycle progression of both cultured cells and human tumors in vivo. The objectives of such studies are to define the mechanism of action of new anti-tumor agents at the cellular level, to correlate cytokinetic with cytocidal effects, to utilize data on cell cycle progression as a potential predictor for in vivo tumor response, to develop combination chemo- and immunotherapy protocols for patients with malignancies based on information provided in such studies. Application received by Commissioner of Customs: April 5, 1977.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Education and Scientific Material.)

RICHARD M. SEPPA,
Director, Special Import Programs Divisions.

[FR Doc.77-12281 Filed 4-28-77;8:45 am]

Office of the Secretary

WATCHES AND WATCH MOVEMENTS

New Entrant Announcement for Virgin Islands

Correction

In FR Doc. 77-12113, appearing on page 21506 in the issue for Wednesday, April 27, 1977, in the first paragraph, the second sentence should read as follows:

"On April 19, 1977, the Departments issued a joint notice which will be published in the FEDERAL REGISTER allocating watch quotas for calendar year 1977 among producers located in the Virgin Islands."

[Docket No. N-77-746]

FEDERAL ASSISTANCE TO DROUGHT STRICKEN AREAS AND RELATED DETERMINATIONS

Memorandum of Agreement

CROSS REFERENCE: For a document issued jointly by the Housing and Urban Development Department, the Commerce Department, and the other members of the Interagency Drought Emergency Coordinating Committee of 1977 regarding the above entitled matter, see FR Doc. 77-12528 in the notices section of this issue.

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1977

Addition

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Addition to Procurement List.

SUMMARY: This action adds to Procurement List 1977 a commodity to be produced by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: April 29, 1977.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 Fourteenth Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT:

C.W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: On March 2, 1977 the Committee for Purchase from the Blind and Other Severely Handicapped published a notice (42 FR 12079) of proposed addition to Procurement List 1977, November 18, 1976 (41 FR 50975).

After consideration of the relevant matter presented, the Committee has determined that the commodity listed below is suitable for procurement by the Government under 41 U.S.C. 46-48(c), 85 Stat. 77.

Accordingly, the following commodity is hereby added to Procurement List 1977:

Class 6515

Case, Ear Plug (SH) 6515-00-200-8287 (for 80% of Government's requirements).

E. R. ALLEY, Jr.,
Acting Executive Director.

[FR Doc.77-12336 Filed 4-28-77;8:45 am]

PROCUREMENT LIST 1977

Addition

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Addition to Procurement List.

SUMMARY: This action adds to Procurement List 1977 a commodity to be produced by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: April 29, 1977.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 Fourteenth Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: On November 19, 1976 the Committee for Purchase from the Blind and Other Severely Handicapped published a notice (41 FR 51054) of proposed additions to Procurement List 1977, November 18, 1976 (41 FR 50975).

After consideration of the relevant matter presented, the Committee has determined that the commodity listed below is suitable for procurement by the Government under 41 U.S.C. 46-48(c), 85 Stat. 77.

Accordingly, the following commodity is hereby added to Procurement List 1977:

Class 8405

Cover, Service Cap, Blue (IB) 8405-00-965-1548

C. W. FLETCHER,
Executive Director.

[FR Doc.77-12333 Filed 4-28-77;8:45 am]

COUNCIL ON ENVIRONMENTAL QUALITY

ENVIRONMENTAL IMPACT STATEMENTS

Availability

The following is a list of environmental impact statements received by the Council on Environmental Quality from April 18 through April 22, 1977. The date of receipt for each statement is noted in the statement summary. Under Council Guidelines the minimum period for public review and comment on draft environmental impact statements is forty-five (45) days from this FEDERAL REGISTER notice of availability. (June 13, 1977) The thirty (30) day period for each final statement begins on the day the statement is made available to the Council and to commenting parties.

Copies of individual statements are available for review from the originating agency. Back copies are also available at 10 cents per page from the Environmental Law Institute, 1346 Connecticut Avenue, Washington, D.C. 20036.

DEPARTMENT OF AGRICULTURE

Contact: Mr. Errett Deck, Coordinator, Environmental Quality Activities, U.S. Department of Agriculture, Room 359-A, Washington, D.C. 20250, 202-447-6827.

FOREST SERVICE

Draft

Ozark National Forest Timber Plan, Arkansas, April 22: The proposed action is the implementation of a 10-year Management Plan for the Ozark National Forest in northwest Arkansas. An estimated 9,140 acres will be site prepared and reforested annually, with the possibility of an additional 2,360 acres being reforested annually. Other annual proposed actions consist of 6,000 acres of noncommercial thinning in hardwood poletimber stands, 2,000 acres of precommercial thinning in young pine stands and 5,500 acres of release treatment (mostly in young pine stands). Shifts in wildlife populations will occur. (ELR Order No. 70505.)

DeSoto National Forest Timber Plan, several counties in Mississippi, April 22: Proposed is the implementation of a new 10-year Timber Management Plan for the DeSoto National Forest. The Forest contains 501,391 acres of National Forest land in Jones, Wayne, Greene, Forrest, Perry, Pearl River, Stone, George, Harrison, and Jackson Counties, Mississippi. An estimated 4431 acres will be site prepared and reforested annually. This plan will replace the current timber management plans which expire September 30, 1977. (ELR Order No. 70507.)

Final

Deer Island Unit Plan, Gallatin National Forest, Alaska, April 22: Proposed is a land management plan for the 9,100-acre Deer Island Management Unit, Tongass N.F., on Ernest Sound, Alaska. The plan calls for construction of 6.5 miles of access road and initiation of timber harvest within 8,090 acres of forest containing an estimated 200 million board feet of timber. For the 5-year period of 1977 through 1981, 11 million board feet of timber is to be harvested, followed by a rotating harvesting period averaging from 90 to 120 years. The conversion of old-growth stands to second growth stands will modify the wildlife habitat, and the area will no longer be suitable for Wilderness classification. Comments made by: USDA EPA, HUD, DOI, DOC, State agencies, and concerned citizens. (ELR Order No. 70500.)

Williamette National Forest, Land Use and Timber Management, Oregon, and several counties in Washington, April 21: Proposed is the implementation of a mulitple land use plan for the Williamette National Forest in Clackamas, Douglas, Jefferson, Lane, Linn, and Marion Counties, Oregon. The plan consists of five unit plans and also revises the Ten-Year Timber Management Plan. Over all, about 61 percent (1,025,608 acres) of Williamette National Forest is available for intensive timber management. Harvesting activity will result in soil disturbance and erosion. Comments made by: EPA, DOC, DOI, HUD, USDA, COE, State and local agencies, and concerned citizens. (ELR Order No. 70496.)

Wenatchee National Forest Off-Road Vehicle Policy, Chelan, Kittitas, and Yakima Counties, Wash., April 21: Proposed is the development of reglations governing the use of off-road vehicles (ORV) on the Wenatchee National Forest, Washington State. Five alternatives of off road vehicle management have been developed as a result of recommended plan would permit motor vehicle use on 991.5 miles of trail on the Forest. Cross country travel would be discouraged and 44,716 acres would be closed during the summer, as well as 9,310 during the winter. The major effect of the plan would be the reduction of environmental impacts and user conflicts. Comments made by: USDA, EPA, State and local agencies, and concerned citizens (ELR Order No. 70491.)

SOIL CONSERVATION SERVICE

Draft

Kickapoo Nations Watershed Project, Oklahoma and Lincoln counties, Okla., April 21: Proposed is the implementation of the Kickapoo Nations Watershed Plan in Oklahoma and Lincoln Counties, Oklahoma. The project provides for flood prevention, municipal water supply, and recreation. The works of improvement include land treatment supplemented by 19 floodwater retarding structures, on flood water retarding-municipal water and recreation structure, and recreational facilities. Construction related impacts will result. (ELR Order No. 70493.)

DEPARTMENT OF COMMERCE

Contact: Dr. Sidney R. Galler, Deputy Assistant Secretary for Environmental Affairs, Department of Commerce, Washington, D.C. 20230, 202-377-2186.

NAT'L OCEANIC AND ATMOSPHERIC ADMIN.

Final

Commercial Troll and Recreat'l Salmon Fisheries, FMP, Washington, Oregon, and California, April 21: The proposed action is to adopt and implement a fishery management plan for commercial troll and recreational salmon fisheries off the coasts of Washington, Oregon, and California. The plan recommends significantly more restrictive ocean salmon fishery regulations during 1977 for waters off the Washington coast and Columbia River mouth. For Oregon and California ocean waters south of Tillamook Head, a regulatory pattern similar to that of 1976 is recommended for continuance during 1977. Comments made by: DOT, STAT, EPA, State and regional agencies, and concerned citizens. (ELR Order No. 70495.)

DEPARTMENT OF DEFENSE

ARMY

Contact: Col. Charles Sell, Chief, Environmental Office, Department of the Army, Room 1E673, Pentagon Chief of Staff, Washington, D.C. 20310, 202-694-4269.

Draft

Ft. Stewart Complex, Mission Change, several counties, Ga., April 20: Proposed is the changing of the mission at the Fort Stewart/Hunter Army Airfield Complex to include the permanent stationing of the 24th Infantry Division (—). Activation of units of the 24th Infantry Division (—) was initiated at the Fort Stewart Complex in Fiscal Year 1975 and is scheduled to be completed in Fiscal Year 1977. The 24th Infantry Division (—) will have approximately 12,000 troops and 2,000 vehicles. This action will particularly affect Bryan, Chatham, Evans, Long, Liberty, and Tattnall Counties in Georgia. (ELR Order No. 70486.)

Rocky Mt. Arsenal, Pilot Containmant Operations, Adams County, Colo., April 22: The proposed action is the construction and operation of a pilot system for contaminated ground-water containmant at Rocky Mountain Arsenal, Colorado. The proposed system consists of a ground-water collection subsystem, a water purification subsystem, and a ground-water recharge subsystem. This will be the first step taken toward compliance with Cease and Desist Orders issued by the State of Colorado against Rocky Mountain Arsenal. Alternatives to the action include no action and delayed action. (ELR Order No. 70511.)

U.S. ARMY CORPS

Contact: Dr. C. Grant Ash, Office of Environmental Policy Department, Attn: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue, S.W., Washington, D.C. 20314, 202-693-6795.

Draft

Marysville Lake Project, Yuba River, Yuba, Sutter, and Nevada Counties, Calif., April 21: Proposed is the construction of the Marysville Lake Project at the Parks Bar site, California. The project would include two main dams and an afterbay dam. A 420-foot high concrete gravity dam with earth abutments would be located on the Yuba River, and a 360-foot earthfill dam would be located on Dry Creek. The main initial power installation would consist of one 450 MW conventional turbine and two 450 MW pump turbines, for a total of 1,350 MW. The project would provide power, water conservation, flood control, recreation, and fishery enhancement. (ELR Order No. 70490.)

Manteo (Shallowbag) Bay Project, Dare County, N.C., April 22: The proposed action involves deepening the ocean bar channel, the Manteo-Oregon Inlet Channel from the inlet to the side channel to Wanchese and the side channel to Wanchese, enlarging and deepening the basin at Wanchese, and maintaining old House Channel. In addition, Oregon Inlet will be stabilized with a dual jetty system including means for sand transfer to the downdrift beach, and bottom protection for the Bonner Bridge across Oregon Inlet. Dredging activities are to be accomplished primarily by hydraulic pipeline dredge. (Wilmington District.) (ELR Order No. 70506.)

Final

George's R. Maintenance Dredging, Thomaston, Maine, April 22: The proposed action calls for maintenance dredging on George's River along the entire project length, restoring the channel to a depth of 10 feet mean low water, to accommodate present navigational needs. Approximately 11,000 cubic yards of material will be removed by hydraulic dredge. Adverse effects include the killing of immobile and slow moving biota in the immediate area to be dredged. Disturbance of the estuary bottom and suspension of sediments will also result. (New England Division.) Comments made by: DOC, EPA, DOI, State agencies, and concerned citizens. (ELR Order No. 70508.)

Wanchese Harbor Development Project, Dare County, N.C., April 22: Proposed is the enlargement and deepening of the existing boat basin at Wanchese Harbor, North Carolina. The project consists of excavating and disposing of an estimated 332,000 cubic yards of material with a hydraulic pipeline dredge and placing it in a 35.88-acre diked disposal area. The enlargement will result in the loss of 50 acres of primarily irregularly-flooded marsh, loss of terrestial and bottom fauna, and localized increases in turbidity levels. (Wilmington District.) Comments made by: EPA, USDA, HUD, DOC, DOI, USCG, HEW, State and local agencies, and concerned citizens. (ELR Order No. 70510.)

NAVY

Contact: Mr. Ed Johnson, Department of the Navy, Room 4B466, Pentagon, Washington, D.C. 20350, 202-697-3639.

Draft

USN Petrol Reserve No. 1, Crude Oil Transport, several counties in California, April 21: This statement discusses three different transport alternatives for construction of a new conveyance system to move 200,000 B/D of crude oil from Naval Petroleum Reserve No. 1 in Tupman, California. These alternatives consist of: (1) the Elk Hills/Coalinga Conveyance System, (2) the Elk Hills/Port Hueneme Conveyance System, and, (3) the Elk Hills/Coalinga Conveyance System. The

three systems are discussed at length in separate volumes, and it is anticipated that a decision on which route (or routes) to be constructed will be made prior to September 1, 1977. (ELR Order No. 70497.)

ENVIRONMENTAL PROTECTION AGENCY

Please refer to the separate notice published by EPA in this issue of the FEDERAL REGISTER for the appropriate EPA contact.

Draft

N. Monterey County Facilities Plan, Monterey County, Calif., April 22: The proposed Facilities Plan is designed to improve water quality by improving wastewater treatment service to residents in the southern Monterey Bay-lower Salinas Valley region of Monterey County, California. The major objective of the project is to eliminate public health hazards and water quality problems being caused by existing wastewater discharges to Monterey Bay, the Salinas River, Tembladero Slough, and Elkhorn Slough. In addition, the plan seeks to supply the additional wastewater treatment capacity needed to accommodate anticipated growth in the area. (Region IX.) (ELR Order No. 70499.)

Upper Eagle Valley and Vail Wastewater Plan, Eagle County, Colo., April 18: Proposed is a 201 Wastewater Facilities Plan for the Upper Eagle Valley and Vail Region, Colorado. The plan has two component parts, one for 1985 and one for 1995. This statement relates to funding of the 1985 plan, which involves the following actions: upgrade of the Vail Treatment Plant and provision of flow equalization; enlargement of the Vail plant from 1.5 to 3.0 mgd capacity; upgrade of the Avon Plant (UEVSD); enlargement of the Avon Plant (UEVSD) from 1.65 to 3.5 mgd capacity; and replacement of interceptors. Construction impacts include minor disturbance and/or destruction of vegetation and wildlife. (Region VIII.) (ELR Order No. 70480.)

FEDERAL ENERGY ADMINISTRATION

Contract: Mr. Robert Stern, Director, Office of Environmental Impact, Federal Energy Administration, New Post Office Building, Room 7119, 12th and Pennsylvania Avenue, NW, Washington, D.C. 20461, 202-566-9760.

Supplement

West Hackberry Salt Dome—SPR (S-1), Cameron County, La., April 22: This statement supplements a final EIS filed with CEQ in January, 1977. Since the FEIS was published, the availability of the Sun Terminal in Nederland, Texas, and the Amoco Barge Dock on the SE branch of the Alkali Ditch has prompted a reevaluation of the proposed oil distribution system. The system assessed in this supplement involves construction of a temporary surface pipeline from the site (at the West Hackberry salt dome) to the Amoco dock and use of the dock for interim fill, and construction of a permanent buried pipeline from the site to the Sun Terminal. (ELR Order No. 70509.)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410, 202-755-6308.

Draft

Carmelitos Housing Complex, Los Angeles County, Calif., April 21: Proposed is the redevelopment of the Carmelitos Housing Complex in Long Beach, California. Plans call for demolition of the 716 residention units and reconstruction of 500 subsidized rental units and 160 privately financed and owned single family residences. The project will reduce opportunities for subsidized housing in the area and will require some off-site relocation of tenants. (ELR Order No. 70492).

The Oaks at Glenwood, Middlesex County, N.J., April 18: Proposed is the issuance of FHA mortgage insurance purusant to Section 221d4 of the U.S. Housing and Urban Development Act of 1965 for the development of a 1224 unit garden apartment development, to include on-site recreation facilities and parking for 2065 automobiles, located in Madison Township. Adverse effects include degradation of air and water quality. Thirty percent clearance of existing vegetation in the project area will result, with subsequent partial replacement by landscaping. (ELR Order No. 70482.)

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 5311, Department of the Interior, Washington, D.C. 20240, 202-343-3891.

BUREAU OF LAND MANAGEMENT

Draft

1977 OCS Sale No. 45, Gulf of Mexico, Texas and Louisiana, April 19: Proposed is the leasing of 120 tracts comprising 235,875 hectares (582,856 acres) located offshore Texas and Louisiana in water depths ranging from 4 m to 183 m and a distance from shore from 5 km to 293 km. If implemented, this sale is tentatively scheduled to be held in December, 1977. All tracts offered pose some degree of pollution risk to the environment. This risk potential is related to adverse effects on the environment and other resource uses which may result from accidental or chronic oil spillage. (ELR Order No. 70485.)

NUCLEAR REGULATORY COMMISSION

Contact: Mr. Voss A. Moore, Division of Reactor Licensing, P-722, NRC, Washington, D.C. 20555, 301-443-6965.

Final

Tyrone Energy Park Unit 1, Dunn County, Wis., April 21: Proposed is the issuance of a construction permit to the Northern States Power Company for the construction of Tyrone Energy Park located in Dunn County, Wisconsin. The plant will employ a pressurized-water reactor to produce a warranted output of 3411 MWt. A steam turbine generator will use this heat to provide 1104 MWe (net) of electrical power capacity. The exhaust steam will be cooled by a flow of water in a closed-cycle system incorporating mechanical-draft wet cooling towers using makeup water from the Chippewa River. Adverse effects include displacement of 55 residents. Comments made by: AHP, USDA, COE, DOC, HEW, ERDA, DOI, EPA, State and local agencies, and concerned groups and persons. (ELR Order No. 70498.)

Supplement

Skagit Nuclear Power Project (S-2), Skagit County, Wash., April 21: This statement supplements a final EIS filed with CEQ in May, 1975. The proposed action is the issuance of construction permits to the Puget Sound Power and Light Company, Pacific Power and Light Company, Washington Water Power Company, and the Portland General Electric Company for the construction of Skagit Nuclear Power Project units 1 and 2. The purpose of the supplement is to identify and evaluate the potential effects of the proposed action on those values for which the Skagit River was named as a study river in the Wild and Scenic Rivers Act. (ELR Order No. 70494.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590, 202-426-4357.

FEDERAL AVIATION ADMINISTRATION

Draft

Civil SST Aircraft, Noise Regulations and Type Certification, April 18: Proposed are noise regulation and type certification alternatives for Civil Supersonic Transport Aircraft. The considered actions include: (1) promulgation of a noise type certification rule applicable to current and/or future supersonic aircraft, (2) promulgation of operational regulations applicable to supersonic aircraft, (3) issuance or nonissuance of a U.S. type certificate for the Concorde SST, (4) granting or denying of operations specifications amendment requests concerning supersonic aircraft, (5) promulgation of airport noise regulations, and (6) no Federal action. (ELR Order No. 70481.)

Final

Reedley Municipal Airport, California, Fresno and Tulare Counties, Calif., April 22: The proposed action includes the establishment of a new municipal airport on a site now partially occupied by the Great Western Airport. It is proposed to develop a Basic Utility Airport—Stage I, primarily intended to serve as a low-activity, rural facility for small piston aircraft. Adverse impacts include the decrease of existing vegetation on the project site. The recommended site also has disadvantage of being adjacent to the Great Western Elementary School. Comments made by: DOT, EPA, DOI, USDA, DOC. (ELR Order No. 70504.)

Wm. B. Hartsfield Atlanta International Airport, Georgia, April 20: Proposed is the construction of a new central air passenger terminal complex at William B. Hartsfield Atlanta International Airport, in Atlanta, Georgia. The new facilities will be located between the existing 3 east-west parallel runways and will include aircraft parking area, taxiways, terminal buildings, and access roadways. Although a temporary increase in stream sedimentation will occur, no major environmental impacts are expected to result from the project. Comments made by: DOT, EPA, DOI, HEW, HUD, State and local agencies, and concerned citizens. (ELR Order No. 70484.)

FEDERAL HIGHWAY ADMINISTRATION

Draft

S. Santa Fe Drive, Florida-Church, Arapahoe and Denver Counties, Colo., April 22: The proposed project consists of the widening of South Santa Fe Drive to a six lane arterial for approximately 5.5 miles. The project would begin at Florida Avenue in the City and County of Denver and terminate at Church Street in Arapohoe County. A left turn lane would be provided throughout the length of the project and sidewalks, curb, and gutter would be provided for a majority of its length. Adverse effects include the displacement of 372 housing units. A 4(f) statement is included concerning Overland Park. (Region 8.) (ELR Order No. 70502.)

Final

State Road 5 (U.S. 1), Broward County, Fla., April 19: The statement considers three alternatives for ungrading a 2.3 mile segment of SR 5 between Dania Beach Boulevard in Bania, and SE 32nd Street in Fort Lauderdale. An unspecified number of families and businesse will be displaced. (Region 6.) Comments made by: EPA, DOI, HUD, HEW, (ELR Order No. 70483.)

I-15W Raft River-Rockland Junction, Cassia and Power Counties, Idaho, April 22: The proposed project is the upgrading to 4 lanes of I-15W from the Raft River Inter-

change in Cassia County to the Rockland Junction about 2 miles southwest of American Falls in Power County. Total length of the project is 21 miles. Construction would require displacement of two utility pipelines. A 4(f) statement is included for two situations: (1) frontage road and stock trail and construction of an Interstate Safety Rest Area on former BLM lands currently patented to the Idaho Department of Parks and Recreation, and (2) historic sites (Oregon Trail). The preferred alternative requires great amounts of cut and fill to establish a new corridor. Comments made by: USDA, EPA, AHP, COE, HUD, DOI, State and local agencies, and concerned citizens. (ELR Order No. 70503.)

Ky. 461, Pulaksi and Rockcastle Counties, Ky., April 21: The statement concerns a proposed highway improvement project for Ky. 461 beginning at the end of the Ky. 461 connector under construction in Pulaski County and ending at the junction with U.S. 25 near the Renfro Valley I-75 inter-change, a distance of 3.9 miles. Displacements of businesses, homes, and farm buildings vary with alternatives. Comments made by: EPA, DOI, USDA, State agencies, and concerned citizens. (ELR order No. 70489.)

State Route 36, Rock Creek to Johnson City, Unicoi, Carter, and Washington Counties, Tenn., April 22: The proposed project is an improvement of State Route 36 between Rock Creek north of Erwin to south of Johnson City, Tennessee. This project extends approximately 12.0 miles through three counties, and is proposed to provide four traffic-carrying lanes throughout the entire length of the project. Adverse effects include some inevitable soil erosion and siltation of streams as a result of construction. A total of 161 families and one business will be displaced. Comments made by: HUD, DOI, USDA, TVA, HEW, EPA. (ELR Order No. 70501.)

U.S. 2, Chittenden County, Chittenden County, Vt., April 21: Proposed is the reconstruction of Route U.S. 2 in the Towns of Milton and Colchester, Vermont. The project commences at a point on U.S. 2 in the Town of Milton, approximately 1.2 miles north of Milton-Colchester Town Line, and extends southeasterly approximately 3.2 miles to a point on U.S. 2 in the Town of Colchester at the intersection of U.S. 2 with Route I-89. Project plans include replacement of the present bridge over the Lamoille River with a new structure. Adverse effects include acquisition of 50-odd acres presently in private ownership, and the displacement of eight families. Comments made by: EPA, DOI, COE, USCG, USDA, HEW, DOC, HUD, State groups, and concerned citizens. (ELR Order No. 70488.)

URBAN MASS TRANSPORTATION ADMINISTRATION

Supplement

Metro A Route, Shady Grove (S-2), Montgomery County, Md., April 20: The supplement discusses the following changes to the plan for Metro Route A: elimination of the terminal station and service and inspection facility at Rockville, Maryland; extension of Route 1 to Shady Grove, Maryland (2.66 miles of at-grade track); and, addition of terminal station and service and inspection yard at Shady Grove, Maryland. A permanent adverse impact will be the transformation from a rural to an industrial landscape which will involve clearing, regrading, building, and paving on a 70-acre tract in the headwaters of Crabbs Branch. (ELR Order No. 70487.)

NICHOLAS C. YOST,
General Counsel.

[FR Doc.77-12335 Filed 4-28-77;8:45 am]

ENVIRONMENTAL IMPACT STATEMENT REFORM

Public Hearing

The Council on Environmental Quality will hold public hearings on how best to reform the implementation of the National Environmental Policy Act (NEPA), with special emphasis on the environmental impact statement process. The hearings will be held June 6-8, 1977, in Washington, D.C., at Room 2008, New Executive Office Building (located on 17th Street NW., between Pennsylvania Avenue and H Street).

BACKGROUND

The Council on Environmental Quality is responsible for the Administration of the environmental impact statement process throughout the Federal Government. The present Guidelines (last revised in 1973) are found in Title 40 of the Code of Federal Regulations at part 1500. It is the intention of the Council to revise the Guidelines so as to reduce paperwork and concentrate on improving decision making. We wish to streamline the process without sacrificing the protection of the public's environment.

PROBLEM AREAS

We invite all interested persons to assist us in this effort. Any ideas you have we will welcome. Without limiting in any way suggestions you have, the following are problem areas which we wish to consider:

1. *Concentrating on real issues instead of paper production.* How to concentrate less on paperwork and more on substance in implementing NEPA. Include discussions of how to focus on real alternatives and on mitigation measures that offer decision makers real choices and less on bulky accumulations of background data. Make impact statements more useful.

2. *Streamlining the process.* How can project planning and the impact statement process be integrated to save time. How can statements by covering whole programs reduce the scope of needed coverage in subsequent site specific statements.

3. *Eliminating conflicts and duplication.* What can be done to reduce conflict between agencies as to which is to take the lead. How can duplication be eliminated when there are both federal and state impact statement requirements.

4. *Other problems.* Other problem areas include impartial preparation, application to legislative proposals, insuring that mitigation is carried out, the consideration of economic and social factors, and environmental impacts outside the United States caused by federal agency action.

FORMAT

The hearings will be structured as follows:

June 6: 10:00 a.m.-12:00 noon—Review of impartial studies of NEPA implementation: 1:30 p.m.-4:30 p.m.—Environmental and conservation groups.

June 7: 9:30 a.m.-11:00 a.m.—State and local governments. 11:00 a.m.-12:30 p.m.—Labor. 1:30 p.m.-4:30 p.m.—Business.

June 8: 10:00 a.m.-12:00 noon—Scientific and technical. 1:30 p.m.-4:30 p.m.—Other members of the public.

It is the Council's intention to request that members of the various groupings so coordinate their testimony as to make a coherent whole and that those who testify in each half-day period insure time at the end of that half day for questions from the Council. Without limiting everybody's ability to testify at some time the Council will ask certain spokesmen to take the lead with respect to each organizational grouping. Depending on the number of people wishing to testify, we may ask that the lengths of oral presentations be limited. We welcome written presentations, whether or not people also testify. If possible, send us written statements by May 27, 1977, to allow their distribution to panel members. In any case, the hearing record will close June 15, 1977. Address all correspondence to Environmental Impact Statement Reform, Council on Environmental Quality, Executive Office of the President, 722 Jackson Place NW., Washington, D.C. 20006. If you have questions contact Nick Yost, Acting General Counsel at 202-382-6173.

Thank you for helping us.

CHARLES WARREN,
Chairman.

[FR Doc.77-12465 Filed 4-28-77;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF SCIENTIFIC ADVISORY BOARD

Meeting

APRIL 21, 1977.

The meeting of the USAF Scientific Advisory Board Tactical Panel sheduled for April 28, 1977, as published in the FEDERAL REGISTER April 11, 1977, Volume 42, 19173, File FR DOC. 77-10612, has been cancelled. This meeting has not been rescheduled.

For further information contact the Scientific Advisory Board Secretariat at (202) 697-4811.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer, Directorate of Administration.

[FR Doc.77-12394 Filed 4-28-77;8:45 am]

Department of the Navy

BOARD OF ADVISORS TO THE PRESIDENT, NAVAL WAR COLLEGE

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Board of Advisors to the President, Naval War College will meet on May 21, 1977, in Room 210 Conolly Hall, at the Naval War College, Coaster's Harbor Island, Newport, Rhode Island. The meeting will commence at 8 a.m.

The purpose of the meeting is to elicit the advice of the Board on educational,

doctrinal, and research policies and programs of the Naval War College.

For further information concerning the meeting, contact Commander W. R. Pettyjohn, USN, Executive Assistant to the Dean of Academics, Naval War College, Newport, RI 02840, telephone number 401-841-3589.

Dated: April 22, 1977.

J. S. JENKINS,
Captain, JAGC, U.S. Navy
Assistant Judge Advocate General (Civil Law).

[FR Doc.77-12282 Filed 4-28-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL, 720-4, OPP-30130]

AGBIO CHEM, INC.

Receipt of Application To Register a Pesticide Product Containing a New Active Ingredient

AgBioChem, Inc., 3 Fleetwood Court, Orinda CA 94563, has submitted to the Environmental Protection Agency (EPA) an application to register the pesticide product GALLTROL-A (EPA File Symbol 40230-R), containing 1.7×10^{10} Colony forming units/plate of the active ingredient Agrobacterium radiobacter which has not been included in any previously registered pesticide products. The application received from AgBioChem, Inc., proposes that the product be classified for general use on seeds and plants susceptible to crown gall infection.

Notice of receipt of this application is made in accordance with the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973, 89 Stat. 751, 7 U.S.C. 136 et seq.) and does not indicate a decision by the Agency on the application. Any interested person is invited to submit written comments on this application to the Federal Register Section, Technical Services Division (DH-569), Office of Pesticide Programs, EPA, Rm. 401, East Tower, 401 M St. SW, Washington DC 20460. Three copies of the comments should be submitted to facilitate the work of the Agency and others interested in inspecting them. The comments must be received on or before May 31, 1977, and should bear a notation indicating the EPA Symbol 40230-R. Comments received within the specified time period will be considered before a final decision is made with respect to the pending application. Comments received after the specified time period will be considered only to the extent possible without delaying processing of the application. Specific questions concerning this application should be directed to Product Manager (PM) 21, Registration Division (WH-567), Office of Pesticide Programs, at the above address or by telephone at 202-426-2454.

Notice of approval or denial of this application to register GALLTROL-A will be announced in the FEDERAL REGISTER. The label furnished by AgBioChem, Inc., as well as all written comments filed pursuant to this notice, will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: April 21, 1977.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc.77-12263 Filed 4-28-77;8:45 am]

[FRL 720-3; OPP-6603]

KERR-McGEE CHEMICAL CORP.

Voluntary Cancellation of Registrations of Pesticide Products Containing Copper Acetoarsenite

On March 7, 1977, Kerr-McGee Chemical Corp., Kerr-McGee Center, Oklahoma City OK 73125, requested that the Environmental Protection Agency (EPA) cancel its registrations for FASCO PARISGREEN AEROGRAM-5 (EPA Reg. No. 2342-502) and FASCO PARISGREEN GRANULAR-7½ (EPA Reg. No. 2343-525), which contain the active ingredient copper acetoarsenite.

Both products are formulated end-use products. Available 1976 production information indicates that these two products have not been recently formulated for sale by Kerr-McGee. Cancellation of these two products would leave 9 registrations in effect (2 technical grade registrations and 7 formulated product registrations, one of which is a State registration).

Copper acetoarsenite is used in controlling mosquitoes, antifouling organisms, and termites. Alternative pesticides are currently registered for these uses. Malathion and termphos are registered for mosquito control; copper oxide, tributyltin fluoride, copper (metallic), and copper hydroxide for antifouling organism control; and sodium arsenite, pentachlorophenol ethylene dibromide for aerial termite control.

Cancellation of the registrations for these two products shall be effective May 31, 1977, unless the registrant, or an interested person with the concurrence of the registrant, requests that the registrations be continued in effect.

Further formulation of these two products after May 31, 1977 is prohibited. The Agency has determined, however, that the distribution, sale, and use of stocks of these products existing on the date this notice is signed would not be inconsistent with the purpose of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973, 89 Stat. 751, 7 U.S.C. 136 et seq.), and would not have an unreasonable adverse effect on the environment. Therefore, pursuant to section 6(a)(1) of FIFRA, the distribution, sale, and use of these products by persons other than the registrant named in this notice shall be permitted after the effective date of cancellation: *Provided* That these products are used in a manner consistent with labeling approved by EPA.

Requests concurred in by the registrant that the registrations of these products be continued, and any comments concerning this action, may be submitted in triplicate to the Federael Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, EPA, Rm. 401, East Tower, 401 M St. SW, Washington DC 20460. Any such submissions should bear a notation indicating both the subject and the OPP document control number (OPP-66031). Any comments or other documents filed regarding this notice of cancellation will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: April 22, 1977.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.77-12264 Filed 4-28-77;8:45 am]

[FRL 720-5TPP6G1727/; 100]

CONREL, AN ALBANY INTERNATIONAL CO.

Extension of a Temporary Exemption From Requirement of a Tolerance; (Z,Z)-7,11-Hexadecadienyl-ol Acetate and (Z,E)-7,11-Hexadecadienyl-ol Acetate

On September 23, 1976, the Environmental Protection Agency (EPA) gave notice (41 FR 41746) that in response to a pesticide petition (PP6G1727) submitted to the Agency by Conrel, An Albany International Co., 735 Providence Hwy., Norwood MA 02602, a temporary exemption from the requirement of a tolerance was established for residues of the insecticide (Z,Z)-hexadecadienyl acetate and (Z,E)-7,11-hexadecadienyl acetate in or on cottonseed when used as a pheramone to disrupt mating in the pink bollworm.

This temporary exemption is scheduled to expire April 16, 1977. Conrel has requested a one-year extension of this temporary exemption both to permit continued testing to obtained additional data and to permit the marketing of the above raw agricultural commodity when treated in accordance with the provisions of an experimental use permit that is being extended concurrently under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136 (a) et seq.)

The scientific data reported and all other relevant material have been evaluated, and it has been determined that an extension of the temporary exemption will protect the public health. Therefore, the temporary exemption is extended on condition that the pesticide be used in accordance with the experimental use permit with the following provisions:

1. The total amount of the pesticide to be used must not exceed the quantity authorized by the experimental use permit.

2. Conrel must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee

of the EPA or the Food and Drug Administration.

This temporary exemption expires April 16, 1978. Residues remaining in or on cottonseed after this expiration date will not be considered actionable if the pesticide is legally applied during the term of and in accordance with the provisions of the experimental use permit and temporary exemption. This temporary exemption may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicate such revocation is necessary to protect the public health.

Dated: April 21, 1977.

(Sec. 408(j), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(j)).)

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc.77-12262 Filed 4-28-77;8:45 am]

[FR 722-1]

NORTH MONTEREY COUNTY FACILITIES PLAN

Availability of Draft Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Environmental Protection Agency has prepared a draft environmental impact statement (DEIS) on the North Monterey County Facilities Plan, California.

This program would provide additional waste treatment capacity at a consolidated regional facility to handle the expected growth in the North Monterey County area. The project would provide an acceptable method for the disposal of the treated wastewater resulting from the regional facility.

To receive additional public comments, the Environmental Protection Agency, Region 9, will hold an open public hearing in the DEIS on May 18, 1977 at 7:30 p.m. at the Monterey City Library, Conference Room, 625 Pacific, Monterey, California. All interested persons are invited to express their views at this hearing. To ensure the accuracy of the record, oral statements should be accompanied by a written statement. Oral statements should summarize extensive written materials to allow time for all interested persons to be heard.

The DEIS was transmitted to the Council on Environmental Quality on April 22, 1977. In accordance with CEQ's notice of availability, comments are due on June 6, 1977. Copies of the DEIS are available for review and comment from: Project Officer, U.S. Environmental Protection Agency, Region IX, 100 California Street, San Francisco, California 94111, telephone (415) 556-3458.

Copies of the DEIS are available for public inspection at the following locations:

Environmental Protection Agency, Region IX Library, 100 California Street, San Francisco, California
County Public Library, 26 Central Avenue, Salinas, California
Environmental Protection Agency, Public Information Reference Unit, Room 2922, Waterside Mall, 401 M Street, SW., Washington, D.C. 20460.
East Salinas Branch Library, 1207 East Market, Salinas, California

Information copies of the DEIS are available at cost (10 cents/page) from the Environmental Law Institute, 1346 Connecticut Avenue, NW., Washington, D.C. 20036. Please reference ELR No. 70499.

Copies of the DEIS have been sent to various Federal, State, and local agencies, and interested individuals as outlined in the CEQ Guidelines.

Dated: April 25, 1977.

REBECCA W. HANMER,
Director,
Office of Federal Activities.

[FR Doc.77-12418 Filed 4-28-77;8:45 am]

[FRL 722-2]

UPPER EAGLE VALLEY AND VAIL WASTEWATER FACILITIES PLAN

Availability of Draft Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Environmental Protection Agency has prepared a draft environmental impact statement (DEIS) for the Upper Eagle Valley and Vail Wastewater Facilities Plan, Colorado.

The 201 Facilities Plan provides for upgrading the Vail treatment plant and enlarging it from 1.5 to 3.0 mgd capacity, upgrading the Avon treatment plant and enlarging it from 1.65 to 3.5 mgd capacity, and replacing interceptors in the service area.

The DEIS was transmitted to the Council on Environmental Quality (CEQ) on April 18, 1977. Copies of the DEIS are available for review and comment from: Project Officer, Environmental Protection Agency, Region VIII, Suite 900, 1860 Lincoln Street, Denver, Colorado 80203 (telephone: (303-837-4831 or FTS 327-4831).

Copies of the DEIS are available for public inspection at the following locations:

Environmental Protection Agency, Region VIII Library, 1st Floor, 1860 Lincoln Street, Denver, Colorado
Environmental Protection Agency, Public Information Reference Unit, Room 2922, Waterside Mall, 401 M Street SW., Washington, D.C.

Information copies of the DEIS are available at cost (10 cents/page) from the Environmental Law Institute, 1346 Connecticut Avenue, NW, Washington, DC 20036. Please reference ELR No. 70480.

Copies of the DEIS have been sent to various Federal, State, and local agencies and interested individuals as outlined in the CEQ Guidelines.

Dated: April 26, 1977.

REBECCA W. HANMER,
Director,
Office of Federal Activities.

[FR Doc.77-12419 Filed 4-28-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 855]

COMMON CARRIER SERVICES INFORMATION

Applications Accepted for Filing

APRIL 25, 1977.

By the Chief, Common Carrier Bureau:

The applications listed herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any of these applications, if upon further examination, it is determined they are defective and not in conformance with the Commission's Rules and Regulations or its policies.

Final action will not be taken on any of these applications earlier than 31 days following the date of this notice, except for radio applications not requiring a 30 day notice period (See § 309(c) of the Communications Act), applications filed under Part 68, applications filed under Part 63 relative to small projects, or as otherwise noted. Unless specified to the contrary, comments or petitions may be filed concerning radio and Section 214 applications within 30 days of the date of this notice and within 20 days for Part 68 applications.

In order for an application filed under Part 21 of the Commission's Rules (Domestic Public Radio Services) to be considered mutually exclusive with any other such application appearing herein, it must be substantially complete and tendered for filing by whichever date is earlier: (a) the close of business one business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which the subsequent application is in conflict) as having been accepted for filing. In common carrier radio services other than those listed under Part 21, the cut-off date for filing a mutually exclusive application is the close of business one business day preceding the day on which the previously filed application is designated for hearing. With limited exceptions, an application which is subsequently amended by a major change will be considered as a newly filed application for purposes of the cut-off rule. [See § 1.227(b)(3) and 21.30(b) of the Commission's Rules.]

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

APPLICATIONS ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

21143-CD-P-77 Charles L. Slocum (KGI-770), C.P. to change antenna system operating on 152.18 MHz at Loc. No. 1: 2.5 miles South of Corry Legislative Route 25076, Corry, Pennsylvania.

21144–CD–P–(4)–77 Charles L. Slocum (new), C.P. for a new station to operate on 454.050 MHz, Base and 72.70 MHz, Control at Loc. No. 1: 2.5 Miles South of Corry Legislative Route 25096, Corry, Pa.; 454.350 MHz at Loc. No. 2: 115 So. Carver Street, Warren, Pa.; and 454.150 MHz, Base at Loc. No. 3: 2 miles West of Pleasantville Legislative Route 60050, Pleasantville Pennsylvania.

21145–CD–AL–77 Lawrence J. Hradek d.b.a. Cuyahoga County Communications Company Consent to Assignment of License from Lawrence J. Hradek d.b.a. Cuyahoga County Communications Company, assignor to Cuyahoga County Communications Company, assignee. Station: KLF508, Cleveland, Ohio.

21146–CD–P–77 Airsignal International of Philadelphia, Pennsylvania, Inc. (KWU-287), C.P. for additional Standby facilities to operate on 152.24 MHz at Loc. No. 1: 12 South 12th Street, Philadelphia, Pennsylvania.

21147–CD–P–77 Airsignal International of Philadelphia, Pennsylvania, Inc. (KGC-596), C.P. for additional standby facilities to operate on 152.12 MHz located at 12 South 12th Street, Philadelphia, Pennsylvania.

21148–CD–AL–77 Jersey Information Center, Inc., consent to assignment of license from Jersey Information Center, Inc., assignor to Alstar Communications, Inc., assignee. Station: KWH306, Salem, New Jersey.

21149–CD–MP–(2)–77 Sigma Communications Corp. (KCG484), C.P. to change antenna system and replace transmitter operating on 454.150 and 454.175 MHz and also relocate 454.175 MHz from Loc. No. 1 to Loc. No. 2: John Tom Hill, Glastonbury, Connecticut.

21150–CD–P–77 DPS, Inc. t/a Zip-Call (KCB890), C.P. for additional facilities to operate on 43.58 MHz at a new Loc. No. 18: Rt. 63, NW of Amity Road, Betheny, Connecticut.

21151–CD–P–77 Mobile Radio System of Ventura, Inc. (KSV976), C.P. for additional facilities to operate on 158.70 MHz at a new Loc. No. 2: at Red Mountain, approximately 6.0 miles NW of Ventura, California.

21152–CD–P–77 Industrial Communications System, Inc. (KMD990), C.P. for additional facilities to operate on 454.150 MHz at a new Loc. No. 5: 4 miles north of Barstow, California.

21153–CD–ML–77 Reservation Telephone Cooperative (KRM990), modification of license to change frequency from 152.60 MHz to 152.81 MHz located 6 miles E. and 1.5 miles S. of Roseglen, North Dakota.

21154–CD–P–(3)–77 Commercial Communications, Inc. (new), C.P. for a new station to operate on 454.300 MHz, Base and 72.26 MHz, Repeater at Loc. 1: Hogsback Ridge, 8 miles NW of LaBarge, Wyoming; and for 75.66 MHz, Control at Loc. No. 2: 824 Walnut Street, Rock Springs, Wyoming.

21154–CD–TC–77 Walnut Hill Telephone Company, consent to transfer of control from J. D. Garrett, Jr. and Helen Jane Garrett (joint tenants), transferors to J. D. Garrett, Jr. and Helen Jane Garrett (individual tenants), transferees. Station: KLB-682, Lewisville, Arkansas.

21156–CD–R–77 Joplin Mobilfone Service, Inc. (KAH672) renewal of license expiring June 17, 1977. Term: June 17, 1977 to April 1, 1979.

21157–CD–P–(2)–77 Peninsula Radio Secretarial Service, Inc. (KMA608), C.P. for additional facilities to operate on 2113.6 MHz, Control at Loc. No. 1: 135 South B Street, San Mateo, California; and for additional Repeater facilities to operate on 2163.6 MHz at Loc. No. 3: 14721 Van Avenue, San Leandro, California.

21158–CD–AL–77 Sidney C. and Shirley J. Childers d.b.a. Communications Equipment and Service Co., consent to assignment of license from Sidney C. and Shirley J. Childers d.b.a. Communications Equipment & Service Co., assignor to Communications Equipment and Service, Inc., assignee. Station: KQZ768, Fairbanks, Alaska.

21159–CD–P–(3)–77 Ram Broadcasting of Ohio, Inc. (KWU474), C.P. to relocate facilities, change antenna system and replace transmitter operating on 454.025, 454.200 and 454.350 MHz located at The B. F. Keith Building, 1621 Euclid Avenue, Cleveland, Ohio.

21160–CD–P–77 Mobilfone Service, Inc. (KWU483), C.P. to change antenna system operating on 158.70 MHz located on Orchard Street and Highway No. 36, Rosenberg, Texas.

21161–CD–P–77 James W. Corn d.b.a. Omnicom (new), C.P. for a new station to operate on 152.06 MHz to be located at 106 South 2nd Street, Hamilton, Montana.

21162–CD–P–77 Radio Relay Corp., Ohio (KQC877), C.P. for additional facilities to operate on 35.58 MHz at a new Loc. No. 6: Delhi Pike and Neeb Rd., Cincinnati, Ohio.

21163–CD–AL–77 Sidney C. and Shirley J. Childers d.b.a. Communications Equipment & Service Co., consent to assignment of license from Sidney C. and Shirley J. Childers d.b.a. Communications Equipment & Service Co., assignor to Communications Equipment and Service, Inc., assignee. Station: KWA632, Fairbanks, Alaska.

21164–CD–AL–(3)–77 Western California Telephone Company, consent to assignment of license from Western California Telephone Company, assignor to General Telephone Company of California, assignee. Stations: KMM654, Los Gatos, Calif.; KMM655, Morgan Hill, Calif.; and KMM-656 Nevato, California.

21165–CD–P–77 Mobile Radio Systems Ltd. (KSJ824), C.P. to change antenna system and replace transmitter operating on 152.18 MHz located at 1704 E. Jackson Street, Springfield, Illinois.

21166–CD–P–(2)–77 Amcom, Inc. (new) C.P. for a new station to operate on 2129.6 MHz, Control at Loc. No. 1: 1701 E. Market Street, Jeffersonville, Indiana; and 2179.6 MHz, Control at Loc. No. 2: State Road 11, Lanesville, Indiana.

CORRECTION

21115–CD–MP–(2)–77 Radio Paging, Inc. (KLF613). This application was inadvertently entered on PN No. 854, dated 4–18–77. It is for a minor modification and should be considered minor under Sec. 21.23(c)(3)(iv) and 21.27(c)(1) of the Rules.

MAJOR AMENDMENT

21560–CD–P–76 Midstate Telephone Company, Stanley, North Dakota (new). Amend base frequency 152.81 MHz to read 152.69 MHz. All other particulars are to remain the same as reported on PN No. 798, dated March 22, 1976.

RURAL RADIO

60256–CR–P–77 RCA Alaska Communications, Inc. (WGG21), C.P. to change class of station from Rural Subscriber to Central Office; relocate facilities, change antenna system and replace transmitters; and change frequencies from 157.95 and 158.01 MHz to 152.72 and 152.54 MHz located on east coast of St. Michael Is. in Norton Sound, 43 mi SW of Unalakleet, Alaska.

60258–CR–P–77 RCA Alaska Communications, Inc. (WGG28), C.P. to change class of station from Rural Subscriber to Central Office; relocate facilities, change antenna system and replace transmitters; and change frequencies from 157.95 and 158.01 MHz to 152.57 and 152.66 MHz located at Village on point of land on east bank of Golovin Lagoon, 69 miles east of Nome, Alaska.

60259–CR–P–77 RCA Alaska Communications, Inc. (new), C.P. for a new Subscriber station to operate on 157.83 MHz to be located at Village on East bank of Fish River, 60 miles ENE of Nome, Alaska.

60260–CR–P–77 RCA Alaska Communications, Inc. (WGG22), C.P. to relocated facilities, change antenna system and replace transmitter; and change frequencies from 157.95 and 158.01 MHz to 157.98 and 157.80 MHz located on NW coast of St. Michael Island, 8.23 miles NW of St. Michael, Alaska.

60261–CR–AL–77 Sidney C. and Shirley J. Childers d/b/a Communications Equipment and Service Co. Consent to Assignment of License from Sidney C. and Shirley J. Childers d/b/a Communications Equipment and Service Co., assignor to Communications Equipment and Service, Inc., assignee. Station: KWX60, Temp-Fixed.

60262–CR–AL–77 Sidney C. and Shirley J. Childers d/b/a Communications Equipment and Service Co. Consent to Assignment of License from Sidney C. and Shirley J. Childers d/b/a Communications Equipment and Service Co., assignor to Communications Equipment and Service, Inc., assignee. Station: WSN45, Manley Hot Springs, Alaska.

60263–CR–AL–77 Sidney C. and Shirley J. Childers d/b/a Communications Equipment and Service Co. Consent to Assignment of License from Sidney C. and Shirley J. Childers d/b/a Communications Equipment and Service Co., assignor to Communications Equipment and Service, Inc., assignee. Station: WSN46, Chatinika, Alaska.

60264–CR–AL–77 Sidney C. and Shirley J. Childers d/b/a Communications Equipment and Service Co. Consent to Assignment of License from Sidney C. and Shirley J. Childers d/b/a Communications Equipment and Service Co., assignor to Communications Equipment and Service, Inc., assignee. Station: WSM50, New Minton, Alaska.

60265–CR–P–77 Continental Telephone Company of California (new) C.P. for a new Central office station to operate on 152.54 MHz to be located at Chama C.O., 1 mile south of Chama, New Mexico.

60266–CR–P–77 Continental Telephone Company of California (new) C.P. for a new Rural Subscriber station to operate on 157.80 MHz to be located at Lobo Lodge, on State Route 17, 5 miles North of Chama, New Mexico.

RURAL RADIO

60267–CR–P/L–77 McClellanville Telephone Company (new), C.P. for a new Rural Subscriber station to operate on 158.07 MHz to be located 5.6 miles SSE of Awendaw, South Carolina.

60268–CR–P/L–77 McClellanville Telephone Company (new), C.P. for a new Rural Subscriber station to operate on 158.07 MHz to be located 6.1 miles NNE of Awendaw, South Carolina.

60269–CR–AL–77 Western California Telephone Company, Consent to Assignment of License from Western California Telephone Company, assignor to General Telephone Company of California, assignee. Station: KVI58, Temporary-Fixed.

OFFSHORE RADIO TELECOMMUNICATIONS SERVICE

50012–CG–P–77 The Offshore Telephone Company (new) C.P. for a new station to operate on 491.100 MHz to be located 90 miles south of Franklin, Block 313A, Gulf of Mexico.

50013-CG-P-77 The Offshore Telephone Company (new) C.P. for a new station to operate on 488.100 MHz to be located 76 miles south of Franklin, Block 66C, Gulf of Mexico.

POINT TO POINT MICROWAVE RADIO SERVICE

2108-CF-P-77 Pacific Northwest Bell Telephone Company (KPZ39), 216 I Street, Aberdeen, Washington, Lat. 46°58'38" N., Long. 123°49'04" W., C.P. to replace transmitter on frequency 11445H MHz toward Aberdeen, Washington.

2109-CF-P-77 Same (KTF27), PT Brown Avenue 80° N of Coho Ocean Shores, Washington, Lat. 47°00'26" N., Long. 124°09'34" W., C.P. to replace transmitter on frequency 10995H MHz toward Aberdeen, Washington.

2115-CF-P-77 American Telephone and Telegraph Company (KAA70), 909 High Street, Des Moines, Iowa, Lat. 41°35'17" N., Long. 93°37'46" W., C.P. to add frequency 3730V MHz toward Ames, Iowa.

2116-CF-P-77 Same (KAS42), 6 miles SW of Ames, Iowa, Lat. 41°57'07" N., Long. 93°40'40" W., C.P. to add frequencies 3770V MHz toward Des Moines, and 3770H MHz toward Boone, Iowa.

2117-CF-P-77 Same (KAR86), 3.2 miles E of Holden, Missouri, Lat. 38°42'26" N., Long. 93°55'20" W., C.P. to add frequency 4190.0H MHz toward Windsor, Missouri.

2118-CF-P-77 Same (KBT55), 0.8 miles W of Deepwater, Missouri, Lat. 38°15'38" N., Long. 93°47'47"., C.P. to add frequency 4190.0H MHz toward Windsor, Missouri.

2119-CF-P-77 Same (KAJ76), 3.7 miles N of Windsor, Missouri, Lat. 38°35'43" N., Long. 93°31'26" W., C.P. to add frequencies 4198.0H MHz toward Holden, 4198H MHz toward Deepwater and 4198V MHz toward Cole Camp.

2120-CF-P-77 Same (KAJ77), 7.5 miles SE of Cole Camp, Missouri, Lat. 38°23'11" N., Long. 93°06'29" W., C.P. to add frequencies 4190V MHz toward Windsor, and 4190H MHz toward Barnett, Missouri.

2121-CF-P-77 Same (KAJ60), 0.8 miles SSE of Barnett, Missouri, Lat. 38°22'01" N., Long. 92°40'04" W., C.P. to add frequencies 4198H MHz toward Cole Camp, and 4198H MHz toward Brinktown, Missouri.

2122-CF-P-77 Same (KAK80), 0.9 mile N of Brinktown, Missouri, Lat. 38°08'17" N., Long. 92°04'52" W., C.P. to add frequencies 4190H MHz toward Barnett, and 4190H MHz toward Rosati, Missouri.

2123-CF-P-77 Same (KAL52), 1.5 miles NE of Rosati, Missouri, Lat. 38°02'24" N., Long. 91°30'53" W., C.P. to add frequencies 4198H MHz toward Brinktown, and 4198H MHz toward Richwoods, Missouri.

2124-CF-P-77 Same (KAL75), 4.2 miles SW of Richwoods, Missouri, Lat. 38°06'56" N., Long 90°53'37" W., C.P. to add frequency 4190H MHz toward Rosati, and to add a new point of communication on frequency 2114.6H MHz toward Hillsboro on azimuth 53.8 degrees.

2125-CF-P-77 American Telephone and Telegraph Company (KAQ78), 6.5 miles NNE of Hillsboro, Missouri, Lat. 38°19'32" N., Long. 90°31'42" W., C.P. to add frequency 4190V MHz toward Shirley, and to add a new point of communication on frequency 2164.6H MHz toward Richwoods on azimuth 234.0 degrees.

2126-CF-P-77 Same (KBD39), 5.6 miles NNW of Shirley, Missouri, lat. 37°58'53" N., Long. 90°58'41" W., C.P. to add frequencies 4198V MHz toward Hillsboro, and 4198V MHz toward Cherryville.

2128-CF-P-77 Same (KBD37), 0.7 miles S of Lenox, Missouri, Lat. 37°38'31" N., Long. 91°45'45" W., C.P. to add frequency 4198H MHz toward Cherryville.

2146-CF-P-77 Illinois Bell Telephone Company (KSN55), 211 North Church Street Rockford, Illinois, Lat. 42°16'23" N., Long. 89°05'39" W., C.P. to add frequency 6271.4H MHz toward Monroe Cent, Illinois.

2147-CF-P-77 Same (KSN56), 0.8 miles NE of Monroe Cent, Illinois, Lat. 42°06'07" N., Long. 88°59'03" W., C.P. to add frequencies 6019.3H MHz toward DeKalb, 6019.3H MHz toward Rockford and to change polarization from vertical to horizontal on frequencies 6137.9 6078.6 from horizontal to vertical on 6108.3 5989.7 MHz toward Rockford, Illinois.

2148-CF-P-77 Same (KSN57), 1500 S 7th Strtet, DeKalb, Illinois, Lat. 41°54'45" N., Long. 88°44'50" W., C.P. to add frequency 6271.4H MHz toward Monroe Cent, and to change polarization on frequencies from vertical to horizontal 6390.0 6330.7 from horizontal to vertical 6360.3 6241.7 MHz toward Monroe Cent, Illinois.

2169-CF-P-77 The Mountain States Telephone and Telegraph Company (KPT31), 121 3rd Ave. E. of Twin Falls, Idaho, Lat. 42°33'25" N., Long. 114°28'0" W., C.P. to replace transmitters on frequencies 11445.-0H 11685.0V MHz toward Jerome Jct., Idaho.

2170-CF-P-77 Same (KPV32), Jerome Jct. 4.5 miles E of Jerome, Idaho, Lat. 42°44'02" N., Long. 114°25'05" W., C.P. to replace transmitters on frequencies 10715H 10955V MHz toward Kinzie BT and 10755V 10995H MHz toward Twin Falls, Idaho.

2171-CF-P-77 (KPV32), Kinzie BT 11.0 miles NNE of Shoshone, Idaho, Lat. 43°05' 37" N., Long. 114°22'10" W., C.P. to add a new point of communication on frequencies 11265H 11465V MHz toward Shoshone, on azimuth 189.9 degrees and replace transmitter on frequencies 11445V 11685H MHz toward Mount Baldy, and 11405V 11645H MHz toward Jerome Jct., Idaho.

2172-CF-P-77 (Same (new), 110. East A Street Shoshone, Idaho, Lat. 42°56'06" N., Long. 114°24'25" W., C.P. for a new station on frequencies 10855H 11055H MHz toward Kinzie BT on azimuth 9.8 degrees.

2173-CF-P-77 Same (KPV35), Mount Baldy 2.0 miles SW of Ketchum, Idaho, Lat. 43°39'40" N., Long. 114°24'07" W., C.P. to replace transmitters on frequencies 10775H 10995V MHz toward Kinzie BT.

2174-CF-P-77 South Central Bell Telephone Company (KYC49) 2.3 miles SE of Fern Creek Kentucky, Lat. 38°07'32" N., Long. 85°34'44" W., C.P. to move and replace antenna on frequencies 6123.1V 10955V MHz toward Louisville, 5945.2V 10755H MHz toward E Bardstown and 6152.8H MHz toward Bishop LN, Kentucky.

2175-CF-P-77 Same (KZS27), E Bardstown 4.1 miles E of Bardstown, Lat. 37°50'32" N., Long. 85°24'22" W., C.P. to move antenna on frequencies 6197.2V 11685 H MHz toward Fern Creek, Kentucky.

2176-CF-P-77 The Mountain State Telephone and Telegraph Company (KFA22), Lookout PT 1.4 miles E of Glenwood Springs Colorado Lat. 39°32'35" N., Long. 107°17'50" W., C.P. to change polarization from vertical to horizontal on frequencies 10855 11175 MHz toward Rifle Jc. PR and from passive reflector to Rifle Jct.

2095-CF-R-77 Southern Pacific Communication Company (KFM85), San Antonio, Yard, Texas. Renewal of Radio Station License expired February 1, 1976. Term: 2/1/76 to 2/1/81.

2096-CF-R-77 Same (KFM86), San Antonio Depot, Texas. Renewal of Radio Station License expired February 1, 1976. Term: 2/1/76 to 2/1/81.

POINT TO POINT MICROWAVE RADIO SERVICE

2099-CF-R-77 Southwestern Bell Telephone Company (WAH 622), temporary fixed-developmental within the territory of the grantee. Received license renewal for above named station.

2100-CF-R-77 General Telephone Company of Florida (WHU 40), temporary fixed-developmental within the territory of the grantee. Received license renewal for the above named station.

2141-CF-P-77 New England Microwave, Inc. (WBA 963), 3 miles North of Killingworth, Connecticut, Lat. 41°23'45" N., Long. 72°33'31" W., Construction permit to add 6330.7V, 6212.0V, 6390.0V and 6419.0H MHz toward East Hampton, Connecticut, via power split, on azimuth 5.8 degrees.

2144-CF-P-77 Video Service Company (New) 2.6 miles East of Palomar Mtn., California, Lat. 33°18'32" N., Long. 116°50'38" W. Construction permit for new station—10735.0V, 10895.0V, 10975.0V and 11135.0V MHz toward Mt. Whitney, California, on azimuth 232.6 degrees.

2145-CF-P-77 Video Service Company (new) 3.5 miles West of Escondido, California, Lat. 33°06'32" N., Long. 117°09'16" W. Construction permit for new station—11305.0V, 11385.0V, 11545.0V and 11625.0V MHz toward Cowles Mtn., California, on azimuth 160.7 degrees.

2177-CF-P-77 New England Telephone and Telegraph Company (KCL 62), 205 Worthington Street, Springfield, Massachusetts, Lat. 42°06'18" N., Long. 72°35'80" W. Construction permit to add 11155V MHz toward WWLP-TV, Massachusetts, on 250.4 degrees.

[FR Doc.77-12322 Filed 4-28-77;8:45 am]

[Report No. 1041]

ACTIONS IN RULE MAKING PROCEEDINGS FILED

Petitions for Reconsideration

APRIL 25, 1977.

Docket or RM No.	Rule No.	Subject	Date received
20548	Secs. 73.35, 73.240, and 73.636	Amendment of § 73.35, 73.240, and 73.636 of the Commission's rules relating to multiple ownership of standard, FM, and television broadcast stations. Filed by Robert M. Booth, Jr., attorney for Town and Country Radio, Inc.	Apr. 20, 1977

NOTE.—Oppositions to petitions for reconsideration must be filed on or before May 16, 1977. Replies to an opposition must be filed within 10 days after time for filing oppositions has expired.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-12323 Filed 4-28-77;8:45 am]

[Docket No. 21132; File No. BPH-9728; Docket No. 21133; File No. BPH-9852]

JAMES C. SLIGER AND CUMBERLAND BROADCASTING CORP.

Application for Construction Permit

Adopted: April 15, 1977.

Released: April 26, 1977.

In re Applications of James C. Sliger, Athens, Tennessee, requests: 101.7 MHz, Channel 269A; 1.2 kW (H & V); 440 feet (H & V); Cumberland Broadcasting Corporation, Athens, Tennessee, requests: 101.7 MHz, Channel 269A; 3 kW (H & V); 300 feet (H & V), for construction permit.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has before it for consideration the above-captioned mutually exclusive applications of James C. Sliger (Sliger), and Cumberland Broadcasting Corporation (Cumberland), for a construction permit for a new FM broadcast station at Athens, Tennessee.

2. Cumberland's ascertainment of community needs and problems consists of three separate showings: (1) A survey conducted in connection with Cumberland's application for assignment of license of standard broadcast station WLAR, Athens, Tennessee; (2) a survey included in the instant application; and (3) additional survey information included in an amendment to the instant application filed February 1, 1977. The first and third survey efforts were conducted in a manner conforming to the requirements of the Commission's Primer on Ascertainment of Community Problems by Broadcast Applicants, 27 FCC 2d 560 (1971); the second was not, however, and must therefore be rejected. Thus, while Cumberland included in its second survey effort interviews with seventeen community leaders allegedly conducted by Thomas Arterburn "who is currently General Manager of WLAR(AM) and will hold the same position with respect to the proposed FM station", the applicant subsequently informed the Commission that "* * * Mr. Arterburn may not have made the interviews which he purported to make * * *." At the same time, the applicant did not identify the person who had conducted the interviews in question, and its failure thereby to establish that these interviews were conducted by a principal, management-level employee, or prospective management-level employee (Question and Answer 11(a) of the Primer) requires us to ignore the interviews in evaluating the applicant's ascertainment showing. Voice of Dixie, Inc., 45 FCC 2d 1027 (1974), recon. den. 47 FCC 2d 526 (1974). The survey of the general public included in the second survey and also allegedly conducted by Mr. Arterburn must be rejected on the same basis. (Question and Answer 11(b) of the Primer).

3. A review of the applicant's two acceptable ascertainment showings reveals that Cumberland has failed to comply with the requirements of the Primer, supra, in that Cumberland has failed to survey leaders of all significant population groupings set forth in its demographic study. See Voice of Dixie, supra. Specifically, Cumberland's list of community leaders consulted either as incorporated, or as amended, includes no interviews with labor leaders, no interviews with leaders of civic or women's organizations, and no interviews with leaders of civic or women's organizations, and no interviews with leaders of or for the elderly.

4. Because Sliger proposes independent programming while Cumberland proposes to duplicate some of the programming of its commonly owned AM station, WLAR, evidence regarding program duplication will be admissable under the standard comparative issue. Such evidence shall be limited to a showing of the benefits and detriments to be derived from the duplicated programming which would offset its inherent inefficiency. Jones F. Sudbury, 8 FCC 2d 360 (1967).

5. Except as indicated above, the applicants are qualified to construct and operate as proposed. However, because the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

6. Accordingly, *it is ordered*, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications *are designated for hearing in a consolidated proceeding*, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to the efforts of Cumberland Broadcasting Corporation to ascertain the community problems of Athens, Tennessee, whether the applicant interviewed labor leaders, leaders of civic and women's organizations, and leaders of organizations of or for the elderly.

2. To determine which of the proposals would, on a comparative basis, better serve the public interest.

3. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

7. *It is further ordered*, That to avail themselves of the opportunity to be heard, the applicants, pursuant to § 1.221 (c) of the Commission's Rules, in person or by attorney shall, within twenty (20) days of the mailing of this Order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for hearing and present evidence on the issue specified in this Order.

8. *It is further ordered*, That the applicants herein shall, pursuant to § 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's Rules, give notice of the hearing, either individually or, if feasible and consistent with the Rules, jointly, within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the Rules.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.77-12325 Filed 4-28-77;8:45 am]

FEDERAL MARITIME COMMISSION

[Docket No. 77-10; Agreements 10072 and 10072-1]

CRUISE LINE INTERNATIONAL ASSOCIATION

Order of Investigation and Hearing

Agreements Nos. 10072 and 10072-1 were filed for approval by Cruise Line International Association (CLIA) pursuant to section 15 of the Shipping Act, 1916.[1] Agreement No. 10072 was noticed in the FEDERAL REGISTER on November 5, 1975. Agreement No. 10072 provides for a conference of passenger lines engaged in the marketing of the cruise and passenger liner industry in North America. CLIA seeks Commission approval to meet, discuss matters of common interest and develop and agree on activities designed to promote and market the concept of shipboard holidays on voyages in which a marketing effort is made in North America. In addition, Agreement 10072 seeks Commission authority to represent its member lines in dealings with industry conferences or associations, governmental agencies and to represent its member lines in matters relating to the qualifications and appointment of travel agents.

Agreement No. 10072-1, known as "Administrative Rules," was subsequently filed by CLIA in order to implement Agreement No. 10072 and was noticed in the FEDERAL REGISTER on January 6, 1976. Article A of Agreement No. 10072-1 concerns the internal administration of the Conference, and Article E concerns rules governing travel agents.

Comments regarding approval of these Agreements were filed on behalf of the Antitrust Division of the Department of Justice. In addition, comments and protests were filed by three travel associations: the American Automobile Association, Inc. (AAA), the Association of Retail Travel Agents (ARTA) and the Americna Society of Travel Agents, Inc. (ASTA).

The comments filed by the Department of Justice set forth its standing and interest in the subject matter of the Agreements. The Department of Justice asserts the entire process of joint regulation of the travel industry—from the appointment of agents, to setting the agents' commissions, to the power to terminate the agents' appointment—would be a per se violation of the antitrust laws as constituting a group boycott in violation of Section 1 of the Sherman Act (see *Fashion Originators' Guild v. Federal Trade Commission*, 312 U.S. 457 (1941); *Associated Press v. United States*, 326 U.S. 1 (1945); *Klor's v. Broadway Hale Stores*, 359 U.S. 207 (1959); *Radiant Burners, Inc. v. Peoples Gas Light and Coke Co.*, 364 U.S. 656 (1961)) and horizontal price-fixing in violation of Section 1 of the

[1] CLIA filed the "Administrative Rules" for information purposes, however, since these Rules impose requirements and conditions upon travel agents that may be found to be subject to section 15, the Commission is of the opinion that Agreement No. 10072-1 should be considered for approval under section 15, Shipping Act, 1916.

Sherman Act (see *Federal Trade Commission v. Cement Institute*, 333 U.S. 683 (1948); *Sugar Institute v. United States*, 297 U.S. 553 (1936); and *National Macaroni Mfrs. Ass'n v. Federal Trade Commission*, 345 F.2d 421 (7th Cir. 1965)). Therefore, under *FMC v. Aktiebolaget Svenska Amerika Linien*, 390 U.S. 238 (1968), the proponents will have the burden of coming forward with evidence to demonstrate that the approval of these Agreements shown to be per se violative of the antitrust laws is nevertheless in the public interest.

The Department of Justice also suggests that less anticompetitive alternatives to the proposed Agreements be examined, i.e., eliminating that aspect of the Agreement which provides for the setting of travel agent commissions by the Association.

The comments by AAA, ARTA and ASTA address over 40 objections to provisions of the Agreements. The principal comments include the following:

1. Agreement No. 10072 authorizes CLIA to collectively set commission levels for travel agents, and Agreement No. 10072-1 establishes specific maximum levels to be paid to appointed travel agents;

2. Agreement No. 10072 provides that only qualified and appointed travel agents may receive remuneration, however, CLIA has commented that such provision is not to preclude remuneration to entities other than appointed travel agents;

3. Agreement No. 10072-1 establishes a $100 annual agency fee to be collected from each travel agent;

4. Agreement No. 10072 provides for consultation and cooperation with other conferences and organizations, but does not provide for third party participation at the meetings by the travel agents;

5. The Agreements provide for all appointed travel agents to be bonded by a bonding company selected by, or acceptable to, the Association, and

6. Agreement No. 10072 provides that amendments to the Agreement may be made provided at least all member lines, less one, agree.

These comments, together with the other largely procedural comments and objections, raise issues of serious anticompetitive restraints which may interfere with the policies of the antitrust laws. The travel agency associations and the Department of Justice assert that CLIA has failed to justify approval of the Agreements under the standards set forth by the Commission and the Courts.

The above comments and protests appear to raise legitimate issues with regard to Agreements Nos. 10072 and 10072-1. Therefore, the Commission is of the opinion that Agreements Nos. 10072 and 10072-1 should be made the subject of a public hearing and investigation to determine whether these Agreements should be approved, disapproved, or modified under the standards set by Section 15 of the Shipping Act, 1916.

Now, therefore, it is ordered, That the Commission commence an investigation and hearing pursuant to section 22 of the Shipping Act, 1916, to determine whether Agreements Nos. 10072 and 10072-1 should be approved, disapproved, or modified, pursuant to section 15 of the Shipping Act, 1916;

It is further ordered, That in the event there is any modification of these Agreements, such modification shall be filed with the Commission, and shall be made subject to this investigation for approval, disapproval or modification under the standards of section 15 of the Shipping Act, 1916;

It is further ordered, That the Cruise Line International Association and its member lines are hereby named as Proponents in this proceeding;

It is further ordered, That the American Automobile Association, Inc., the Association of Retail Travel Agents, the American Society of Travel Agents, Inc. and the Department of Justice are hereby named as Protestants in this proceeding;

It is further ordered, That this proceeding be referred for public hearing before an Administrative Law Judge of the Commission's Office of Administrative Law Judges and that the hearing be held at a date and place to be determined an announced by the Presiding Administrative Law Judge, but in any event, the hearing shall commence no later than October 26, 1977. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents, or that the nature of the matters in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record;

It is further ordered, That a copy of this Order be forthwith served upon Proponents and Protestants herein, and upon the Commission's Bureau of Hearing Counsel, and be published in the FEDERAL REGISTER, and that the Proponents, Protestants and Hearing Counsel be duly served with notice of time and place of hearing;

It is further ordered, That any person (including individuals, corporations, associations, firms, partnerships and public bodies) having an interest in this proceeding and desiring to intervene therein should notify the Secretary of the Commission immediately, and petition for leave to intervene in accordance with Rule 5(1) of the Commission's Rules of Practice and Procedure (46 CFR 502.72), with a notice to the Commission's Bureau of Hearing Counsel and other parties to this proceeding;

It is further ordered, That all future notices issued by or on behalf of the Commission in this proceeding be mailed directly to all of the parties of record.

By the Commission.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-12395 Filed 4-28-77;8:45 am]

INDEPENDENT OCEAN FREIGHT FORWARDER LICENSE

Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916 (Stat. 522 and 46 U.S.C. 841(b)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

Jamco International Inc., 1314 Texas Avenue, Houston, TX 77002, officers: David A. Mulherin, President, James L. Johnston, Secretary/Treasurer.

Unlimited Cargo Service Co. (Francisco Gonzalez, dba), 1311 Pizarro, Coral Gables, FL 33134.

Cartwright International Van Lines, Inc., 11901 Cartwright Avenue, Grandview, MO 64030, officers: Michael Cartwright, President, Thomas Cartwright, Secretary, Wm. F. Gremmels, Executive Vice President, Guy Bolen, Treasurer, Jack Spencer, Vice President.

Wilson Maritime, Inc., Eleven Broadway, Suite 802, New York, NY 10004, officers: William Cheng, President, Sanford Chao, Vice President.

Italyork Shipping, Inc., 422 Adams Street, Hoboken, NJ 07030, officer: Nicolo' De Bari, Owner.

HEG International Freight Forwarders, Inc., 1441 Cleveland Road, Glendale, CA 91202, officers: Irene A. Molina, President/Treasurer, Gene C. Sue, Vice President/Secretary, Constantine Manukian, Vice President.

Holders' Overseas Shipping and Crating Services, Corp., 300 Sumner Avenue, Brooklyn, NY 11221, officers: Madeline Holder, President/Treasurer, Almous Holder, Vice President, Peter Clark, Secretary.

F. Carlos Maldana, 5534 Armour Drive, Houston, TX 77020.

Steeb Marine Services, Inc., 2000 Pacific Building, Seattle, WA 98104, officers: Dean Sanders, President, Sam S. Watanabe, Executive Vice President, Dale Bouray, Vice President, Gary A. Twite, Assistant Vice President, Kari T. Ferttu, Assistant Vice President.

Transport Industries, Inc., The World Trade Center/Baltimore, Suite 1334, Baltimore, MD 21202, officers: Rolf Graage, President, Dorothy Buschmann, Vice President, France K. Graage, Secretary/Treasurer.

Gulf Forwarding Company, Inc., 1255 Caillavet Street, P.O. Box 468, Biloxi, MS 39533, officers: Gary Gollott, President, Tommy Gollott, Director, Tyrone Gollott, Vice President, Mark Snodgrass, Director, Margaret Snodgrass, Secretary/Treasurer, Ida Gollott, Director, Houston Gollott, Director.

Alpha Shipping Company (Caesar A. Catti, dba), 43-10 21st Street, Long Island City, NY 11101.

T & T International Freight Forwarders Inc., 7465 N.W. 8th Street, Miami, FL 33126, officers: Reinaldo Torrente, Vice President/Secretary, Nora Torrente, Treasurer, Jose A Torrente, President.

By the Federal Maritime Commission.

Dated: April 26, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-12396 Filed 4-28-77;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. G-18799, et al.]

CITIES SERVICE GAS CO., ET AL.

Filing of Pipeline Refund Reports and Refund Plans

APRIL 22, 1977.

Take notice that the pipelines listed in the Appendix hereto have submitted to the Commission for filing proposed refund reports or refund plans. The date of filing, docket number, and type of filing are also shown on the Appendix.

Any person wishing to do so may submit comments in writing concerning the subject refund reports and plans. All such comments should be filed with or mailed to the Federal Power Commission 825 North Capitol Street, NE., Washington, D.C. 20426, on or before May 12, 1977. Copies of the respective filings are on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

Company	Date of filing	Type of filing	Docket No.
Cities Service Gas Co.	Feb. 18, 1977	Report	G-18799, et al.
Consolidated Gas Supply Corp.	Mar. 22, 1977	Plan	RI69-211.
Do.	Apr. 12, 1977	(1)	RI69-211.
Florida Gas Transmission Co.	Feb. 14, 1977	Report	RP75-1, et al.
Mid Louisiana Gas Co.	Aug. 13, 1976	Plan	AR67-1.
Do.	Mar. 8, 1977	Report	AR67-1.
Mississippi River Transmission Corp.	Apr. 6, 1977	do	RP76-77.
Natural Gas Pipeline Co. of America	Mar. 21, 1977	do	RP74-99.
Do.	do	do	RP73-110.
Northern Natural Gas Co.	Feb. 11, 1977	Plan	R-478.
Northwest Pipeline Corp.	Feb. 4, 1977	do[2]	R-478.
Southern Natural Gas Co.	Mar. 21, 1977	Report	RP75-84.
Southwest Gas Corp.	Mar. 25, 1977	do	RP72-121.
Texas Eastern Transmission Corp.	Apr. 11, 1977	Plan	AR61-2, et al.
West Texas Gathering Co.	Feb. 28, 1977	Report	R-478.
Do.	Mar. 28, 1977	Plan	R-478.
Do.	Feb. 17, 1977	Report	R-478.
South Georgia Natural Gas Co.	Apr. 4, 1977	do	RP75-40.

[1] Supersedes report filed on Mar. 22, 1977, supra.
[2] Revision to plans originally filed on Jan. 23, 1977.

[FR Doc.77-12229 Filed 4-28-77;8:45 am]

GENERAL SERVICES ADMINISTRATION

National Archives and Records Services

ARCHIVES ADVISORY COUNCIL

Meeting

Notice is hereby given that the National Archives Advisory Council shown below will meet at the time and place indicated. Anyone interested in attending, or who wishes additional information, should contact the person shown below. Publication of this notice was delayed because of recent changes in the organization and structure of the Council.

NATIONAL ARCHIVES ADVISORY COUNCIL

Meeting dates: May 12-14, 1977; May 12, 7:30 p.m.-10 p.m.; May 13, 9 a.m.-4:15 p.m.; May 14, 9 a.m.-adjournment.

Place: Room 410, National Archives and Records Service, 8th and Pennsylvania Avenue NW., Washington, D.C. 20408.

Agenda: Presidential libraries, Privacy Law, computerized records systems, machine readable records, cartographic archives, and the report of the Public Documents Commission.

For further information contact: R. Michael McReynolds, General Services Administration (NS), Washington, D.C. 20408, 202-523-3013.

Issued in Washington, D.C. on April 27, 1977.

JOHN J. LANDERS,
Acting Archivist of the United States.

[FR Doc.77-12479 Filed 4-28-77;8:45 am]

REGIONAL PUBLIC ADVISORY PANEL ON ARCHITECTURAL AND ENGINEERING SERVICES

Meeting

Pursuant to Public Law 92-463, notice is hereby given of a meeting of the Regional Public Advisory Panel on Architectural and Engineering Services, Region 10, May 13, 1977, from 8:30 a.m. to 4:00 p.m., Room 1033, Regional Headquarters Building, GSA Center, Auburn, Washington. The meeting will be devoted to the initial step of the procedures for screening and evaluating the qualifications of architect-engineers under consideration for selection to furnish professional services for the proposed fire sprinkler installation, USDI-BPA Building, Portland, Oregon; fire sprinkler installation, space alterations and HVAC modification, Courthouse (New), Portland, Oregon; and HVAC modifications and fire sprinkler installation, Federal Building, U.S. Post Office and Courthouse, Juneau, Alaska.

The meeting will be open to the public.

Dated: April 22, 1977.

DAVID L. HEAD,
Regional Administrator.

[FR Doc.77-12588 Filed 4-28-77;12:19 pm]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. 76N-0503]

HALOCARBONS IN HUMAN FOOD, DRUGS, BIOLOGICAL PRODUCTS, COSMETICS, ANIMAL FEED, ANIMAL DRUGS, MEDICAL DEVICES, AND PACKAGING FOR THESE PRODUCTS

Request for Information

AGENCY: Food and Drug Administration (FDA).

ACTION: Notice.

SUMMARY: This notice is requesting information about the health hazards associated with direct exposure to halocarbons and the use of halocarbons in products regulated by FDA.

DATES: Comments by October 26, 1977.

ADDRESSES: Information to the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Ted Herman, Compliance Regulations Policy Staff (HFC-10), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3480.

SUPPLEMENTARY INFORMATION: In this document the term "halocarbons" means carbon compounds fully or partially substituted with halogens; i.e., the compound consists only of atoms of carbon and halogen or carbon, halogen, and hydrogen. The Commissioner is interested in information about possible health hazards to the immediate user associated with direct exposure to halocarbons used as direct or indirect ingredients, including residues from use in manufacturing or in packaging in FDA-regulated products.

This request for information is not concerned with the impact on the public health and the environment that results from depletion to stratospheric ozone and other atmospheric effects, as a consequence of the release into the atmosphere of halocarbons used in FDA regulated products. That phenomenon was the subject of a notice published in the FEDERAL REGISTER of November 26, 1976 (41 FR 52070). That notice also requested information about uses of halocarbons, but it did not request information specifically about indirect uses of halocarbons, the amount of indirect ingredients that might be found in finished products, and the methods for determining concentrations of indirect ingredients in finished products. Thus, although some information about uses of halocarbons was requested in the November 26 notice, FDA requests that interested persons also submit all the information requested in this notice, because more specific information on these uses is needed.

In the FEDERAL REGISTER of April 9, 1976 (41 FR 15026), the FDA proposed to prohibit the continued use of chloroform as an ingredient in human drug and cosmetic products because of a National Cancer Institute report that chloroform induces cancer in animals. In a companion notice published in the same issue of the FEDERAL REGISTER (41 FR 15029), FDA proposed to prohibit the use of chloroform in human food. Those proposals noted that chloroform was used as an active ingredient in drugs, as an ingredient in cosmetics, and as a component of food packaging. The drug and cosmetic final regulations were published in the FEDERAL REGISTER of June 29, 1976 (41 FR 26842).

The comments responding to the proposal to prohibit chloroform in drugs and cosmetics indicated that chloroform could become a component of a drug either directly as an added ingredient (direct ingredient) or indirectly as an incidental ingredient (indirect ingredient). The presence of chloroform as an indirect ingredient in a drug can result from its use as a solvent, an extractant, or a starting material in the manufacture of ingredients used in finished drug products or from migration to the finished product from packaging material in which it may be used. Some of the comments stated that the total removal of the small quantities of chloroform which may be present as indirect ingredients is technically impracticable.

The drug and cosmetic final regulations prohibiting chloroform as a direct ingredient did not prohibit the presence of residual chloroform in drugs and cosmetics if it is an indirect ingredient. As the Commissioner explained in the preamble to the final regulations (41 FR 26842), further information is needed before any final decision can be made about the regulation of chloroform as an indirect ingredient of drugs and cosmetics.

The National Cancer Institute (NCI) is in the process of testing various chemicals, including several halocarbons, to determine whether they are carcinogenic. The following halocarbons, as defined in this notice, are being studied by the NCI:

1,2-Dibromoethane
1,1-Dichloroethane
1,2-Dichloroethane
Hexachloroethane
1,1,2,2-Tetrachlorethane
1,1,1-Trichloroethane
1,1,2-Trichloroethane
Tetrachloroethylene
Triiodomethane
1,2-Dibromo-3-chloropropane
3-Chloropropene
Chlorobenzene
o-Dichlorobenzene
p-Dichlorobenzene
1,1-Dichloroethylene
Methylene chloride
Pentachloroethane
Perchloroethylene
Benzylchloride
cis, 1,2-Dichloroethylene
trans, 1,2-Dichloroethylene

It is possible that some of these as well as other halocarbons may be shown to be carcinogens. The Commissioner is therefore interested in the uses of the above-named halocarbons and all other halocarbons (as defined) that may be present in human food, drugs, biological products, cosmetics, animal feed, animal drugs, medical devices, and packaging for these products. He is particularly interested in information about halocarbons that might occur as impurities in or by-products of the ingredients used in the manufacture of FDA-regulated products.

The Commissioner does not, at this time, have sufficient information about the products that contain halocarbons as direct and indirect ingredients or those halocarbons that are used as starting materials, solvents, or extractants in making finished products regulated by FDA. He also lacks adequate information about the extent to which residual amounts of halocarbons are present in finished products because of migration from packaging to finished products regulated by FDA. The Commissioner believes that many halocarbons are widely used in the manufacture of products regulated by FDA. He therefore is seeking technical data and other information about all halocarbons that could be present in FDA-regulated products to assist him in the determination of the health hazard, if it is determined that other halocarbons induce cancer. Accordingly, the Commissioner has listed several items about which he needs more information, and he requests that interested persons respond with relevant information.

The Commissioner desires to receive from any interested persons information with respect to the following matters about the use of chloroform and other halocarbons in human food, drugs, biological products, cosmetics, animal feed, animal drugs, medical devices, and packaging for these products:

1. Direct ingredients. The names of products containing halocarbons as a direct ingredient and the names and concentrations of the halocarbons present in these products.

2. *Indirect ingredients*. a. The names of any ingredients used in FDA-regulated products in which halocarbons are used as solvents, extractants, and starting materials.

b. The names of any products containing halocarbons as an indirect ingredient (including solvents, extractants and starting materials).

c. The names of the halocarbons present in these products as indirect ingredients (including solvents, extractants, and starting materials).

d. The concentration of halocarbons as indirect ingredients in finished FDA-regulated products.

3. *Packages*. An identification of types of packages or packaging materials, including adhesives, for FDA-regulated products in which halocarbons are used at any stage of manufacture. The response should identify the product for which the package or packaging material is used and the residual amount of halocarbons present in the finished products as a result of migration from the package or packaging material.

4. *Methods*. A statement of how the concentration of halocarbons as indirect ingredients, including packaging residues, in these products was determined, or estimated in responding to items 1, 2.d, and 3 above, and the methods of analysis used in detecting and verifying the concentrations of halocarbons in these products.

5. *Substitutes*. a. The names of chemicals that could be used as substitutes for halocarbons in FDA-regulated products in which halocarbons are a direct or indirect ingredient.

b. The feasibility of replacing products now containing halocarbons as direct or indirect ingredients with products that would not contain halocarbons.

c. The feasibility of removing halocarbons from products that contain them as indirect ingredients.

6. *Adverse effects*. a. Information on the carcinogenic effects of halocarbons obtained from toxicological studies not published in the scientific literature.

b. Information on other effects of halocarbons obtained from toxicological studies not published in the scientific literature.

Interested persons are requested to submit relevant information by October 26, 1977 to the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857. All submissions should be identified with the Hearing Clerk's docket number found in brackets in the heading of this notice. Received information may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 25, 1977.

SHERWIN GARDNER,
Acting Commissioner of Food and Drugs.

[FR Doc.77-12230 Filed 4-28-77;8:45 a.m.]

[Docket No. 76N-0154; DESI 8867]

ORAL RESERPINE DOSAGE FORMS OF GREATER THAN 1 MILLIGRAM STRENGTH

Withdrawal of Approval of Pertinent Parts of New Drug Applications

AGENCY: Food and Drug Administration, HEW.

ACTION: Notice.

SUMMARY: This notice withdraws approval of pertinent parts of new drug applications for oral reserpine dosage forms of greater than 1 milligram strength on basis of safety.

DATES: Withdrawal is effective on May 9, 1977.

ADDRESSES: Requests for opinion of the applicability of this notice to a specific product should be directed to:

Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs, Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

William R. Durbin, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857. 301-443-3650.

SUPPLEMENTARY INFORMATION: In a notice of opportunity for hearing published in the FEDERAL REGISTER of August 17, 1976 (41 FR 34806), the Director of the Bureau of Drugs proposed to withdraw approval of the oral reserpine drug products listed below, which contain more than 1 milligram of reserpine per dosage unit. He announced his conclusion that, although reserpine is effective for use in hypertension and for psychiatric disorders, in potencies of greater than 1 milligram there is lack of evidence of safety for those uses. In view of this, and the availability of reserpine products in potencies of 0.1 milligram to 1 milligram as well as other products used for the same indications which have a wider margin of safety, the Director concluded that the benefit-to-risk considerations associated with oral dosage forms containing more than 1 milligram of reserpine did not justify their continued marketing. No person requested a hearing.

NDA 9-115; Serpasil tablets; 2 and 4 mg; Ciba Pharmacetutical Co., Division of Ciba-Geigy Corp., 556 Morris Ave., Summit, NJ 07901.

NDA 9-347; Reserpoid tablets; 4 mg; The Upjohn Co., 7171 Portage Rd., Kalamazoo, MI 490002.

NDA 9-357; Rau-Sed tablets; 2 and 4 mg; E. R. Squibb, & Sons, Inc., P.O. Box 4000, Princeton, NJ 08540.

NDA 9-376; Sandril tablets; 5 mg; Eli Lilly & Co., Box 618, Indianapolis, IN 46206.

NDA 9-391; Serpanray tablets; 2, 3, 4, and 5 mg; Panray, Division of Ormont Drugs & Chemicals, Inc., P.O. Box 150, Englewood, NJ 07631.

NDA 9-572; Reserpine tablets; 2, 3, 4, and 5 mg; Keith-Victor Pharmacal Co., 2503 S. Hanley Rd., St. Louis, MO 63114.

NDA 9-573; Reserpine tablets; 2, 3, 4, and 5 mg; U.S.V. Pharmaceutical Corp., 1 Scarsdale Rd., Tuckahoe, NY 10707.

NDA 9-591; Reserpine tablets and capsules; 2, 3, 4, and 5 mg; Pfizer Laboratories, Division of Charles Pfizer & Co., Inc., 253 E. 42d St., NY 10017.

NDA 9-596; Raulen tablets; 2 and 4 mg; Lemmon Pharmacal Co., Sellersville, PA 18060.

NDA 9-623; Reserpine tablets; 4 mg; American Pharmaceutical Co., P.O. Box 448, Passaic, NJ 07055.

NDA 9-627; Reserpine tablets; 2, 3, 4, and 5 mg; Richlyn Laboratories, 3725 Castor Ave., Philadelphia, PA 19124.

NDA 9-771; Reserpine Alkaloid tablets; 2 mg; Invenex Pharmaceuticals, 2303 Schuetz Rd., St. Louis, MO 63141.

NDA 9-826; Anquil tablets; 4 and 5 mg; Dumas-Wilson Co., Division Mallinckrodt Inc., 2d and Mallinckrodt Sts., St. Louis, MO 63147.

NDA 9-882; R-E-S tablets; 2 mg; Cole Pharmacal Co., Inc., P.O. Box 14404, St. Louis, MO 63178.

NDA 10-045; Vio-Serpine tablets, 2 and 4 mg; Rowell Laboratories, Inc., Baudette, MN 56623.

Those parts of the above new drug applications providing for reserpine in potencies of 1 milligram or less are not affected by this notice.

NDA 9-629; Ketchum Laboratories, Inc., 26 Edison St., Amityville, NY 11701; formerly Success Chemical Co., was listed in error in the August 17, 1976 notice as approval of the products had already been withdrawn on July 24, 1970 (35 FR 11929).

All identical, related, and similar drug products, as defined in 21 CFR 310.6, not the subject of an approved new drug application, are covered by the applications reviewed and are subject to this notice. Any person who wishes to determine whether a specific product is covered by this notice should write the Food and Drug Administration, Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs. Neither the holders of the applications nor any other person filed a written appearance of election as provided by said notice. The failure to file such an appearance constitutes election by such persons not to avail themselves of the opportunity for a hearing.

The Director of the Bureau of Drugs, under the Federal Food Drug, and Cosmetic Act (sec. 505, 52 Stat. 1053, as amended (21 U.S.C. 355)), and under authority delegated to him (21 CFR 5.82) (recodification published in the FEDERAL REGISTER of March 22, 1977 (42 FR 15553)), finds that new evidence, not contained in the applications or not available until after the applications were approved, evaluated together with the evidence available when the applications were approved, reveals that the drug products are not show to be safe for use under the conditions of use upon the basis of which the applications were approved.

Therefore, pursuant to the foregoing finding, approval of those parts of the new drug applications providing for the drug products listed above and all amendments and supplements applying thereto is withdrawn effective May 19, 1977.

Shipment in interstate commerce of the above listed products or of any identical, related, or similar product, not the subject of an approved new drug application, will then be unlawful.

Dated: April 19, 1977.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc.77-12301 Filed 4-28-77;8:45 am]

[Docket No. 77N-0147]

PHENFORMIN

Public Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice of public hearing.

SUMMARY: The Commissioner of Food and Drugs announces that a public hearing will be held on May 13, 1977 to receive information and views from interested persons on the issue of whether phenformin, as currently labeled, constitutes such a serious hazard that in light of the delay anticipated in the administrative proceedings to withdraw approval of the new drug applications for the compound, the Secretary of Health, Education, and Welfare should be advised by the Food and Drug Administration (FDA) to invoke the "imminent hazard" clause of section 505(e) of the Federal Food, Drug, and Cosmetic Act (the act) to remove the drug from the market immediately.

DATES: The public hearing will be held on May 13, 1977 at 9 a.m. A written notice of participation must be filed by May 10, 1977.

ADDRESSES: Written notice of participation should be sent to the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Julian A. Santangelo, Bureau of Drugs (HFD-130), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3490.

SUPPLEMENTARY INFORMATION: On April 22, 1977, the Secretary of Health, Education, and Welfare received a petition from the Health Research Group, Washington, D.C., that he immediately suspend approval of the new drug applications for phenformin under section 505(e) of the act on the grounds that the continued marketing of this drug represents an imminent hazard to the public health. The petitioner cited as the reasons for this request the fact that phenformin can produce a fatal reaction known as lactic acidosis in some patients, that the number of cases of lactic acidosis reported to FDA has continued to increase in the past 6 months, and that continued use of the drug will result in additional deaths and therefore constitutes an imminent hazard.

The Secretary has asked FDA to advise him promptly on the action it feels should be taken in response to the petition. The Commissioner has, in turn, decided to solicit public comment on whether the imminent hazard provision of the law can and properly should be invoked in this case before preparing his advice to the Secretary. A decision to invoke this provision of the law would result in immediate withdrawal of the drug from the market, with resultant impact on the diabetic patients now taking the drug, their physicians, and the involved manufacturers. The Commissioner believes that these and other interested parties should have an opportunity to comment to the agency on the petition, before a final recommendation to the Secretary is framed. Accordingly, a public hearing will be held on an expedited basis before the Director of the Bureau of Drugs to provide an opportunity for such comment. The Commissioner emphasizes that the sole issue for the hearing is whether to recommend to the Secretary that he invoke in this case the imminent hazard provision of section 505(e) of the act.

I. Phenformin is an oral hypoglycemic drug used in the treatment of patients

with non-insulin dependent adult-onset diabetes. It was first approved for marketing in the United States in March 1959. Reports suggesting that phenformin might be associated with lactic acidosis, a potentially fatal complication, began to appear in the early 1960's. A precautionary statement was added to the labeling of the drug in 1964 and physicians were advised not to use the drug in patients with significant kidney impairment and in certain cardiovascular diseases that could result in severe or sustained hypotension. In 1971 this precaution was revised to give additional emphasis to the association between phenformin and the occurrence of lactic acidosis.

In January 1973 the Bureau of Drugs reviewed the subject for the first time with its Endocrinology and Metabolism Advisory Committee. At this time about 4 million retail prescriptions per year were being dispensed, representing about 20 percent of oral hypoglycemic use. The total number of cases of lactic acidosis in FDA files was 74. Although several members of the Advisory Committee stated that their personal impression was that phenformin probably was responsible for inducing lactic acidosis in some instances, all agreed that available data did not establish drug etiology in the absence of other predisposing factors such as myocardial infarction or renal disease. Additional predisposing factors appeared to be alcohol consumption and cardiovascular collapse. The Committee concluded that for the remaining patients there was an adequate benefit/risk ratio to justify continued marketing of phenformin.

The labeling for the drug was further revised in 1974 to include an expanded discussion of lactic acidosis in the new warning section of the package insert. This warning was placed in a box at the beginning of the labeling in May 1976.

Because of a further accumulation of case reports of lactic acidosis in association with phenformin therapy, the subject was re-presented to the Endocrinology and Metabolism Advisory Committee in October 1976. At this time FDA had a total of 190 cases in its files. In 1976 about 3.5 million retail prescriptions were being dispensed, a decline from a peak of 4.7 million in 1974.

The Advisory Committee concluded there was by then a clear and unequivocal association between the use of phenformin and lactic acidosis, and noted that although the mechanism by which phenformin induces lactic acidosis was unclear, there was sufficient evidence of a causal relationship between phenformin and lactic acidosis.

The Committee unanimously recommended removal of the drug from the market. The reason for this recommendation was that phenformin carries a risk of lactic acidosis, a potentially lethal adverse reaction, and in most patients offers no compensating benefit sufficient to justify that risk. The Committee also stated, however, that in a small population, the benefits from the use of phenformin outweighed the risks, but concluded that the use of the drug could not practicably be confined to this population. They therefore recommended that, for the good of the public, the drug should be removed from the market.

The Bureau of Drugs reviewed this recommendation and the approaches to its implementation. To clarify the question of phenformin use by a limited patient population, the bureau staff asked the Advisory Committee to define a population in which the benefits outweigh the risks. Responses received from Committee members in January and February 1977 revealed that they could not specifically define such a population.

In January 1977 the labeling for phenformin was further revised to state that the drug is indicated only for symptomatic diabetics unresponsive to diet (previously the indications for use had included symptomatic and asymptomatic diabetics) and in whom sulfonylureas were ineffective or in whom insulin could not be used. The maximum daily dose recommended in the labeling was reduced by one-half because of evidence of a dose-response effect on blood lactate levels. A "Dear Doctor" letter was sent by the manufacturers to practicing physicians, and medical journal advertisements described the new restricted indications for use. Thus, phenformin, as currently labeled, is clearly regarded, even by its manufacturers, as a "last resort" drug in symptomatic diabetics who do not have various underlying risk factors that appear to be associated most commonly with lactic acidosis.

The Food and Drug Administration regarded this revised labeling merely as an interim measure until procedures could be instituted to remove phenformin from the market altogether. This position of the agency was affirmed in two recent speeches by the FDA Associate Director for New Drug Evaluation.

After reviewing the most recent statements of the members of the Advisory Committee, the Bureau of Drugs began drafting a notice of opportunity for hearing (NOH) on a proposal to withdraw approval of the new drug applications for phenformin. The planned date for publication of this was, and remains, early May 1977.

II. Under the procedures prescribed by law for determining whether the approval of the NDA's for a drug should be withdrawn, continued marketing of the drug is ordinarily permitted pending completion of the administrative process. See section 505 of the act and 21 CFR 314.200. That process provides for notification to the holders of the NDA's and to other interested parties of the grounds upon which FDA relies in proposing to withdraw approval of the NDA's and offers an opportunity for a formal evidentiary hearing. The NDA holders may then request a hearing on the proposed withdrawal of approval of their NDA's and submit the data, information, and analysis upon which they rely to justify a hearing. The agency must then review the submissions and either grant or deny the request for hearing. If a hearing request is granted, more time is needed for preparing and conducting the hearing before the agency's administrative law judge. The Commissioner must then review the entire administrative record before making a final determination whether approval of the NDA should be withdrawn. In addition, after FDA has rendered a final decision on the matter, judicial review may be sought. Accordingly, the withdrawal of approval of an NDA may require considerable time, if contested, and the current law contemplates that marketing of a drug that is the subject of such an action may, under ordinary circumstances, be continued pending a final determination.

Section 505(e) of the act governs the criteria and procedures for withdrawal of a new drug application. In lieu of the normal process outlined above, that section provides the following alternative: "[I]f the Secretary (or in his absence the officer acting as Secretary) finds that there is an imminent hazard to the public health, he may suspend the approval of such [new drug] application immediately, and give the applicant prompt notice of his action and afford the applicant the opportunity for an expedited hearing under this subsection * * *". This special authority is vested solely in the Secretary and is not delegable to any official of FDA. The agency and the Department of Health, Education, and Welfare (HEW) have historically followed a literal reading of this provision, construing the words "imminent hazard to the public health" to connote an impending severe harm to the general public—one that is very likely to occur, to occur without delay and to affect significant numbers of persons (21 CFR 2.5, formerly § 3.73, prior to recodification published in the FEDERAL REGISTER of March 22, 1977 (42 FR 15553)). Under this interpretation, it is questionable whether phenformin constitutes an "imminent hazard" inasmuch as lactic acidosis is an uncommon event that has been associated with use of the drug since its introduction into the marketplace 18 years ago.

In recent years, however, this interpretation of the "imminent hazard" standard has been questioned within and without HEW. The United States Court of Appeals for the District of Columbia has given a broader construction to the same phrase as it appears in the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136d(c)). See *Environmental Defense Fund, Inc.* v. *Environmental Protection Agency*, 465 F.2d 528 (D.C. Cir. 1972); *Environmental Defense Fund, Inc.* v. *Environmental Protection Agency*, 510 F.2d 1292 (D.C. Cir. 1975); and *Environmental Defense Fund, Inc.* v. *Environmental Protection Agency*, Nos. 75-2259, 76-1181, 76-1245 and 76-1247 (D.C. Cir. Nov. 10, 1976) (Slip Opinion). Under these decisions, "imminent hazard to the public health" is not restricted to "a concept of crisis", but also includes a "substantial likelihood that serious harm will be experienced during the year or two re-

quired in any realistic projection of the administrative process" (465 F.2d at 540; 510 F.2d 1297; and Slip Opinion at 10). Furthermore, the existence and the degree of harm need not be incontrovertible; it is sufficient that the agency's findings regarding the nature of the risks be supported by respectable scientific authority (465 F.2d at 537; 510 F.2d at 1298; and Slip Opinion at 10). The cases also suggest that the public health benefits (or the lack of any) from continued availability of the product, and the availability of feasible alternative mechanisms that might permit continued use with minimal risks, may be considered in determining the imminency of the hazard (465 F.2d at 538 and 540; and Slip Opinion at 22–25). Although these precepts were set forth in the context of a different statute, the "imminent hazard" standard of the pesticide law was taken from the similar language of the act, and FDA has been considering their applicability to section 505(e) of the act.

III. The Commissioner has not reached any conclusions regarding the advice that FDA should provide the Secretary on whether phenformin should be deemed to be an "imminent hazard". Factors suggested by the court decisions above that may justify invocation of the imminent hazard authority and some of the relevant considerations to these include:

1. The substantial likelihood that lactic acidosis resulting from use of phenformin will continue to occur, notwithstanding the interim revisions in the labeling implemented in January 1977. The current labeling for phenformin restricts use of the drug to a very small patient population with none of the underlying risk factors that have been linked with phenformin-associated lactic acidosis. Nevertheless, lactic acidosis can still occur in patients without these risk factors, although the incidence would be expected to be much lower. Although use of phenformin has been declining since 1974, it continues at a substantial level and the impact of the 1977 labeling changes, including a probable decrease in the number of patients exposed to the drug, cannot be assessed for several more months. It is possible that the risk from lactic acidosis may be minimized to such an extent by the new labeling that it would not constitute a hazard requiring immediate withdrawal of the drug from the market. One of the members of the Endocrinology and Metabolism Advisory Committee, who had previously advised FDA to remove phenformin from the market, wrote to FDA in February 1977 to suggest that perhaps FDA should not proceed to withdraw phenformin from the market until it had an opportunity to observe, over a period of a few months, the consequences of the new restrictive labeling. It should be noted, however, that a monitoring system sufficient to identify each case of lactic acidosis is not in place, could not be developed in a reasonable time, and probably would not identify all instances of lactic acidosis.

2. The absence of any significant health need for phenformin. Neither the Endocrinology and Metabolism Advisory Committee of FDA nor the medical staff within the agency has been able to identify specifically a patient population in which the risks of lactic acidosis are outweighed by the benefits.

3. The realistic possibility that withdrawal of the NDA's for phenformin pursuant to the usual administrative procedures, a process already begun with FDA some months ago, will take many months and perhaps years. It is quite likely that one or more of the manufacturers of phenformin will contest any proceedings to withdraw approval of the drug. Furthermore, there may be a difference of opinion among experts on the scientific issues relating to phenformin and whether there is a patient population in which the benefits outweigh the risks when certain safeguards are instituted. On a disputed question of safety, FDA's use of the summary judgment procedure to deny any request for a hearing (21 CFR 314.200(g)) might not be available, so that a full evidentiary hearing would probably be required.

This list of factors obviously is not exhaustive. The purpose of the hearing announced in this notice is to invite public comment on these and other factors and to gather advice from all interested persons as to which factors and what information should be considered by FDA in advising the Secretary on a response to the April 22 petition. The public hearing will not include a discussion of lactic acidosis per se. Questions over the causal relationship between phenformin and lactic acidosis, the influence of predisposing factors, and other scientific issues will be considered in the context of the responses to the NOH. The issue for this public hearing is whether phenformin, as currently labeled, constitutes such a hazard that, in light of the delay that may be anticipated in the administrative proceedings to withdraw approval of the new drug applications for phenformin, the Secretary should invoke the "imminent hazard" clause of the act to remove the drug from the market immediately. Materials relating to this issue, including those referred to in this notice, will be put on public display in the office of the Hearing Clerk, FDA.

The hearing will be held on May 13, 1977 in Conference Rm. 3A, Third Floor, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. The hearing will begin at 9 a.m. The presiding officer will be J. Richard Crout, M.D., Director of the Bureau of Drugs.

A written notice of participation must be filed pursuant to 21 CFR 12.45 (formerly 21 CFR 2.131 prior to recodification published in the FEDERAL REGISTER of March 22, 1977 (42 FR 15553)) with the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857 not later than May 10, 1977. The envelope containing the notice of participation should be prominently marked "Phenformin Hearing." The notice of participation itself must contain the Hearing Clerk Docket No. 77N-0147, the name, address, and telephone number of the person desiring to make a statement, along with any business affiliation, a summary of the scope of the presentation, and the approximate amount of time being requested for the presentation. A schedule for the hearing will be mailed to each person who files a notice of participation; the schedule will also be available from the FDA Hearing Clerk. Individuals and organizations with common interests are urged to consolidate or coordinate their presentations.

In the event that the responses to this notice of hearing are so numerous that insufficient time is available to accommodate the full amount of time requested in the notices of participation received, FDA will allocate the available time among the persons making the oral presentations to be used as they wish. Formal written statements (preferably in quadruplicate) may be presented to the presiding officer on May 13 for inclusion in the administrative record.

The hearing will be open to the public. Any interested person who files a written notice of participation may be heard with respect to matters relevant to the issue under consideration.

Dated: April 27, 1977.

DONALD KENNEDY,
Commissioner of Food and Drugs.

[FR Doc 77-12426 Filed 4-28-77;12:00 pm]

[Docket No. 77N-0145]

X-OTAG PLUS TABLETS (ORPHENADRINE CITRATE WITH ACETAMINOPHEN) AND ORPHENGESIC TABLETS (ORPHENADRINE CITRATE WITH ASPIRIN, PHENACETIN, AND CAFFEINE)

Opportunity for a Hearing on Proposal to Refuse Approval of New Drug Applications

AGENCY: Food and Drug Administration (FDA).

ACTION: Notice.

SUMMARY: The Director of the Bureau of Drugs proposes to refuse approval of abbreviated new drug applications for X-Otag Plus (orphenadrine citrate 50 milligrams in combination with acetaminophen 325 milligrams) Tablets (ANDA 85-445) by Cord Laboratories, Inc./Tutag Pharmaceuticals, Inc. ("Tutag") 2599 W. Midway Blvd., Broomfield, CO 80020, and for Orphengesic (orphenadrine citrate 25 milligrams in combination with aspirin 225 milligrams, phenacetin 160 milligrams, and caffeine 30 milligrams) Tablets (ANDA 85-682) by Inwood Laboratories ("Inwood") 300 Prospect St., Inwood, NY 11696, on the following grounds: (1) That (a) neither application contains any reports of investigations or adequate tests, by all methods reasonably applicable, to show whether or not X-Otag Plus or Orphengesic is safe for use under the conditions prescribed, recommended,

or suggested in the proposed labeling thereof, (b) upon the basis of the information submitted as part of each application, FDA has insufficient information to determine whether either drug is safe for use under such conditions, and (c) evaluated on the basis of the information submitted as part of the application and other public information before FDA with respect to each drug, there is a lack of substantial evidence that the drug will have the effect it purports or is represented to have under such conditions; and (2) that X-Otag Plus and Orphengesic are new drugs as defined in section 201(p) of the Federal Food, Drug, and Cosmetic Act (the "act") and information relating to their safety and effectiveness must be contained in a new drug application in order to be approved under section 505 of the act (21 U.S.C. 355). This notice does not apply to another pending new drug application (NDA 18-015) for X-Otag Plus submitted by Tutag.

DATES: Any request for a hearing must be submitted on or before May 31, 1977. In support of any such request, all data and information relied upon to justify a hearing and any other comments from interested persons must be submitted on or before June 28, 1977.

ADDRESSES: Requests, supporting data and information, and other comments shall be summitted, with FDA Docket No. 77N-0145 clearly indicated in the filings, to the FDA Hearing Clerk, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Ronald L. Wilson, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION:

BACKGROUND

As required by the Drug Amendments of 1962, FDA is engaged in a Drug Efficacy Study Implementation (DESI) program under which each drug covered by a new drug application (NDA) that was approved by FDA on the basis of safety between 1938 and 1962 is reviewed to determine whether substantial evidence exists to demonstrate that the drug is effective for its labeled indications. As reviews are completed, notices are published in the FEDERAL REGISTER announcing the agency's conclusions on the effectiveness of the drugs reviewed.

In the FEDERAL REGISTER of March 11, 1974 (39 FR 9487) FDA published DESI Notice 6566 stating that Norflex Tablets containing 100 milligrams of orphenadrine citrate as a single active ingredient and marketed by Riker Laboratories, Inc., is effective "as an adjunct to rest, physical therapy, and other measures for the relief of discomfort associated with acute, painful musculo-skeletal conditions." The DESI notice also stated that Norflex Tablets is regarded as a "new drug" as defined in section 201(p) of the act, and that "a new drug application is required from any person marketing such drug without approval." Finally, referring to a prior general announcement by FDA published in the FEDERAL REGISTER of July 14, 1970 (35 FR 11273), DESI Notice 6566 advised that "marketing of such drugs may be continued * * * [by] any person who does not hold an approved or effective new drug application, [upon] the submission of an abbreviated new drug application" (ANDA) within 60 days of the notice (i.e., by May 10, 1974). The July 14, 1970 announcement also permitted manufacturers to commence marketing upon the filing of an NDA or ANDA.

On September 22, 1975, FDA published in the FEDERAL REGISTER a general notice (40 FR 43531) that in effect revoked those portions of the July 14, 1970 announcement that were inconsistent with the District Court's order in *Hoffmann-LaRoche, Inc.* v. *Weinberger*, 425 F. Supp. 890 (D.D.C., 1975), reprinted in the September 22, 1975 notice. That order expressly forbade FDA "from implementation of its policy permitting the introduction into interstate commerce without an approved new drug application of prescription drugs which the FDA has previously declared to be new drugs * * *." This order, and the September 22, 1975 notice, thus revoked any "permission" from FDA for a new supplier of a drug listed in DESI Notice 6566 to commence marketing upon submission of an NDA or ANDA but prior to the approval of an NDA or ANDA.

ACTIONS RELATING TO X-OTAG PLUS

Sometime in September 1975, Tutag commenced marketing of X-Otag Plus. After becoming aware of Tutag's activities, and consistent with the enforcement program described in the agency's Compliance Policy Guide No. 76-127 regarding "Marketed New Drugs without Approved NDA's or ANDA's" (41 FR 41770, September 23, 1976), FDA issued a regulatory letter to Tutag stating the agency's conclusion that X-Otag Plus is a "new drug" under section 201(p) of the act and that it was being marketed in violation of section 505(a) of the act. The letter, dated October 7, 1976, requested that Tutag take prompt action to discontinue marketing of X-Otag Plus in order to avoid enforcement action being initiated by FDA.

On October 26, 1976, Tutag submitted an ANDA (assigned number ANDA 85-445 by FDA) for X-Otag Plus, but did not discontinue marketing the product. This form of a new drug application does not contain preclinical or clinical studies demonstrating the safety or effectiveness of the drug product. 21 CFR 314.1(f). The proposed labeling for X-Otag Plus contained the following statement of indications: "[A]s an adjunct to rest, physical therapy, and other measures for the relief of discomfort associated with acute, painful musculo-skeletal conditions." Tutag indicated that it believed that DESI Notice 6566 authorized use of an ANDA rather than an NDA for a product containing orphenadrine citrate. On November 19, 1976, Tutag was advised by FDA that an ANDA was not an acceptable form of application for a combination product containing orphenadrine citrate and acetaminophen. By a letter dated December 16, 1976, counsel for Tutag requested the opinion of the Office of Chief Counsel of FDA on the legal correctness of this interpretation of DESI Notice 6566. On February 16, 1977, after reviewing the matter, the Associate Chief Counsel for Drugs, FDA, affirmed the legality of the refusal to accept an ANDA for X-Otag Plus. In a letter dated February 25, 1977, Tutag requested that ANDA 85-445 be filed over protest in accordance with 21 CFR 314.110(d). Under that regulation, FDA is required to reevaluate the application and within 60 days the agency must either approve the application or give written notice of an opportunity for a hearing on the question whether the application is approvable. This notice is provided pursuant to that requirement.

Three other proceedings are related to the X-Otag Plus matter, although none directly affects the conclusions reached below. First, on February 24, 1977, Tutag filed a complaint for declaratory and injunctive relief in the United States District Court for the District of Colorado. *Tutag Pharmaceuticals, Inc.* v. *United States of America*, et al., Civil Action No. 77-F-220 (1977). Tutag requested that the court find either that X-Otag Plus had not properly been classified as a "new drug" by FDA or that the refusal by FDA to process an ANDA for X-Otag Plus was unlawful; Tutag further requested that the court enjoin all regultory actions against X-Otag Plus both immediately and permanently. By an order dated March 31, 1977, the District Court found that it lacked jurisdiction to issue either the injunctive relief requested or the declaratory judgment sought. Referring to the Supreme Court decisions in *Weinberger* v. *Bentex Pharmaceuticals, Inc.*, 412 U.S. 645 (1973), and *CIBA Corp.* v. *Weinberger*, 412 U.S. 640 (1973), the order stated that "A court lacks the jurisdiction, as well as the expertise, to decide issues involving determinations of scientific facts, in the absence of a final decision by the FDA. The final, reviewable decision of the FDA on these issues should contain full findings of fact. We cannot usurp the intended function of this administrative agency * * *." The court dismissed Tutag's complaint. Although Tutag did not raise the issue whether X-Otag Plus is a "new drug" in its request to file ANDA 85-445 over protest, the Director of the Bureau of Drugs takes note that the issue is one which should be addressed in the "final, reviewable decision of the FDA" on this application.

In a second proceeding, begun March 7, 1977, FDA initiated an action for forfeiture of X-Otag Plus in the United States District Court for the District of Colorado. *United States* v. *An Article of Drug* * * * *"X-Otag Plus"*, Civil Action No. 77-F-248 (1977). The purpose of this action was to terminate marketing of the product until a new drug application

for it had been approved by FDA. A seizure was executed on March 8. No judicial determination has yet been made in this matter.

The third proceeding related to this product commenced on March 31, 1977, when Tutag submitted a "full" NDA for X-Otag Plus. In making this submission, Tutag expressly indicated that it did not concede that X-Otag is a "new drug." The agency is separately processing this NDA and it is not covered by this notice.

ACTIONS RELATING TO ORPHENGESIC

Inwood submitted an ANDA (assigned number ANDA 85-682 by FDA) for Orphengesic on February 25, 1977. The proposed labeling contained the following statement of indications: "Orphenadrine citrate is indicated as an adjunct to rest, physical therapy, and other measures for the relief of discomfort associated with acute painful musculoskeletal conditions." On March 10, 1977, FDA advised Inwood that an ANDA was not an acceptable form of application for a combination product containing orphenadrine citrate and aspirin, phenacetin, and caffeine (APC). On March 24, 1977, Inwood requested that ANDA 85-682 be filed over protest in accordance with 21 CFR 314.110(d). This notice of opportunity for a hearing is provided pursuant to that regulation. Inwood, in its request, asserted that none of the active ingredients is a "new drug," that orphenadrine citrate was declared to be safe and effective in DESI 6566, that the combination of APC is widely used, that the addition of APC to orphenadrine citrate raises no significant question of safety or effectiveness, that FDA approved an identical combination product in 1964, that the combination is generally recognized by experts as safe and effective, and that Orphengesic is identical, similar, or related to, and cannot be reasonably distinguished from, orphenadrine citrate identified in DESI Notice 6566. Neither the ANDA nor the Inwood request contains any documentation to support these contentions. Although Inwood does not directly argue it, the Director of the Bureau of Drugs construes several of these claims to be an assertion that Orphengesic is not a "new drug."

Inwood had begun marketing Orphengisic prior to March 1977. On March 4, 1977, FDA sent a regulatory letter requesting that marketing be discontinued, and on March 18, Inwood notified FDA that it would do so.

FACTS RELATING TO STATUS OF X-OTAG PLUS AND ORPHENGESIC AS NEW DRUGS

X-Otag Plus is a combination of two active drug ingredients: orphenadrine citrate 50 milligrams and acetaminophen 325 milligrams.

Orphengesic is a combination of four active drug ingredients: orphenadrine citrate 25 milligrams, aspirin 225 milligrams, phenacetin 160 milligrams, and caffein 30 milligrams (APC).

Orphenadrine citrate was first marketed in the United States as a drug for human use in 1959. It has always been sold on prescription only. Prior to marketing, a new drug application was submitted to FDA and allowed to become effective under the then applicable statutory standards. Subsequently, as discussed earlier, orphenadrine citrate was reviewed in the DESI program and, in DESI Notice 6566 published in the FEDERAL REGISTER on March 11, 1974 (39 FR 9487), it was found to be an effective "new drug" for the indications now used by Norflex Tablets (quoted above). Since that time, no interested person has petitioned FDA or otherwise sought to initiate an administrative review of the new drug status of orphenadrine citrate. No significant volume of published literature or other indicators of scientific opinion have come to the attention of FDA to suggest that, among qualified experts, orphenadrine citrate is now generally recognized as safe and effective for the indications set forth in DESI Notice 6566 or for any other indications. Orphenadrine citrate has been treated as a "new drug" by FDA from 1959 through the date of this notice. The Director finds, however, that a final determination whether orphnadrine citrate is still a "new drug" is not necessary for a determination of the new drug status of X-Otag Plus and Orphengesic because the new drug status of a combination drug product is not necessarily dependent upon the new drug status of any of its active ingredients.

Similarly, it is not necessary to determine at this time the new drug status of acetaminophen or APC. The Director notes, however, that acetaminophen was first marketed in the United States in the early 1950's after an NDA was submitted to FDA and allowed to become effective under the then applicable statutory standards. It was also subject to the DESI review. (See DESI Notice 6499 published in the FEDERAL REGISTER on April 20, 1972 (37 FR 7820)). The Director also notes that both acetaminophen and APC are now being evaluated as part of the comprehensive review of over-the-counter (OTC) drug products for human use for the purpose of classifying them either as being generally recognized as safe and effective and not misbranded (and also not "new drugs") or as being "new drugs." See 21 CFR Part 330. No tentative or final decisions have been reached by the Commissioner as a result of this review regarding the current new drug status of either acetaminophen or APC for their labeled indications. This review generally does not, however, include those drug products that contain acetaminophen or APC with other ingredients that are restricted to dispensing on prescription only. Thus, combinations of acetaminophen or APC with orphenadrine citrate are not being reviewed in the OTC review with regard to their new drug status for their labeled indications.

The combination of orphenadrine citrate and APC was first marketed in the United States in 1964, when one product, under the trade name Norgesic, was introduced. It contains orphenadrine citrate 25 milligrams, aspirin 225 milligrams, phenacetin 160 milligrams, and caffeine 30 milligrams and is indicated for symptomatic relief of mild to moderate pain of acute musculo-skeletal disorders. Its manufacturer, Riker Laboratories, Inc., first submitted and had approved, under the statutory standards in effect after the Drug Amendments of 1962, an NDA containing preclinical and clinical data relating to safety and effectiveness. Since 1964, until the Inwood ANDA for Orhphengesic, no other manufacturer has sought FDA permission to market that combination product. The Inwood ANDA neither contains nor cites any publications or other statement of expert opinion that the combination is generally recognized as safe and effective, and refers to no scientific data to support the claim that combining APC with orphenadrine citrate does not raise any significant question of safety and effectiveness. No other information has come to the attention of FDA to indicate, nor is the Director otherwise aware, that a combination of orphenadrine citrate and APC is generally recognized as safe and effective for the conditions set forth in the proposed labeling for Orphengesic.

The combination of orphenadrine citrate and acetaminophen was apparently marketed in the United States for the first time in 1975 (by Tutag). No information is available on the volume of sales since commercial distribution began. No new drug application was ever filed with or approved by FDA for such a combination. The Tutag ANDA represents one of the first submissions to FDA regarding this combination; it contains no information regarding either the safety or effectiveness of the combination or the general recognition by experts of the safety or effectiveness of the combination. The ANDA did contain a bibliography regarding the active ingredients and a combination of orphenadrine citrate and acetaminophen in different proportions than X-Otag Plus. Pursuant to 21 CFR 314.1(c)(2), item 12.e, a bibliography is not acceptable. Full reprints are required. (The Tutag NDA 18-015 submitted on March 31, 1977 (not the subject of this notice) does, however, contain articles in the published literature that Tutag asserts establish the safety and effectiveness of the product. Unfortunately, FDA cannot undertake an evaluation of these articles concurrently with the required reevaluation of the ANDA within the deadline mandated by 21 CFR 314.110(d). The Director notes, however, that in the NDA submitted on March 31, 1977, Tutag did not claim that these articles either constituted evidence of the general recognition of safety and effectiveness of X-Otag Plus or established that X-Otag Plus was not a new drug.) No other information has come to the attention of FDA to indicate, nor is the Director otherwise aware, that a combination of orphenadrine citrate 50 milligrams and acetaminophen 325 milligrams is generally recognized as safe and effective for the conditions of use set

forth in the proposed labeling for X-Otag Plus.

ANALYSIS AND CONCLUSIONS ON THE STATUS OF X-OTAG PLUS AND ORPHENGESIC AS NEW DRUGS

Section 201(p) of the act defines a "new drug" as any drug for human use "the composition of which is such that such drug is not generally recognized, among experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs, as safe and effective for use under the conditions prescribed, recommended, or suggested in the labeling thereof," or any drug for human use "the composition of which is such that such drug, as a result of investigations to determine its safety and effectiveness for use under such conditions, has become so recognized, but which has not, otherwise than in such investigations, been used to a material extent or for a material time under such conditions." Section 201(p)(1) of the act exempts from the defintion of "new drug," through a "grandfather clause," a drug marketed in 1938 and subject to the Food and Drugs Act of 1906. Section 107(c) of the Drug Amendments of 1962 further exempts certain new drugs from the effectiveness standards of section 201(p).

The Food and Drug Administration has consistently asserted that the "newness" of a drug product arises from many factors. First, and most obvious, is whether the individual chemical entities contained in the product are "new drugs." 21 CFR 310.3(h)(1). As noted above, orphenadrine citrate and acetaminophen have both been treated by FDA as "new drugs" for many years, and neither has yet been formally determined by FDA to be generally recognized as safe and effective and no longer to be a "new drug."

Second, even if the individual drug substances were not new, the new combination of them could create a "new drug." 21 CFR 310.3(h)(2). Past experience of FDA has established that combining two or more active ingredients, each of which by itself is safe and effective for a particular indication, may result in a product which is less safe, less effective, or both. For this reason, FDA has determined that the combination of two or more drugs, even ones that individually are generally recognized as safe and effective, cannot create a combination drug that is always and immediately recognizable as safe and effective. The agency, therefore, has required separate NDA's for new combinations containing evidence demonstrating the safety and effectiveness of the combination product. In addition, FDA has established a policy regarding fixed combination drugs that requires each component to make a contribution to the claimed effects and the dosage of each to be such that the combination is safe and effective for a significant patient population requiring the concurrent therapy. See 21 CFR 300.50 and 314.1(c)(2), item 12.c.

Section 201(p)(2) of the act provides a further condition to "not new drug" status for a drug that becomes generally recognized by experts as safe and effective; it also requires that the drug be used to a material extent or for a material time. This has generally been measured by the duration and volume of commercial marketing in the United States.

Based on the facts set forth above, the Director of the Bureau of Drugs finds that X-Otag Plus is a "new drug" as defined in section 201(p) of the act, on the grounds that the combination of orphenadrine citrate and acetaminophen is not generally recognized as safe and effective and has not been used to a material extent or for a material time. On the same basis, the Director also finds that Orphengesic is a "new drug" as defined in section 201(p) of the act, on the grounds that the combination of orphenadrine citrate and APC is not generally recognized as safe and effective.

It is the longstanding position of FDA that any person claiming an exemption from the new drug provisions of the act has the burden of establishing that exemption. See, e.g., *United States* v. *Allan Drug Corp.*, 357 F. 2d 713 (10th Cir. 1966), cert. den. 385 U.S. 899 (1966). Assertions that X-Otag Plus or Orphengesic are not "new drugs," without any supporting evidence, do not create a presumption against new drug status. Tutag and Inwood, as noted earlier, did not submit or refer to any materials that demonstrate that either product is generally recognized, by experts qualified by training and experience, as safe and effective for the conditions set forth in its labeling. Neither manufacturer claimed that its product had been used to a material extent or for a material time. Neither asserted that its product was exempted by the grandfather clause in section 201(p)(1) of the act; Inwood, however, asserted that each active ingredient in Orphengesic is an old drug, having been introduced in the 19th century; Inwood offered no evidence to support this assertion and did not suggest that the combination of all four ingredients was also exempt (i.e., that 21 CFR 310.3(h)(2) is invalid). The Director therefore finds that neither Tutag nor Inwood has established that its product is not a "new drug."

Although not explicit, Inwood's request to file over protest suggests that the action of FDA in 1964 in approving the NDA for Norgesic may constitute general recognition of the safety and effectiveness of a combination of orphenadrine citrate and APC. If such an argument is being made, the Director rejects it. It is settled in the case law interpreting sections 505 and 201(p) of the act that the agency's finding that a drug is safe and effective under section 505 is not the same as, and is quite distinct from, general recognition of safety and effectiveness. See, e.g., *Durovic* v. *Richardson*, 479 F. 2d 242 (7th Cir. 1973), cert. den. 414 U.S. 944 (1973); *Bentex Pharmaceuticals, Inc* v. *Richardson*, 463 F. 2d 363 (4th Cir. 1972), rev'd on other grounds sub nom. *Weinberger* v. *Bentex Pharmaceuticals, Inc.*, 412 U.S. 645 (1973); *United States* v. *An Article of Drug . . . Fuerestrol*, 415 F. 2d 390 (5th Cir. 1969); *AMP, Inc.* v. *Gardner*, 389 F. 2d 825 (2d Cir. 1968), cert. den. sub. nom. *AMP, Inc.* v. *Cohen*, 393 U.S. 825 (1968); *Weinberger* v. *Hynson, Westcott & Dunning*, 412 U.S. 609 (1973). The Food and Drug Administration has previously determined that general recognition of safety and effectiveness will ordinarily be based upon published studies which have been available for peer scientific review and criticism; this may be corroborated by unpublished studies and other data. See, e.g., 21 CFR 330.10(a)(4)(i) and (ii); and *United States* v. *An Article of Drug * * * "Mykocert"*, 345 F. Supp. 371 (E.D. Ill. 1972) and the cases cited therein.

QUESTION OF APPROPRIATE APPLICATION FOR APPROVAL OF X-OTAG PLUS OR ORPHENGESIC UNDER SECTION 505

Both Tutag and Inwood contend that FDA has announced that preclinical and clinical data establishing the safety and effectiveness of orphenadrine citrate in combination with other active ingredients is not necessary and that an ANDA, rather than an NDA, is an acceptable form of application to meet the requirements of section 505 of the act. Their argument can be stated as follows: DESI Notice 6566 stated that FDA was "prepared to approve abbreviated new drug applications for products fulfilling the conditions of the Notice"; that the only relevant conditions were that orphenadrine citrate products be in tablet form suitable for oral administration and that labeling comply with the terms of the Notice and the requirements of the act; and that the Notice concluded that "All identical, related, or similar drug products, not the subject of an approved new drug application . . . are subject to the Notice," referring to the regulation now codified in 21 CFR 310.6. The regulation elaborates on the applicability of DESI notices and defines an "identical, related, or similar drug" to include "other brands, potencies, dosage forms, salts, and esters of the same drug moiety" and specifically states that a "combination drug product containing an identical, related, or similar drug is also subject to the conclusions contained in the notice." Besides these general statements, Tutag refers to a letter sent by FDA to Riker Laboratories in July 1970, just after FDA called for data to establish the effectiveness of orphenadrine citrate (which had been initially classified as "possibly effective" in the DESI review). This letter stated that Norgesic was considered similar to the orphenadrine citrate products identified in the call for data. Thus, Tutag concludes, FDA has expressly concluded that orphenadrine citrate in combination with an analgesic is an "identical, related, or similar drug" covered by DESI 6566.

X-OTAG PLUS AND ORPHENGESIC AS "IDENTICAL, RELATED, OR SIMILAR DRUGS"

The Director of the Bureau of Drugs believes that this argument is founded on a misinterpretation of 21 CFR 310.6

and a misunderstanding of the nature and purpose of the ANDA.

Section 310.6 was promulgated by FDA in light of experience gathered in the DESI program. As explained in paragraph (a) of the section:

> The specific products listed in these [DESI] notices include only those that were introduced into the market through the new-drug procedures from 1938–62 and were submitted for review by the National Academy of Sciences-National Research Council (NAS-NRC), Drug Efficacy Study Group. Many products which are identical to, related to, or similar to the products listed in these notices have been marketed under different names or by different firms during the same perior or since 1962 without going through the new-drug procedures or the Academy review. Even though these products are not listed in the notices, they are covered by the new drug applications reviewed and thus are subject to these notices. All persons with an interest in a product that is identical, related, or similar to a drug listed in a drug efficacy notice or a notice of opportunity for a hearing will be given the same opportunity as the applicant to submit data and information, to request a hearing, and to participate in any hearing. It is not feasible for the Food and Drug Administration to list all products which are covered by an NDA and thus subject to each notice. However, it is essential that the efficacy conclusions be applied to all identical, related, and similar drug products to which those conclusions are reasonably applicable.

The Director notes that the concept of "identical, related, or similar drug products" was expressed in terms of giving interested persons "the same opportunity as the applicant to submit data and information, to request a hearing, and to participate in any hearing"; that is, to participate in the process of classifying their products as "effective" or "ineffective." The last sentence quoted from 21 CFR 310.6(a) emphasizes that the scope of the phrase "identical, related, or similar" depends on the extent to which conclusions that a reviewed drug is effective or ineffective may be applied to other nonreviewed drugs. Paragraph (b) expands on this to say:

> Where experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs could conclude that the findings in a drug efficacy notice or notice of opportunity for hearing concerning effectiveness are applicable to an identical, related, or similar drug product, such product is affected by the notice.

These statements create the possibility for a nonsymmetrical application of the concept in the area of combination drugs. Specifically, a finding that one ingredient was ineffective as a single entity in treating a particular condition would generally mean that a combination containing that ingredient would also be ineffective for treating the same condition. Under 21 CFR 300.50, in a fixed combination drug, each component must make a contribution to the claimed effect; and an ineffective component obviously could not do this. At the same time, a finding that one ingredient was effective as a single entity in treating a particular condition does not necessarily mean that any combination containing that ingredient would also be effective for that condition. Only if each of the other active ingredients were also effective and, when in combination, every component made the requisite contribution (and, in addition, if the dosage of each component were such that the combination were safe and effective for a significant patient population requiring the concurrent therapy) would the combination also be deemed effective.

This lack of symmetry explains the 1970 letter from FDA to Riker Laboratories, Inc., regarding Norgesic. At the time the letter was sent, the effectiveness of orphenadrine citrate as a single entity was in question. A conclusion of ineffectiveness on the single entity would have caused FDA to withdraw approval of the NDA for the combination product. Therefore, to give Riker Laboratories notice of its opportunity to submit data and information regarding the combination, to request a hearing on the combination, if appropriate, and to participate in any hearing, FDA sent the letter, a copy of which has been placed on display with the Hearing Clerk.

The Director does not believe that this letter constitutes a finding under § 310.6 (b) that experts would conclude that a finding that orphenadrine citrate was effective (as opposed to ineffective) is applicable to a combination of orphenadrine citrate and APC. That conclusion could only be reached after orphenadrine citrate was found effective (a finding only made 4 years after the 1970 letter) and after application of the requirements of § 300.50. The Food and Drug Administration has at no time since DESI Notice 6566 was published in 1974 concluded that it provides that orphenadrine citrate in combination with an analgesic is effective for the same indications as the single entity. The Director is not aware that any other experts have reached a conclusion and neither Tutag nor Inwood has cited any. (Inwood's assertions that a combination creates no significant safety or effectiveness question and that "there is no meaningful scientific, practical, or legal basis" for concluding that the combination is not covered by the effectiveness conclusion on the single entity under DESI Notice 6566 are unsubstantiated by any data or information. Such assertions cannot substitute for the expert opinion referred to in § 310.6(b).)

Finally, the Director notes that § 310.6 (b) expressly invites any person who so desires to request an opinion from FDA on the applicability of a DESI notice to a particular product. The Food and Drug Administration has no record that either Tutag or Inwood requested such an opinion regarding their respective products either before commencing marketing or before submitting the ANDA's subject to this notice. The Director further notes that the firms' reliance on the interpolation of § 310.6(b) into DESI Notice 6566 is not supported by their conduct. If we ignore the effect of FDA actions on September 22, 1975, in response to the court order in the *Hoffmann-LaRoche* case (discussed earlier), DESI Notice 6566 and the July 14, 1970 policy regarding such notices authorized marketing of identical, related, or similar drugs to commence upon submission of and NDA or ANDA; both Tutag and Inwood failed to fulfill this requirement. This suggests, but does not prove, that neither firm believed that its product was subject to the requirements of DESI Notice 6566.

The Director concludes that X-Otag Plus and Orphengesic have not been found to be safe and effective for the indications contained in their proposed labeling, under the standards of 21 CFR 300.50, because of the finding in DESI Notice 6566 that orphenadrine citrate is effective for the same indications. Therefore, he finds that DESI Notice 6566 does not authorize the submission of ANDA's for such combination products.

Use of Abbreviated New Drug Applications by FDA

The history of the new drug provisions of the act and the agency's implementation of them, including introduction of the ANDA, is described in detail in the preamble to a notice of proposed rulemaking published in the Federal Register on June 20, 1975 (40 FR 26142). The Director will not reiterate that history here. He believes, however that several points bear emphasizing. First, an ANDA is a new drug application; it represents a form of application in which certain information normally part of an NDA is not required because it is not essential to the agency's reaching a decision on the approvability of the drug product under section 505 of the act. This information requirement is waived because the agency already has sufficient publicly available data and information in its files to make appropriate conclusions on those elements of the drug approval decision. (Information contained in other approved NDA's may or may not be public. See 21 CFR 314.14. If not public, it may be relied upon by a second applicant only with the express permission of the first applicant. 21 CFR 314.11.) Generally, the information allowed to be omitted relates to preclinical and clinical studies regarding the safety and effectiveness of the active ingredients. As the Commissioner stated in the June 20, 1975 notice:

> [A]n abbreviated NDA is appropriate only for those drugs which from a generic standpoint, are generally recognized as safe and effective when they are properly labeled and manufactured. The submission of an abbreviated NDA has thus been required only to assure the quality of drug products and their proper labeling and manufacture, not to show the basic safety and effectiveness of the generic chemical entity involved. (40 FR 26147).

The purpose of an ANDA is to provide a means to eliminate unnecessary animal and human experimentation, to reduce the burdens on manufacturers in attempting to market duplicates of established drugs, and to ease the workload of FDA in reviewing and processing applications.

Second, in order for FDA to waive such requirements, it must affirmatively conclude that it has sufficient public infor-

mation to make the requisite conclusions. Because the ANDA is an exception to the general rule requiring a complete NDA, the decision to allow use of an ANDA must be consciously and prospectively made by the agency. (See 21 CFR 314.1(a): "if the drug * * * is one for which an abbreviated new drug application has been *found* by the Food and Drug Administration to be sufficient. * * *" (emphasis added).) These decisions are formal and are officially issued, generally by a notice in the FEDERAL REGISTER but on rare occasions by other public notice. These decisions cannot extend to products for which little or no public information is available and which were not considered by FDA in making the ANDA decision. The products covered by this notice illustrate why this is so. One has never been marketed in the United States and the other has had limited use in American medical practice. Neither was identified in DESI Notice 6566 and neither was reviewed to determine whether it met the standards of § 300.50. Other examples of unforeseen variations in drugs reviewed in the DESI program have also recently been uncovered in the process of implementing the court order in the *Hoffman-LaRoche* case (discussed earlier), including sustained release formulations and substantial increases in the strength of the drug. Clearly, it is contrary to the public interest, as well as the language of sections 201(p) and 505 of the act and implementing regulations cited above, for FDA to waive any information essential to determine the approvability of such a drug without even being aware that such a drug may potentially be, or actually is being, marketed.

Third, the choice between NDA (including a supplemental NDA) and ANDA is not an "either-or" option. For many years, the agency has imposed on applicants using either application process a variety of requirements depending on the nature of the drug product, the types of information publicly available regarding the drug, and similar factors. Thus, some NDA's require chronic animal toxicology testing, and others do not; some ANDA's require detailed manufacturing data, and others do not; some NDA's and ANDA's require bioavailability data, and others do not. As noted, the most common distinction between the NDA and the ANDA relates to requirements for preclinical and clinical data. But this distinction should not blur the close similarity on most matters. To repeat, both the traditional "full" NDA and the most "abbreviated" ANDA are merely types of applications described in section 505 of the act.

Fourth, the fact that FDA does not waive any of the requirements of an NDA for a particular product does not necessarily mean that an applicant must conduct its own preclinical and clinical studies regarding safety or effectiveness. The applicant may be able to include in its applications published articles and other publicly available data and information that provide an adequate basis for the agency's making the evaluation and approvability decision required under section 505. An NDA can be approved on such a submission. (The Director again notes that Tutag has submitted this type of material as part of NDA 18-015, but that the agency has not been able to review it in conjunction with preparation of this notice. This notice does not apply to NDA 18-015.)

The Director finds that use of an ANDA for either X-Otag Plus or Orphengesic would be inconsistent with the purposes of the ANDA form of application, has not been authorized by FDA, and would not fulfill the requirements of section 505 of the act regarding the requisite basis of approval for these products. Because of this, the Director further finds that Tutag and Inwood each must submit an application in the form described in 21 CFR 314.1(c) containing reports of investigations and adequate tests, by all means reasonably applicable, to show whether or not the respective products are safe for use under the conditions in the proposed labeling and containing substantial evidence, based upon adequate and well-controlled investigations, that the respective products will have the effect they purport or are represented to have in the proposed labeling.

LACK OF INFORMATION IN APPLICATIONS FOR X-OTAG PLUS AND ORPHENGESIC

The Director finds that the ANDA for X-Otag Plus and the ANDA for Orphengesic lack any reports of preclinical or clinical investigations on orphenadrine citrate in combination with acetaminophen or APC, respectively. Because each application totally lacks safety and effectiveness data, the information contained therein has not been evaluated to determine whether it satisfies the other requirements of the act and new drug regulations. If, as a result of this notice, a hearing is requested and it is determined that a hearing will be ordered, the Bureau of Drugs will then review the other parts of application and raise any remaining issues in the notice of hearing.

NOTICE OF OPPORTUNITY FOR HEARING

Therefore, notice is given to Tutag, Inwood, and all other interested persons that the Director of the Bureau of Drugs proposes to issue an order under section 505(d) of the act and 21 CFR 300.50 refusing to approve ANDA 85-445 and ANDA 85-682 on the following grounds: (1) That (a) neither application contains any reports of investigations or adequate tests by all methods reasonably applicable, to show whether or not X-Otag Plus or Orphengesic is safe for use under the conditions prescribed, recommended, or suggested in the proposed labeling thereof, (b) upon basis of the information submitted as part of each application, FDA has insufficient information to determine whether either drug is safe for use under such conditions, and (c) evaluated on the basis of the information submitted as part of the application and other public information before FDA with respect to each drug, there is a lack of substantial evidence that either drug will have the effect it purports or is represented to have under such conditions; and (2) that X-Otag Plus and Orphengesic are new drugs as defined in section 201(p) of the act and information relating to the safety and effectiveness of X-Otag Plus and Orphengesic must be contained in a new drug application in order to be approved under section 505 of the act. This notice does not apply to another pending new drug application (NDA 18-015) for X-Otag Plus submitted by Tutag.

If either Tutag or Inwood elects to avail itself of the opportunity for hearing pursuant to section 505(d) of the act and 21 CFR 314.200, it must file with the Hearing Clerk, Food and Drug Administration, (1) written notice of appearance and request for hearing by May 31, 1977, and (2) the data, information, and analyses on which it relies to justify a hearing, as specified in § 314.200, by June 28, 1977. Any other interested person may also submit comments on this notice. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing, are contained in 21 CFR 314.200.

The failure of the applicant to file a timely written appearance and request for hearing as required by 21 CFR 314.200 constitutes an election not to avail himself of the opportunity for a hearing, and the Director of the Bureau of Drugs will summarily enter a final order refusing to approve the application.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for the hearing that there is no genuine and substantial issue of fact that precludes the refusal to approve the application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person who requests the hearing, making findings and conclusions, denying a hearing.

All submissions pursuant to this notice shall be filed in quintuplicate with the Hearing Clerk, Food and Drug Administration.

All submissions pursuant to this notice, except for data and information prohibited from public disclosure pursuant to 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the Office of the Hearing Clerk (address given above) between the hours of 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 505.52 Stat. 1052-1053, as amended (21 U.S.C. 355)), and under authority delegated to the Director of the Bureau of Drugs (21 CFR 5.82) (recodification published in

the FEDERAL REGISTER of March 22, 1977 (42 FR 15553)).

Dated: April 26, 1977.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc.77-12425 Filed 4-27-77;9:54 am]

[Docket No. 77G-0120]

WESTERN DAIRY PRODUCTS; PARTIALLY HYDROLYZED PROTEIN

Withdrawal of Petition for Affirmation of GRAS Status

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces the withdrawal without prejudice of a petition requesting affirmation of GRAS status of partially hydrolyzed protein.

FOR FURTHER INFORMATION CONTACT:

Corbin I. Miles, Bureau of Foods (HFF-335), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204 (202-472-4750).

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b), 72 Stat. 1785-1786 (21 U.S.C. 348(b))), the following notice is issued: Western Dairy Products, Division of Chelsea Industries, Inc., 118 World Trade Center, San Francisco, CA 94111, has withdrawn without prejudice its petition (GRASP 3G0012) proposing affirmation that partially hydrolyzed protein for use as a nutrient supplement in breakfast cereals, beverages, puddings and snacks is generally recognized as safe (GRAS); notice of filing was published in the FEDERAL REGISTER of May 2, 1973 (38 FR 10829).

Dated: April 20, 1977.

HOWARD R. ROBERTS,
Acting Director, Bureau of Foods.

[FR Doc.77-12017 Filed 4-28-77;8:45 am]

National Institutes of Health

NATIONAL CANCER INSTITUTE; VARIOUS ADVISORY COMMITTEES

Open Meetings

Pursuant to Pub L. 92-463, notice is hereby given of the meetings of committees advisory to the National Cancer Institute.

These meetings will be entirely open to the public to discuss issues relating to committee business as indicated in the notice. Attendance by the public will be limited to space available. Meetings will be held at the National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20014, unless otherwise stated.

Mrs. Marjorie F. Early, Committee Management Officer, NCI, Building 31, Room 4B43, National Institutes of Health, Bethesda, Maryland 20014, 301-496-5708, will furnish summaries of the meetings and rosters of committee members upon request.

Other information pertaining to the meeting can be obtained from the Executive Secretary indicated.

Name of Committee: President's Cancer Panel.
Dates: June 7, 1977; 9:30 a.m., adjournment.
Place: Building 31C, Conference Room 7, National Institutes of Health.
Time: Open for the entire meeting.
Agenda: To hear reports of the President's Cancer Panel and the Director, National Cancer Program, NCI.
Executive Secretary: Dr. Richard A. Tjalma; Address: Building 31A, Room 11A46, National Institutes of Health, phone 301-496-5854.

Name of Committee: Virus Cancer Program Advisory Committee.
Dates: June 16-17, 1977; 9:30 a.m., adjournment.
Place: Building 37, Room 1B04, National Institutes of Health.
Time: Open for the entire meeting.
Agenda: Discussion of the overall direction of the Virus Cancer Program.
Executive Secretary: Dr. D. M. Howell; Address: Building 37, Room 1A01, National Institutes of Health, phone 301-496-6927.

Name of Committee: Chemical Selection Subgroup of the Clearinghouse on Environmental Carcinogens.
Date: June 22, 1977; 8:30 a.m., adjournment.
Place: Building 31, Conference Room 10, National Institutes of Health.
Time: Open for the entire meeting.
Agenda: To consider chemicals for bioassay.
Executive Secretary: Dr. James M. Sontag; Address: Building 31A, Room 3A16, National Institutes of Health, phone 301-496-5108.

Name of Committee: Experimental Design Subgroup of the Clearinghouse on Environmental Carcinogens.
Date: June 23, 1977; 8:30 a.m., adjournment.
Place: Building 31C, Conference Room 7, National Institutes of Health.
Time: Open for the entire meeting.
Agenda: To discuss experimental designs for bioassay.
Executive Secretary: Dr. James M. Sontag; Address: Building 31A, Room 3A16, National Institutes of Health, Phone 301-496-5108.

Dated: April 22, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.77-12274 Filed 4-28-77;8:45 am]

NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES; BOARD OF SCIENTIFIC COUNSELORS

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute of Environmental Health Sciences, June 13, 14 and 15, 1977, Building 18, Conference Room, National Institute of Environmental Health Sciences, Research Triangle Park, North Carolina. This meeting will be open to the public from 9 a.m. to 4 p.m. on June 13 and 14, and from 9 a.m. to 1 p.m. on June 15, 1977, for the purpose of discussing recent developments in the Institute's budget, personnel, permanent facilities, and scientific programs and plans of the Laboratory of Environmental Mutagenesis. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6) Title 5 U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public from 4 p.m. to adjournment on June 13 and 14, 1977, for the evaluation of the programs of the Laboratory of Environmental Mutagenesis, including consideration of personnel qualifications and performance, the competence of individual investigators, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Executive Secretary, Dr. James R. Fouts, Scientific Director, National Institute of Environmental Health Sciences, Research Triangle Park, North Carolina 27709, telephone (919) 549-8411, extension 3205, will furnish summaries of the meeting, rosters of committee members, and substantive program information.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

APRIL 22, 1977.

[FR Doc.77-12275 Filed 4-28-77;8:45 am]

NATIONAL DIABETES ADVISORY BOARD

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the National Diabetes Advisory Board on June 17, 1977, (times below), in Conference Room 4137, in the North Building of Health, Education and Welfare, at 330 Independence Avenue, Southwest, Washington, D.C.

In addition, the below listed subcommittees of the Board will have meetings from 9:00 a.m.-5:00 p.m. on June 16, Building 31, National Institutes of Health, Bethesda, Maryland: The Board Staffing and Budget Subcommittee will meet in Room 9A52B; the Board Structure and Organization Subcommittee will meet in Room 9A51; the Diabetes Program Budget Subcommittee will meet in Room 2A51.

The entire advisory board meeting, which will be open to tre public from 9:00 a.m.-5:00 p.m., is being held to discuss the organization and staffing, and to continue its review of the status and implementation of the long-range plan to combat diabetes formulated by the National Commission on Diabetes. The subcommittee meetings will be open to the public 9:00 a.m.-5:00 p.m. Attendance by the public will be limited to space available.

Messrs. James N. Fordham or Leo E. Treacy, Office of Scientific and Technical Reports, NIAMDD, National Institutes of Health, Building 31, Room 9A04, Bethesda, Maryland 20014, (301) 496-3583, will provide summaries of the meeting and rosters of the committee members.

(Catalog of Federal Domestic Assistance Program No. 13.847, National Institutes of Health)

Dated: April 22, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.77-12276 Filed 4-28-77;8:45 am]

Office of Education

COMMUNITY SERVICE AND CONTINUING EDUCATION PROGRAMS

Closing Date for Receipt of New and Non-Competing Continuation Applications Fiscal Year 1977

Notice is hereby given that pursuant to the authority contained in section 106 of Title I of the Higher Education Act of 1965 (20 U.S.C. 1005a), applications for new and non-competing continuation awards are being accepted from institutions of higher education for special community service and continuing education project grants.

Applications for new awards for funding in fiscal year 1977 must be received by the U.S. Office of Education Application Control Center on or before June 1, 1977. In order to be assured of consideration for funding from Fiscal Year 1977 appropriations, applications for non-competing continuations should be received by the U.S. Office of Education Application Control Center on or before June 1, 1977.

A. *Application sent by mail.* An application sent by mail should be addressed as follows: U.S. Office of Education, Application Control Center, 400 Maryland Avenue, S.W., Washington, D.C. 20202, Attention: 13:557. An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than May 27, 1977, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare, or the U.S. Office of Education mail room in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

B. *Hand delivered applications.* An application to be hand delivered must be taken to the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets, SW., Washington, D.C. Hand delivered applications will be accepted daily between the hours of 8:00 a.m. and 4:00 p.m. Washington, D.C. time except Saturdays, Sundays, or Federal holidays. Applications for new awards will not be accepted after 4:00 p.m. on the closing date.

C. *Program information and forms.* Information and application forms may be obtained from the Bureau of Post-secondary Education, Division of Training and Facilities, Community Service and Continuing Education Program, Room 3717, Regional Office Building Three, 7th and D Streets, SW., Washington, D.C. 20202.

D. *Estimated distribution of program funds.* The Community Service and Continuing Education Program does not have an appropriation amount for FY 1977. Under the Continuing Resolution now in effect, there would be $1,212,500 available for Special Projects. The program expects to award approximately ten or eleven new projects and six non-competing continuations at an average of $75,000.

The above statement with regard to the expected distribution of funds is basically for informational purposes and does not bind the Office of Education except as may be required by the applicable statute and regulation.

E. *Applicable regulations.* The regulations applicable to this program include the Office of Education General Provisions Regulation (45 CFR Part 100a) and the Community Service and Continuing Education regulations published in the FEDERAL REGISTER on March 17, 1975 (40 FR 12080; 45 CFR 173, Subpart C). In addition, a notice of proposed rulemaking setting forth proposed priorities for new awards was published in the FEDERAL REGISTER of April 4, 1977, 42 FR 17889. Applicants are advised to follow the requirements and standards published in the proposed regulation. If the final regulation contains new or inconsistent requirements, the closing date will be extended to allow applicants who have submitted applications based on the proposed regulation to revise their application.

(Catalog of Federal Domestic Assistance Number 13.557; University Community Service-Special Projects)

Dated: April 12, 1977.

ERNEST L. BOYER,
U.S. Commissioner of Education.

[FR Doc.77-12414 Filed 4-28-77;8:45 am]

NATIONAL ADVISORY COUNCIL ON ETHNIC HERITAGE STUDIES

Meeting

AGENCY: National Advisory Council on Ethnic Heritage Studies.

ACTION: Notice.

SUMMARY: This notice sets forth the schedule and proposed agenda on forthcoming meetings of the National Advisory Council on Ethnic Heritage Studies. It also describes the functions of the Council. Notice of these meetings is required under the Federal Advisory Committee Act (5 U.S.C. Appendix 1.10(a)(2)). This document is intended to notify the general public of their opportunity to attend.

DATES: Meetings May 19, 20, 1977, 9:00 am to 5 pm.

ADDRESS: China Institute in America, 125 E. 65th Street, New York, New York 10021.

FOR FURTHER INFORMATION CONTACT:

Dr. William H. Martin, Chief Ethnic Heritage Studies Branch, Office of Education, 7th and D Streets, S.W., ROB # 3, Room 3919, Washington, D.C. 20202, Telephone (202) 245-9506.

The National Advisory Council on Ethnic Heritage Studies is established under Section 906(a) of the Elementary and Secondary Act of 1965 as added by Section 504(a) of the Education Amendments of 1972, Pub. L. 92-318 (20 U.S.C. 900a-4).

The Council is directed to:

(1) Advise the Secretary, the Assistant Secretary for Education, and the Commissioner of Education on the implementation of Title IX of the Elementary and Secondary Education Act of 1965 in order to provide assistance designed to afford students the opportunity to learn about their own cultural heritage and the contributions of the other ethnic groups of the Nation.

(2) Perform specific functions as follows:

a. Make recommendations to the Commissioner, the Assistant Secretary, and the Secretary regarding the collection of data to facilitate program planning and evaluation; e.g., recommend a survey of needs to determine or modify program priorities, or suggest national or regional reviews of intercultural curriculum and personnel development.

b. Suggest innovations or program changes as the program evolves and develops toward improving ethnic heritage studies.

c. Suggest promising areas of inquiry to give direction to research; e.g., recommend ethnographic studies as required substantial intercultural curriculum materials development.

d. Provide such administrative and legislative proposals as may be appropriate.

e. Not later than March 31 of each year, submit to the Congress a report of its activities, findings, and recommendations.

The meetings will open to the public beginning at 9:00 a.m. and ending at 5:00 p.m. each day. The meetings will be held at China Institute in America, 125 E. 65th Street, New York, N.Y. 10021.

The proposed agenda includes:

(1) Swearing-in of New Members
(2) Action on previous meeting minutes
(3) Sub-Committee meetings
(4) Reports from Sub-Committees
(5) Discussion with respect to public liaison and the program
(6) Discussion of Annual Report
(7) Public Testimony
(8) Site visits as time permits

Records shall be kept of all Council proceedings and shall be available 14 days after the meeting for public inspection at the office of the Ethnic Heritage Studies

Branch, Office of Education, Room 3919, Regional Office Building #3, 7th and D Streets, S.W., Washington, D.C. 20202.

Signed at Washington, D.C. on April 26, 1977.

WILLIAM H. MARTIN,
Chief Ethnic Heritage Studies Branch.

[FR Doc.77-12283 Filed 4-28-77;8:45 am]

Office of the Secretary

PUBLIC HEALTH AND NATIONAL HEALTH SERVICE CORPS SCHOLARSHIP TRAINING PROGRAM

Designation of Health Specialties and Stipend Amount

Section 225 of the Public Health Service Act (42 U.S.C. 234) directs the Secretary of Health, Education, and Welfare to establish the Public Health and National Health Service Corps Scholarship Training Program to obtain physicians, dentists, nurses, and other health-related specialists for the National Health Service Corps and other units of the Public Health Service. Regulations implementing this authority were published on May 22, 1974 (42 CFR Part 62). Section 62.6 of these regulations provides that the Secretary will from time to time designate and publish in the FEDERAL REGISTER those health-related specialties for which the Service has need and for which such scholarship support will be available, as well as the amount of the scholarship stipend. Pursuant to § 62.6, physicians were designated in the FEDERAL REGISTER of July 1, 1974 (39 FR 24259), dentists were designated in the FEDERAL REGISTER of July 27, 1976 (41 FR 31219), and nurses were designated in the FEDERAL REGISTER of February 25, 1977 (42 FR 11051).

Notice is hereby given that public health nurses, clincial nurses midwives, nurse practitioners, public health nutritionists, medical social workers, speech pathologists, and audiologists also are designated as health specialists for which scholarship support is available under the Public Health and National Health Service Corps Scholarship Training Program. Further, the gross stipend amount to be paid to scholarship recipients in the designated disciplines is $6,750 for any 12-month period of scholarship award.

Dated: April 25, 1977.

JAMES F. DICKSON,
Acting Asistant Secretary for Health.

[FR Doc.77-12397 Filed 4-28-77;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

FEDERAL ASSISTANCE TO DROUGHT STRICKEN AREAS AND RELATED DETERMINATIONS

Federal Disaster Assistance Administration

[Docket No. N-77-7461]

Memorandum of Agreement

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This notice sets forth a Memorandum of Agreement regarding Federal assistance to drought stricken areas, and related determinations, which was signed by the Secretary of Agriculture, the Secretary of the Interior, the Secretary of Commerce, and the Administrator, Small Business Administration. These four officials comprise the Interagency Drought Emergency Coordinating Committee of 1977. That Committee has directed the publication of this Agreement to advise the public of a common procedure for designating Emergency Drought Impact Areas.

DATE: Date of Execution, April 25, 1977.

FOR FURTHER INFORMATION CONTACT:

Jack McGraw, Director, Preparedness Office, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202-634-7845).

SUPPLEMENTARY INFORMATION: On March 23, 1977, the President sent to the Congress a message containing proposals designed to mitigate some of the effects of the severe drought which is affecting portions of the United States. This message contained legislative recommendations and identified administrative and regulatory changes to the authorities of the Departments of Agriculture, Commerce, and Interior, and the Small Business Administration, needed to provide assistance to the drought-affected areas. The heads of each of these agencies has or will have independent authority to designate drought emergency impact areas. Section 6 of Public Law 95-18, the first of the legislative proposals to become effective, directs the Secretary of the Interior to coordinate "with emergency and disaster relief operations conducted by other Federal and State agencies" and "consult with the heads of such other Federal and State agencies as he deems necessary." By Memorandum of Agreement dated April 25, 1977, the Secretaries of Agriculture, Commerce, and Interior, and the Administrator of the Small Business Administration have formed an Interagency Drought Emergency Coordinating Committee and have agreed to a common procedure for the designation of Emergency Drought Impact Areas in order to eliminate the need for individual requests to each agency for drought assistance. As a matter of convenience, the Committee will designate an entire State when only a few counties within the State remain undesignated. The designation of a county or an entire State as an Emergency Drought Impact Area does not confer entitlement to drought assistance. Individuals and communities must meet the separate eligibility requirements established by each agency before assistance may be provided.

The Committee has directed that the text of the Memorandum of Agreement be submitted for the public record. It reads as follows:

MEMORANDUM OF AGREEMENT

I. *Purpose.* To establish an interagency committee with the authority to designate areas eligible for Federal assistance as a result of drought.

II. *Authority.* (a) Each of the signatories of this memorandum, referred to as Principals, has or will have independent designation authorities contained in one or more laws.

(b) An Interagency Drought Emergency Coordinating Committee of 1977 is established by the concurrence of the Principals in this memorandum.

(c) This Committee will consist of one representative designated by each of the Principals. These representatives will be delegated the authority vested in the Principal to designate areas eligible for drought assistance.

(d) The Committee will be chaired by the representatives of the Secretary of Agriculture.

(e) The Administrator, Federal Disaster Assistance Administration, or his designee will act as Secretary to the Committee.

III. *Designation of eligible areas.* (a) All requests for designation as an Emergency Drought Impact Area (EDIA) will be referred to the Committee. If all members of the Committee agree on the designation of an area eligible for assistance from their agency, the Secretary shall record this designation and have it published in the FEDERAL REGISTER. In the event of objection by any Committee member to the designation, the Committee will forward the request for designation to the Principals for their independent action.

(b) When the Committee has granted designation to an area, it will so advise the concerned Principals who will approve the designation and direct their agencies to provide available assistance.

IV. *Procedures.* (a) The Governor of a State may request designation as an Emergency Drought Impact Area of all or part of his State. Each request shall explain the need for Federal Emergency Assistance. Requests shall be addressed to the Committee in care of the Administrator, Federal Disaster Assistance Administration. The Committee shall act on each request in accord with paragraph III.

(b) The resources of each Principal shall be available to assist the Committee in obtaining additional information regarding any request if the Committee believes such information to be necessary for proper action on the request.

(c) If any request for designation as an Emergency Drought Impact Area is denied the requestor will be advised of the reasons and of any other Federal assistance that might be available to the area concerned.

V. *Public notice.* (a) Public Notice of designated Emergency Drought Impact Areas will be published in the FEDERAL REGISTER.

(b) Publication will be arranged by the Secretary of the Committee.

CECIL D. ANDRUS,
Secretary of the Interior.

A. VERNON WEAVER,
Administer, Small Business Administration.

BOB BERGLAND,
Secretary of Agriculture.

JUANITA M. KREPS,
Secretary of Commerce.

APRIL 25, 1977.

On April 25, 1977, the Committee designated an initial list of Emergency Drought Impact Areas which includes all those areas previously designated for drought assistance by the Federal Disaster Assistance Administration, the

Farmers Home Administration, and the Small Business Administration, and all areas in which Bureau of Reclamation projects are located. Under the authority granted to me as Secretary to the Committee by the Memorandum of Agreement, I am providing that list for the public record as follows:

ARIZONA

Apache
Cochise
Coconino
Gila
Graham
Greenlee
Mohave
Navajo
Pinal
Santa Cruz
Yavapai

ARKANSAS

Ashley
Baxter
Benton
Boone
Carroll
Chicot
Clark
Clay
Cleburne
Conway
Craighead
Crawford
Crittenden
Cross
Faulkner
Franklin
Fulton
Garland
Greene
Independence
Izard
Jackson
Johnson
Lafayette
Lawrence
Lee
Logan
Madison
Marion
Mississippi
Monroe
Montgomery
Newton
Perry
Phillips
Poinsett
Polk
Pope
Prairie
Randolph
Scott
Searcy
Sebastian
Sharp
St. Francis
Stone
Union
Van Buren
Washington
White
Woodruff
Yell

CALIFORNIA

Entire state designated.

COLORADO

Adams
Alamosa
Arapahoe
Archuleta
Baca
Bent
Boulder
Chaffee
Cheyenne
Conejos
Costilla
Crowley
Custer
Delta
Dolores
Douglas
Elbert
El Paso
Fremont
Garfield
Gunnison
Huerfano
Kiowa
Kit Carson
Lake
La Plata
Las Animas
Lincoln
Logan
Mesa
Montezuma
Montrose
Morgan
Otero
Phillips
Prowers
Pueblo
Rio Grande
Saguache
San Miguel
Sedgwick
Teller
Washington
Weld
Yuma

IDAHO

Ada
Adams
Bannock
Bear Lake
Bingham
Blaine
Boise
Bonneville
Butte
Camas
Canyon
Caribou
Cassia
Clark
Custer
Elmore
Franklin
Fremont
Gem
Gooding
Jefferson
Jerome
Kootenai
Lemhi
Lewis
Lincoln

IDAHO—Continued

Madison
Minidoka
Nez Perce
Oneida
Owyhee
Payette
Power
Teton
Twin Falls
Valley
Washington

ILLINOIS

Adams
Bond
Boone
Brown
Bureau
Calhoun
Carroll
Cass
Christian
Clay
Clinton
Crawford
Cumberland
De Kalb
Effingham
Fayette
Fulton
Greene
Hancock
Jasper
Jefferson
Jersey
Jo Davis
Kendall
Lake
La Salle
Lawrence
Lee
Macoupin
Madison
Marion
Mason
McDonough
McHenry
Menard
Monroe
Montgomery
Morgan
Ogle
Perry
Pike
Randolph
Sangamon
Schuyler
Scott
Shelby
St. Clair
Stephenson
Wabash
Washington
Whiteside
Winnebago

IOWA

Adair
Adams
Allamakee
Audubon
Benton
Black Hawk
Boone
Bremer
Buchanan
Buena Vista
Butler
Calhoun
Carroll
Cass
Cedar
Cerro Gordo
Cherokee
Chickasaw
Clarke
Clay
Clayton
Crawford
Dallas
Decatur
Delaware
Dickinson
Dubuque
Emmet
Fayette
Floyd
Franklin
Fremont
Greene
Guthrie
Hancock
Harrison
Howard
Humboldt
Ida
Jackson
Jones
Kossuth
Linn
Lucas
Lyon
Madison
Mills
Mitchell
Monona
Montgomery
Muscatine
O'Brien
Osceola
Page
Palo Alto
Plymouth
Pocahontas
Pottawattamie
Ringold
Sac
Scott
Shelby
Sioux
Taylor
Union
Warren
Wayne
Webster
Winnebago
Winneshiek
Woodbury
Worth
Wright

KANSAS

Atchisen
Chase
Cowley
Douglas
Franklin
Greeley
Hamilton
Jewell
Kearny
Leavenworth
Lyon
Meade
Miami
Morris
Norton
Osage
Osborne
Phillips
Rooks
Smith
Sumner
Wyandotte

MICHIGAN

Alcona
Alger
Allegan
Alpena
Antrim
Arenac
Baraga
Bay
Branch
Charlevoix
Cheboygan
Clinton
Delta
Dickinson
Emmet
Gogebic
Grand Traverse
Houghton
Ingham
Iron
Isabella
Kent
Leelanau
Lenawee
Luce
Mackinac
Marquette
Mecosta
Menominee
Missaukee
Monroe
Montmorency
Muskegon
Ontonagon
Otsego
Ottawa
Presque Isle
Saginaw
Schoolcraft
Shiawassee

MINNESOTA

Entire state designated.

MISSOURI

Entire state designated.

MONTANA

Entire state designated.

NEBRASKA

Entire state designated.

NEVADA

Entire state designated.

NEW MEXICO

Colfax
De Baca
Dona Ana
Eddy
Harding
Los Alamos
Quay
Rio Arriba
Roosevelt
Santa Fe
Sandoval
San Juan
Sierra
Taos
Union

NORTH DAKOTA

Entire state designated.

OKLAHOMA

Entire state designated.

OREGON

Baker
Benton
Clackamas
Clatsop
Columbia
Crook
Deschutes
Douglas
Gilliam
Grant
Harney
Hood River
Jackson
Jefferson
Josephine
Klamath
Lake
Lane
Linn
Malheur
Marion
Morrow
Multnomah
Polk
Sherman
Umatilla
Union
Wallowa
Wasco
Washington
Wheeler
Yamhill

SOUTH DAKOTA

Entire state designated.

TEXAS

Armstrong
Bailey
Bee
Briscoe
Carson
Cochran
Comanche
Dallam
Deaf Smith
Frio
Hamilton
Hansford
Hartley
Hemphill
Hockley
Hutchinson
Lamb
La Salle
Lipscomb
Live Oak
Moore
Ochiltree

TEXAS—CONTINUED

Oldham	Terry
Potter	Travis
Randall	Williamson
Roberts	Wilson
Sherman	Young

UTAH

Entire state designated.

WASHINGTON

Adams	Kittitas
Asotin	Klickitat
Benton	Lincoln
Chelan	Mason
Clark	Okanogan
Columbia	Pend Oreille
Douglas	San Juan
Ferry	Spokane
Franklin	Stevens
Garfield	Walla Walla
Grant	Whitman
Island	Yakima
Kitsap	

WISCONSIN

Entire state designated.

WYOMING

Entire state designated.

Issued at Washington, D.C., April 27, 1977.

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-12528 Filed 4-28-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

BEN PARKER CO.

Withdrawal, in Part, of Airport Lease Application

Notice is hereby given that Ben Parker Company has withdrawn its airport lease application on the following lands:

MDM, NEVADA

T. 15 N., R. 20 E.,
Sec. 1; Lot 1 of the NE¼, E½ of lot 2 of the NE¼, E½ of lots 1 and 2 of NW¼.
T. 16 N., R. 20 E.,
Sec. 36; SE¼SW¼.
T. 15 N., R. 21 E.,
Sec. 6, W½ of lots 1 and 2 of the NW¼.
T. 16 N., R. 21 E.,
Sec. 31; Lots 3 and 4.

Therefore, at 10:00 a.m. on May 25, 1977, the lands will be relieved of the segregation effect of the application.

WM. J. MALENCIK,
Chief, Division of Technical Services.

[FR Doc. 77-12287 Filed 4-28-77; 8:45 am]

[Group 655]

COLORADO

Filing of Plat of Survey

APRIL 22, 1977.

1. Plat of survey of the following described lands accepted March 29, 1977, will be officially filed in the Colorado State Office, Bureau of Land Management, Denver, Colorado effective June 20, 1977.

NEW MEXICO PRINCIPAL MERIDIAN

T. 43 N., R. 8 W. (Unsurveyed),
Survey of Tract 40.

2. This survey was performed at the request of the U.S. Forest Service to accommodate Forest Exchange Application Colorado 24565. The tract is within the Uncompahgre National Forest.

3. All inquiries about this land should be sent to the Colorado State Office, Bureau of Land Management, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202.

ALVAH Q. WHITLEDGE,
Acting Chief, Public Affairs.

[FR Doc.77-12284 Filed 4-28-77;8:45 am]

[N-16653]

NEVADA

Airport Lease Application

APRIL 21, 1977.

Notice is hereby given that pursuant to the Act of May 24, 1928, (49 U.S.C. 211-214), Desert Paradise, Inc. has applied for an airport lease on the following lands:

MOUNT DIABLO MERIDIAN, NEVADA

T. 10 S., R. 62 E.,
Sec. 36, E½SE¼, SE¼NE¼.
T. 11 S., R. 62 E.,
Sec. 1, Lot 1.

The purpose of this notice is to inform the public that the filing of this application segregated the described public lands from all other forms of appropriation under the public land laws.

Interested persons desiring to express their views should promptly send their comments together with their name and address to the Las Vegas District Manager, Bureau of Land Management, 4765 Vegas Drive, Las Vegas, Nevada 89108.

WM. J. MALENCIK,
Chief, Division of Technical Services.

[FR Doc.77-12285 Filed 4-28-77;8:45 am]

[N-16650, N-16657]

NEVADA

Airport Lease Applications

APRIL 21, 1977.

Notice is hereby given that pursuant to the Act of May 24, 1928 (49 U.S.C. 211-214), Agricultural Aviation Services has applied for airport leases on the following lands:

MOUNT DIABLO MERIDIAN, NEVADA

T. 38 N., R. 36 E.,
Sec. 12, E½E½E½.
T. 39 N., R. 39 E.,
Sec. 20, W½W½W½.

The purpose of this notice is to inform the public that the filing of this application segregated the decribed public lands from all other forms of appropriation under the public land laws.

Interested persons desiring to express their views should promptly send their comments together with their name and address to the Winnemucca District Manager, Bureau of Land Management, 705 East Fourth Street, Winnemucca, Nevada 89445.

WM. J. MALENCIK,
Chief, Division of Technical Services.

[FR Doc.77-12286 Filed 4-28-77;8:45 am]

OUTER CONTINENTAL SHELF (OCS) ENVIRONMENTAL STUDIES ADVISORY COMMITTEE

Notice and Topical Program for Meeting

This Notice is issued in accordance with the provisions of the Federal Advisory Committee Act, Pub. L. 92-463, 5 U.S.C. App. I and the Office of Management and Budget's Circular No. A-63, Revised.

The Outer Continental Shelf Environmental Studies Advisory Committee will meet 9:30 a.m. to 4:00 p.m., May 17, and 9:30 a.m. to 4:00 p.m. (or completion of business), May 18, in the Napoleon Room of the Fontainebleau Hotel, New Orleans, Louisiana.

The meeting will deal with the following principal subjects:

Status of OCS leasing program.
Environmental data needs of the OCS decision maker.
Evaluation of OCS data collection activities in the South Atlantic.
Southern California five-year development plan.
Status of overall OCS environmental program.
Oil spill contingency plans.
Hazard analysis procedures.

The meeting of this Committee is open to the public. Approximately 50 visitors can be accommodated on a first-come first-served basis. Written statements concerning the subjects of discussion are welcome.

Visitors who expect to attend should make this known, not later than May 10, to the Committee Chairman:

James R. Balsley, Assistant Director—Land Resources, U.S. Geological Survey, c/o Katie L. Garner, Room 7345, Interior Building, 18th and C Streets NW., Washington, D.C. 20240, Phone 202-343-3838

Dated: April 26, 1977.

GEORGE L. TUCOTT,
Acting Director, Bureau of Land Management.

Dated: April 27, 1977.

JAMES J. FLANNERY,
Acting Assistant Secretary of the Interior.

[FR Doc.77-12446 Filed 4-28-77;8:45 am]

National Park Service

LANDMARK SERVICES, INC.

Intention To Negotiate Concession Contract

Pursuant to the provisions of section 5 of the Act of October 9, 1965 (79 Stat.

969; 16 U.S.C. 20), public notice is hereby given that on May 31, 1977, the Department of the Interior, through the Director of the National Park Service, proposes to negotiate the renewal of a concession contract with Landmark Services, Inc., authorizing it to continue to provide concession facilities and services for the public in the Mall area, District of Columbia; Arlington National Cemetery; to the grounds of the United States Capitol; to the John F. Kennedy Center for the Performing Arts; to the National Visitor Center; and to such other Federal areas within Washington, D.C., and its environs for a period of ten (10) years from January 1, 1978, through December 31, 1987.

An assessment of the environmental impact of this proposed action has been made and it has been determined that it will not significantly affect the quality of the environment, and that it is not a major Federal action having a significant impact on the environment under the National Environmental Policy Act of 1969. The environmental assessment may be reviewed in the Regional Office, 1100 Ohio Drive SW., Washington, D.C.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing contract which expires by limitation of time on December 31, 1977, and therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of this contract. This Act, in effect, grants Landmark Services, Inc., as the present satisfactory concessioner, the right to meet the terms of responsive offers for the proposed new contract and a preference in the award of the contract, if the offer of Landmark Services, Inc., is substantially equal to others received. The Secretary is required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted by May 31, 1977.

Dated: April 25, 1977.

GARY EVERHARDT,
Director, National Park Service.

[FR Doc. 77-12211 Filed 4-28-77; 8:45 am]

Office of the Secretary

[Docket No. N-77-746]

FEDERAL ASSISTANCE TO DROUGHT STRICKEN AREAS AND RELATED DETERMINATIONS

Memorandum of Agreement

CROSS REFERENCE: For a document issued jointly by the Housing and Urban Development Department, the Interior Department, and the other members of the Interagency Drought Emergency Coordinating Committee of 1977 regarding the above entitled matter, see FR Doc. 77-12528 in the notices section of this issue.

National Park Service

GATEWAY NATIONAL RECREATION AREA ADVISORY COMMISSION

Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Gateway National Recreation Area Advisory Commission will be held commencing at 10:00 A.M. on Monday, May 23, 1977, 26 Federal Plaza, Room 305A, New York, New York. The Commission was established by Pub. L. 92-592 to meet and consult with the Secretary of the Interior on general policies and specific matters relating to the development of Gateway National Recreation Area.

The members of the Commission are:

Marian Heiskell, Chairman, New York, New York
Archibald S. Alexander, Bernardsville, New Jersey
John F. Haggerty, Forest Hills, New York
Orin Lehman, New York, New York
Gordon N. Litwin, Little Silver, New Jersey
Terrence D. Moore, Newark, New Jersey
Sheldon Pollack, New York, New York
Barbara Reach, New York, New York
Richard J. Sullivan, Hobroken, New Jersey
Nathaniel Washington, Newark, New Jersey
Joseph B. Williams, Brooklyn, New York

The matters to be discussed at this meeting include.

1. Transportation Sub-committee Report
2. Presentation on Nominations for National Register
3. Report on Proposed Summer Activities
4. Progress Report on Park Interpretive Plan

The meeting will be open to the public. However, facilities and space to accommodate members of the public are limited, and persons will be accommodated on a first-come, first-served basis. Any members of the public may file with the Commission a written statement concerning the matters to be discussed.

Persons wishing further information concerning this meeting, or who wish to submit written statements, may contact the Superintendent, Gateway National Recreation Area, Headquarters Building 69, Floyd Bennett Field, Brooklyn, New York, 11234, Area Code (212) 252-9150.

Minutes of the meeting will be available for inspection 4 weeks after the meeting at the Gateway National Recreation Area Headquarters Building.

Dated: April 22, 1977.

HERBERT OLSEN,
Acting Superintendent.

[FR Doc.77-12331 Filed 4-28-77;8:45 am]

MIDWEST REGIONAL ADVISORY COMMISSION

Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Midwest Regional Advisory Committee will be held May 23, 1977, beginning at 8:30 a.m. (CDT) and ending May 25, 1977, at approximately 2:30 (CDT). The meeting will be held in two segments, the first in the vicinity of Bayefield and Apostle Islands National Lakeshore, Wisconsin; and the second in the vicinity of St. Croix Falls and St. Croix National Scenic Riverway, Wisconsin. The exact meeting times and locations are given below.

The committee was established pursuant to Public Law 91-383 to provide for free exchange of ideas between the National Park Service and the public, and to facilitate the solicitation of advice or other counsel from the public on programs and problems pertinent to the Midwest Region of the National Park Service.

The members of the Advisory Committee are as follows:

Honorable Robert W. Berrey III (Chairman)
Mr. Wallace C. Dayton
Mr. John J. Franke, Jr.
Mr. Fred D. Hartley
Mr. William L. Lieber
Mr. Erwin D. Sias

On Monday, May 23, the Committee will visit parts of Appostle Islands National Lakeshore and at 3:00 p.m. (CDT) will meet in the conference room of the Bayfield Inn, First Street and Rittenhouse Avenue, Bayfield, Wisconsin. The principal topic to be discussed will be the proposed mainland developments at Appostle Islands National Lakeshore. On Tuesday, May 24 and Wednesday, May 25, the Committee will tour portions of St. Croix National Scenic Riverway. Tuesday, May 24 at 7:30 p.m. (CDT), the Committee will meet at the Dallas House Supper Club, intersection of Wisconsin Highway 35 and U.S. 8 in St. Croix Falls, Wisconsin. The agenda includes discussion of a proposed Great Plains National Park and a report on the operation of the St. Croix Management Commission.

The meetings are open to the public. It is expected that in addition to the Committee and staff about 25 persons will be able to attend at Bayfield and 70 persons at St. Croix Falls. Any member of the public may file with the Committee a written statement concerning matters to be discussed.

Persons wishing further information concerning this meeting, or who wish to submit written statements, may contact Bill W. Dean, Executive Assistant to the Regional Director, Midwest Regional Office at area code 402, 221-3481. Minutes of the meeting will be available for public inspection four weeks after the meeting at the office of the Midwest Region, 1709 Jackson Street, Omaha, Nebraska 68102.

Dated: April 21, 1977.

MERRILL D. BEAL,
Regional Director, Midwest Region.

[FR Doc.77-12332 Filed 4-28-77;8:45 am]

Office of the Secretary

CLIFTON F. ROGERS

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b) (6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of March 9, 1977.

Dated: March 8, 1977.

CLIFTON F. ROGERS.

[FR Doc.77-12388 Filed 4-28-77;8:45 am]

E. F. TIMME

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b) (6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of April 20, 1977.

Dated: March 29, 1977.

E. F. TIMME.

[FR Doc.77-12392 Filed 4-28-77;8:45 am]

EDWARD R. COWLES

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b) (6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) No change.
(2) No change.
(3) Fast Buck Associates (investment club), liquidated and discontinued December 31, 1976.
(4) No change.

This statement is made as of April 4, 1977.

Dated: April 4, 1977.

EDWARD R. COWLES.

[FR Doc.77-12381 Filed 4-28-77;8:45 am]

FREDERICK W. HOEY

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b) (6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) Sold 95 shares of Boston Edison Co. common stock.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of April 4, 1977.

Dated: March 30, 1977.

FREDERICK W. HOEY.

[FR Doc.77-12383 Filed 4-28-77;8:45 am]

GREGORY P. PREKEGES

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b) (6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of March 30, 1977.

Dated: March 9, 1977.

GREGORY P. PREKEGES.

[FR Doc.77-12387 Filed 4-28-77;8:45 am]

JOHN H. KLINE

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b) (6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of April 3, 1977.

Dated: March 25, 1977.

JOHN H. KLINE.

[FR Doc.77-12384 Filed 4-28-77;8:45 am]

JOHN V. SALO

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b) (6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) No change.
(2) Increase in holdings by 123 shares of Public Service Company of New Hampshire, common stock.
(3) No change.
(4) No change.

This statement is made as of April 4, 1977.

Dated: March 30, 1977.

JOHN V. SALO.

[FR Doc.77-12389 Filed 4-28-77;8:45 am]

JULIAN R. HAYDEN

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b) (6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of March 30, 1977.

Dated: March 4, 1977.

JULIAN R. HAYDEN.

[FR Doc.77-12382 Filed 4-28-77;8:45 am]

MERRILL S. SCHULTZ

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b) (6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of April 7, 1977.

Dated: March 25, 1977.

MERRILL S. SCHULTZ.

[FR Doc.77-12390 Filed 4-28-77;8:45 am]

STANLEY M. SWANSON

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b) (6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of March 15, 1977.

Dated: March 31, 1977.

STANLEY M. SWANSON.

[FR Doc.77-12391 Filed 4-28-77;8:45 am]

THOMAS C. NICHOLS, JR.

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of April 7, 1977.

Dated: March 25, 1977.

THOMAS C. NICHOLS, JR.

[FR Doc.77-12386 Filed 4-28-77;8:45 am]

WALTER A. MELLER

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) No change.
(2) Add WECO Development Corp., delete Southland Financial Corp.
(3) No change.
(4) No change.

This statement is made as of April 7, 1977.

Dated: March 28, 1977.

WALTER A. MELLER.

[FR Doc.77-12385 Filed 4-28-77;8:45 am]

Office of the Secretary

JULIUS BLEIWEIS

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) No changes.
(2) No changes.
(3) No changes.
(4) No changes.

This statement is made as of April 7, 1977.

Dated: March 28, 1977.

JULIUS BLEIWEIS.

[FR Doc.77-12379 Filed 4-28-77;8:45 am]

VON C. BRADFORD

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months.

(1) No changes.
(2) No changes.
(3) No changes.
(4) No changes.

This statement is made as of April 7, 1977.

Dated: March 24, 1977.

VON C. BRADFORD.

[FR Doc.77-12379 Filed 4-28-77;8:45 am]

INTERNATIONAL TRADE COMMISSION

[AA1921-166]

CERTAIN PARTS FOR SELF-PROPELLED BITUMINOUS PAVING EQUIPMENT FROM CANADA

Correction of Notice of Investigation and Hearing

Having received advice from the Department of the Treasury on April 7, 1977, that parts for self-propelled bituminous paving equipment from Canada are being, or are likely to be, sold at less than fair value, the United States International Trade Commission on April 19, 1977, instituted investigation No. AA1921-166 in lieu of investigation No. AA1921-165 under section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Hearing. A public hearing in connection with the investigation will be held at 10:00 a.m. on Wednesday, May 4, 1977. The hearing will be held in court room 2503 of the Everett McKinley Dirksen Building, 219 South Dearborn Street, Chicago, Illinois. All parties shall there and then have the right to appear by counsel or in person, to present evidence, and to be heard. Requests to appear at the public hearing, or to intervene under the provisions of section 201(d) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(d)), shall be filed with the Secretary of the Commission, in writing, not later than noon Friday, April 29, 1977.

By order of the Commission.
Issued: April 22, 1977.

KENNETH R. MASON,
Secretary.

[FR Doc.77-12288 Filed 4-28-77;8:45 am]

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

CONTROLLED SUBSTANCES

Proposed 1977 Aggregate Production Quota for Phenmetrazine

Section 306 of the Controlled Substances Act (21 U.S.C. 826) requires that the Attorney General establish aggregate production quotas for all controlled substances in Schedules I and II. This responsibility has been delegated to the Administrator of the Drug Enforcement Administration by § 0.100 of Title 28 of the Code of Federal Regulations.

On September 29, 1976, a notice of the proposed aggregate production quotas for Schedules I and II controlled substances for 1977 was published in the FEDERAL REGISTER (41 FR 42965). All interested parties were invited to comment or object to the proposed aggregate production quotas on or before October 29, 1976. This announcement proposed that the aggregate production quota for phenmetrazine for 1977 be established at 2,216,000 grams (expressed as anhydrous base).

The law firm of Arnold and Porter of Washington, D.C. representing Western Fher Laboratories of Puerto Rico (the bulk manufacturer of phenmetrazine), Ciba-Geigy Corporation (the manufacturer of dosage forms of phenmetrazine —trade name Preludin) and Boehringer Ingelheim, Ltd. (the primary distributor of Preludin in the United States), submitted comments and a request for hearing relative to the proposed aggregate production quota for phenmetrazine. These comments stated that the proposed quota for phenmetrazine was substantially below the quotas established for this substance for the past three years and far below the quota requested by Western Fher of 6,529,000 grams.

To provide for the on-going manufacture and needs of the United States while consideration was being given to this matter, DEA established an interim 1977 aggregate production quota for this substance of 2,126,000 grams (41 FR 49873-74).

DEA has conducted an in-depth review of data submitted by Arnold and Porter in support of its contention that the proposed aggregate production quota for phenmetrazine was insufficient as well as a review of other data sources providing information relative to distribution patterns, and the widespread serious abuse (non-medical utilization) of phenmetrazine.

The Administrator is obliged to consider many factors, all enumerated within the statute, when establishing quotas pursuant to 21 U.S.C. 826. One factor to be considered by the Administrator, a factor which is not expressly enumerated within 21 U.S.C. 826, but the validity of which may be reasonably inferred within the section's overall statutory context, especially in view of the Controlled Substances Act's legislative history and the Congressional findings and declarations set forth in 21 U.S.C. 801, is the Administrator's continuing duty to exercise such reasonable measures which, within his discretion, are appropriate to protect the health, safety and general welfare of the American people from the demonstrably damaging effects of the diversion of licitly manufactured controlled substances into the illicit traffic.

This duty of the Administrator to use all reasonable means to protect the pub-

lic health and welfare becomes especially important when dealing with a controlled substance which is subject to broad scale diversion, such as phenmetrazine. This is because the mechanism of supply reduction, through the imposition of reasonable yet conservative quota restrictions is more likely to reduce the absolute amount of phenmetrazine diverted into illicit channels than any other regulatory control or law enforcement technique available to DEA. Likewise, quota restrictions are more likely to reduce the amount diverted than any practices or procedures employed by the manufacturer and distributor of phenmetrazine, since the record demonstrates that these companies are either unable or unwilling to prevent the illegal diversion of their product.

This is due, at least in part, to the fact that much phenmetrazine is diverted into the illicit market under color of lawful, legitimate transactions. Forged prescriptions for phenmetrazine and prescriptions for phenmetrazine issued by a physician for other than a legitimate medical purpose are two of the ways for licit phenmetrazine to enter the illicit traffic.

Despite DEA's concerted law enforcement efforts and strict regulatory controls with reference to phenmetrazine over the last two calendar years, the tide of diversion of this controlled substance remains unchecked. And it remains significant that for the past four calendar years, the sales of phenmetrazine by Boehringer Ingelheim to legitimate wholesalers have consistently exceeded the estimated amounts of phenmetrazine dispensed by drug stores pursuant to prescriptions (Preludin is overwhelmingly sold by retail pharmacies). Since the amounts represented by these disparities could only have gone into 1) inventory build-up of the wholesaler-retailer level or 2) the illicit market for phenmetrazine, and since information supplied by Boehringer Ingelheim indicates that present wholesale-retail inventories of Preludin are not excessive, it is reasonable to conclude that some additional amount of phenmetrazine within the licit distribution system has been diverted at some point.

In any case, the present situation of continued, chronic and widespread diversion of phenmetrazine requires the Administrator of DEA to continue all reasonable means to reduce the availability of this controlled substance within the illicit market. The present abuse problems associated with phenmetrazine were described with specificity by then Acting Deputy Administrator of DEA, Frederick A. Rody, Jr., in a statement delivered November 19, 1976 before the Subcommittee on Monopoly of the U.S. Senate's Committee on Small Business:

> Phenmetrazine (Preludin) has become a serious problem as a street drug in areas of the United States ranging from Pennsylvania in the east to Nebraska in the west. Pockets of heavy abuse appear in Texas. The District of Columbia and surrounding states have been particularly hard hit. In the District, for example, we find Preludin trafficked under the street name "Bam" at $10.00 for a single 75 mg. dosage unit. Since Preludin is water-soluable it is frequently injected intravenously and used in conjunction with heroin.
>
> The United States Attorney for the District of Columbia has focused public attention on the Preludin problem here by highly successful criminal and civil cases involving physicians and pharmacies. Continuing investigations by DEA indicate the existence of sophisticated criminal enterprises employing prescriptions obtained from doctors and forged prescriptions to build street supplies. Thefts from pharmacies also play a part in supplying the illicit traffic in Preludin.

As noted previously, DEA's efforts to control and decrease the abuse of this controlled substance have not been limited merely to more aggressive criminal law enforcement activities. DEA has vigorously applied its regulatory control functions to attacking this problem. As mentioned by Mr. Rody in his testimony before the Subcommittee on Monopoly, DEA's past measures in this effort to limit diversion have met with some resistance on part of the manufacturers and distributor of phenmetrazine:

> In 1975, Western Fher Laboratories, manufacturers of the basic ingredient in Preludin, Ciba-Geigy Corporation, the sole manufacturer of Preludin in dosage form, and Boehringer Ingelheim Limited, the sole distributors of Preludin to wholesalers, petitioned DEA for an increase in the 1975 manufacturing and procurement quotas for Preludin previously set by DEA. That petition was rejected by DEA and it was again rejected by an Administrative Law Judge following a lengthy hearing demanded by the companies. This resulted in an appeal by the companies to the United States Court of Appeals for the First Circuit which, on January 28, 1976, issued a final rejection. In a unanimous opinion the court found in part that, "DEA had the obligation when it found substantial evidence of broad scale diversion to achieve a more Spartan pipeline, even though this might cause inconveniences to manufacturer and distributor."

In that opinion, the First Circuit noted with approval the concerns of Congress over the diversion problem as it related to licitly manufactured products:

> In hearings preceding enactment of the Controlled Substances Act, Congress had been informed by John Ingersoll, the Director of the Bureau of Narcotics and Dangerous Drugs (DEA's predecessor), that as much as 50 percent of such drugs as amphetamines and barbiturates were diverted into illicit channels, and that between 75 and 90 percent of what appeared in the illicit market had been legitimately produced. Hearings before the House Subcommittee on Public Health and Safety, Committee on Interstate and Foreign Commerce, No. 91-46 (Part 2, 1970), H.R. 11701 and H.R. 13743, pp. 704-5.
>
> The approach of the new legislation was "designed to prevent an oversupply of such substances, which creates the potential for diversion". Statement of John Ingersoll. Hearings before the Committee on the Judiciary, U.S. Senate (91st Cong. 1969) p. 243. *Western Fher Laboratories* v. *Levi*, 529 F2d 325, 330-31 n. 13, (1st Cir. 1976).

Thus, within the context of this situation, DEA cannot propose an increase in the production quota for phenmetrazine which will provide for any additional amount of phenmetrazine to be used for the purpose of manufacturing additional dosage forms of phenmetrazine during 1977.

However, DEA recognizes that the previously proposed aggregate production quota is insufficient to meet the United States' needs for reserve stocks of phenmetrazine, in bulk, during 1977. Therefore, in this notice, DEA re-proposes an aggregate production quota for phenmetrazine for 1977 which will permit the bulk manufacturer of phenmetrazine, Western Fher Laboratories, to produce additional raw chemical for inventory purposes.

Based upon consideration of the above factors, the Administrator of the Drug Enforcement Administration hereby proposes that the aggregate production quota for 1977 for phenmetrazine expressed in grams in terms of base, be established as follows:

Basic Class	*Re-Proposed 1977 Aggregate Production Quota*
Phenmetrazine	2,900,000 grams

All interested persons are invited to submit their comments or objections in writing regarding this proposal. These comments or objections should state with particularity the issues concerning which the person desires to be heard. A person may object or comment on any portion of this proposal. Comments and objections should be submitted in quintuplicate to the Administrator, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative, and must be received by May 31, 1977. If a person believes that one or more issues raised by him warrant a full adversary-type hearing, he should so state and summarize the reasons for his belief.

In the event that the comments or objections to this proposal raise one or more issues which the Administrator finds, in his sole discretion, warrants a full adversary-type hearing, the Administrator shall order a public hearing in the FEDERAL REGISTER summarizing the issues to be heard and setting the time for the hearing.

Dated: April 25, 1977.

PETER B. BENSINGER,
Administrator
Drug Enforcement Administration.

[FR Doc.77-12317 Filed 4-28-77;8:45 am]

LEGAL SERVICES CORPORATION

GRANTS AND CONTRACTS

APRIL 25, 1977.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355, 88 Stat. 378, 42 U.S.C. 2996-29961. Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly, and shall notify the Governor and the State Bar Association of any State where legal assistance will thereby be initiated,

of such grant, contract, or project . . ."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

South Dakota Legal Services in Mission, South Dakota to serve the counties of Bennett, Fall River, Jackson, Shannon and Washabaugh Counties, South Dakota and the Indian population of Cherry, Dawes and Sheridan Counties, Nebraska.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at:

Denver Regional Office, 1726 Champa Street, Suite 500, Denver, Colorado.

THOMAS EHRLICH,
President.

[FR Doc.77-12408 Filed 4-28-77;8:45 am]

BOARD OF DIRECTORS

Meeting

The next meeting of the Board of Directors of the Legal Services Corporation will be held on May 13-14, 1977 in Window Rock, Arizona.

The Board's Committees on Appropriations and Audit, Regulations, and Provision of Legal Services will meet on Friday morning at 9:00 a.m. at the offices of DXIA-People's Legal Services, Inc. and at the Window Rock Motor Inn.

The Board will meet at the Window Rock Civic Center at 2:00 p.m. on Friday and again at 9:00 a.m. on Saturday. The agenda will include discussion of Native American legal services programs and reports by the Board's committees and by the President.

The meetings are open to the public.

THOMAS EHRLICH,
President.

[FR Doc.77-12403 Filed 4-28-77;8:45 am]

DEPARTMENT OF LABOR

Bureau of Labor Statistics

[Commissioner's Administrative Order No. 28]

DEPUTY COMMISSIONER OFFICE OF DATA ANALYSIS, ET AL.

Authority to Take Adverse Actions, Redelegation from Commissioner to Other Bureau Officials

1. *Purpose.* The purpose of the Order is to redelegate the authority and responsibility for taking adverse actions.

2. *Background and References.* Part 752 of the Federal Personnel Manual defines adverse actions and describes agency procedures and responsibilities. Secretary's Order 2-75, dated March 17, 1975, delegates authority and assigns responsibility to approve personnel actions, including adverse actions, to the Commissioner of Labor Statistics.

3. *Redelegation of Authority and Assignment of Responsibility.* Authority and responsibility to take adverse actions under Subpart C of Part 752 of the Federal Personnel Manual (suspensions of 30 days or less) is hereby redelegated to the following officials for actions within the areas they manage:

A. Deputy Commissioner, Office of Data Analysis;

B. Deputy Commissioner, Office of Statistical Operations and Processing;

C. Associate Commissioner, Office of Publications;

D. Associate Commissioner, Office of Administrative Management.

4. Effective Date: This Order is effective on March 1, 1977.

Signed at Washington, D.C., this 22nd day of April 1977.

JULIUS SHISKIN,
Commissioner of Labor Statistics.

[FR Doc.77-12353 Filed 4-28-77;8:45 am]

EMPLOYMENT TRANSFER AND BUSINESS COMPETITION DETERMINATIONS UNDER THE RURAL DEVELOPMENT ACT

Employment and Training Administration Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.

2. Employment trends in the same industry in the local area.

3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.

4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).

5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice to:

Deputy Assistant Secretary for Employment and Training, 601 D St., NW., Washington, D.C. 20213.

Signed at Washington, D.C. this 25th day of April 1977.

ERNEST G. GREEN,
Assistant Secretary for Employment and Training.

Applications received during the week ending Apr. 22, 1977

Name of applicant	Location of enterprise	Principal product or activity
Meuro Industries, Inc.	Claremont, N.H.	Manufacture of wood household furniture.
Upper Connecticut Valley Hospital.	Colebrook, N.H.	General health services.
Virginia Automotive Industries, Ltd.	Charlottesville, Va.	Automobile engine analyzers, exhaust gas analyzer, and marine engine analyzer.
Gateway Inn	Hunting, W. Va.	Room rentals, restaurant and lounge.
Standard Building Systems	Frederick County, Md.	Manufacture and market open web steel joists and trusses.
Airway Industries, Inc.	Ellwood City, Pa.	Manufacture of luggage and attaché cases.
The Manbeck Bread Co.	Hagerstown, Md.	Production of bread and roll products.
Cheaha Poultry, Inc.	Piedmont, Ala.	Production of broiler chickens, hatching eggs, and heavy fowl.
Bailey Lumber Co., Inc.	Centre, Ala.	Building construction and retail sale of building materials.
Freeway Mobile Home Park	Elgin, S.C.	Low cost housing.
Scenic View Convalescent Center.	Baldwin, Ga.	Health care for aging and disabled persons.
Garland Wayne Koonts	Holly Hill, S.C.	Radio broadcasting service.
Franklin Grading Co.	Franklin, N.C.	Crushing of stone for commercial use.
McSweeney's Mill & Mine Service	South Point, Ohio	Manufacture of vacuumatic drill rods and augers.
Golden Fertilizer, Inc.	Golden, Ill.	Retail and application of fertilizer, chemicals, and lime.
PMC Corp.	Rice, Minn.	Manufacture of general industrial machinery.
Billy R. & N. Kathern Inmon	Greenwich, Ohio	Sales and service of new Ford Motor products and used cars.
Citation Manufacturing Co., Inc.	Siloam Springs, Ark.	Manufacture of industrial cleaning chemicals.
Pine Forest Plastics, Inc.	Henderson, Tex.	Manufacture of plastic pipes.
Morgan Enterprises, Inc.	Fort Morgan, Colo.	Motel and restaurant.
DeLorean Motor Co.	Sedgewick County, Kans.	Manufacture of sports cars.
Applied Industries, Inc. (tenant of Pasquotank County).	Elizabeth City, N.C.	Manufacture of fluid system aircraft components.
Graniteville Co. (tenant of town of Williston).	Williston, S.C.	Manufacture and finish of woven textile products.

[FR Doc.77-12302 Filed 4-28-77;8:45 am]

FEDERAL SUPPLEMENTAL BENEFITS, EMERGENCY UNEMPLOYMENT COMPENSATION

Ending of Federal Supplemental Benefit Period in Hawaii

This notice announces the ending of the Federal Supplemental Benefit Period in the State of Hawaii effective April 30, 1977.

BACKGROUND

The Emergency Unemployment Compensation Act of 1974 (Public Law 93-572, enacted December 31, 1974) (the Act) created a temporary program of supplementary unemployment benefits (referred to as Federal Supplemental Benefits) for unemployed individuals who have exhausted their rights to regular and extended benefits under State and Federal unemployment compensation laws. Federal Supplemental Benefits are payable during a Federal Supplemental Benefit Period in a State which has entered into an Agreement under the Act with the United States Secretary of Labor. A Federal Supplemental Benefit Period is triggered on in a State when unemployment in the State or in the State and the nation reaches the high levels set in the Act. During a Federal Supplemental Benefit Period the maximum amount of Federal Supplemental Benefits which are payable to eligible individuals is up to 13 weeks. A Federal Supplemental Benefit Period commenced in the State of Hawaii on February 23, 1975.

The Act also provides that a Federal Supplemental Benefit Period in a State will trigger off when the rate of insured unemployment in the State averages less than 5.0 percent over a period of thirteen consecutive calendar weeks. The benefit period actually terminates at the end of the third week after the week for which there is an "off" indicator, if the benefit period will have been in effect for a minimum duration of 13 weeks.

DETERMINATION OF "OFF" INDICATOR

The employment security agency of the State Hawaii has determined under the Act and 20 CFR 618.19(b) (published in the FEDERAL REGISTER on March 23, 1976, at 41 FR 12151, 12157) that the average rate of insured unemployment in the State for the period consisting of the week ending on April 9, 1977, and the immediately preceding twelve weeks, was less than 5.0 percent.

Therefore, I have determined in accordance with the Act and 20 CFR 618.19(b), and as authorized by the Secretary of Labor's Order 4-75, dated April 16, 1975 (published in the FEDERAL REGISTER on April 28, 1975, at 40 FR 18515), that there was a Federal Supplemental Benefit "off" indicator in the State of Hawaii for the week ending on April 9, 1977, and that the Federal Supplemental Benefit Period in that State terminates on April 30, 1977.

INFORMATION FOR CLAIMANTS

Any individual to whom Federal Supplemental Benefits or Federal-State Extended Benefits were payable in the State (whether or not any payment actually was made), for any portion of the last week of the Federal Supplemental Benefit Period, will have an additional eligibility period beginning immediately following the end of the Federal Supplemental Benefit Period. During the additional eligibility period the individual will be entitled to Federal Supplemental Benefits to the same extent as if the Federal Supplemental Benefit Period continued to be in effect. The additional eligibility period will have a duration of 13 weeks, unless it is terminated sooner by reason of the beginning of a new Federal Supplemental Benefit Period in the State.

Individuals currently filing claims for Federal Supplemental Benefits will receive written notices from the Hawaii Department of Labor and Industrial Relations of the end of the Federal Supplemental Benefit Period in that State and its effect on their entitlement to Federal Supplemental Benefits. The notice to any individual who will have an additional eligibility period following the Federal Supplemental Benefit Period will include information concerning potential entitlement to Federal Supplemental Benefits during the additional eligibility period.

Although the Federal Supplemental Benefit Period has terminated, an Extended Benefit Period will continue in effect in the State due to the National "on" indicator for the Federal-State Extended Benefit Program, as announced in a notice published in the FEDERAL REGISTER on February 21, 1975, at 40 FR 4722. Therefore, Federal-State Extended Benefits will continue to be payable to eligible individuals in the State.

Persons who wish information about their rights to Federal Supplemental Benefits or Federal-State Extended Benefits in the State of Hawaii should contact the nearest Employment Service Local Office of the Hawaii Department of Labor and Industrial Relations in their locality.

Signed at Washington, D.C., on April 26, 1977.

ERNEST G. GREEN,
Assistant Secretary for Employment and Training.

[FR Doc.77-12354 Filed 4-28-77;8:45 am]

Office of the Secretary

[TA-W-1297]

ARMCO STEEL CORP.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1297: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 15, 1976 in response to a worker petition received on that date which was filed by the United Steelworkers of America on behalf of workers and former workers producing carbon steel plate, wide flange structural beams, H-piling, pipe, standard structurals, and small merchant shapes at the Houston, Texas plant of Armco Steel Corporation.

The notice of investigation was published in the FEDERAL REGISTER on December 3, 1976 (41 FR 53081). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Armco Steel Corporation, its customers, the American Iron and Steel Institute, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation revealed that all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average employment of production workers at the Houston, Texas plant increased 4 percent in 1974, decreased 11 percent in 1975, then decreased 19 percent in 1976 compared to the previous year. Company figures for 1976 included estimated figures for the month of December.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales increased 5 percent in quantity and 41 percent in value in 1974 compared to 1973, decreased 23 percent in quantity and 8 percent in value in 1975, then decreased 30 percent in quantity and value in 1976 compared to the previous year.

Production decreased 2 percent in quantity and increased 28 percent in value in 1974 then decreased ten percent in quantity in 1975 and increased 15 percent in value in 1975.

Production decreased 30 percent in quantity and decreased 28 percent in value in 1976 compared to the previous year.

INCREASED IMPORTS

Imports of carbon steel plate increased both absolutely and relative to domestic shipments in 1972 compared to 1971, decreased both absolutely and relatively in 1973 compared to 1972, then increased both absolutely and relatively in 1974 compared to 1973. These imports decluded 20 percent in 1975 compared to 1974, then increased 2 percent in the first nine months of 1976 compared to the like period in 1975. The ratio of imports to domestic shipments increased from 18.8 percent in 1974 to 19.4 percent in 1975, then increased from 18.7 percent in the first nine months of 1975 to 24.8 percent in the like period in 1976.

Imports of carbon steel structural shapes increased both absolutely and relative to domestic shipments in 1972 compared to 1971, then decreased both absolutely and relatively each year from 1973 through 1975 compared to the previous year. These imports decreased 30 percent in 1975 compared to 1974 then increased 45 percent in the first nine months of 1976 compared to the like period in 1975. The ratio of imports to domestic shipments decreased from 19.7 percent in 1974 to 19.5 percent in 1975, then increased from 18.7 percent in the first nine months of 1975 to 34.3 percent in the like period in 1976.

Imports of carbon steel pipe and tubing decreased absolutely but increased relative to domestic shipments in 1972 compared to 1971, decreased both absolutely and relatively in 1973 compared to 1972, then increased both absolutely and relatively in 1974 compared to 1973.

These imports decreased 13 percent in 1975 compared to 1974, then increased 12 percent in the first nine months of 1976 compared to the like period in 1975. The ratio of imports to domestic shipments increased from 21.5 percent in 1974 to 22.8 percent in 1975, then increased from 20.5 percent in the first nine months of 1975 to 34.0 percent in the like period in 1976.

Imports of carbon steel bar-size light shapes increased absolutely but decreased relative to domestic shipments in 1972 compared to 1971, decreased both absolutely and relatively in 1973 compared to 1972, then increased both absolutely and relatively in 1974 compared to 1973. These imports decreased 68 percent in 1975 compared to 1974, then decreased 37 percent in the first nine months of 1976 compared to the like period in 1975. The ratio of imports to domestic shipments decreased from 53.1 percent in 1974 to 22.7 percent in 1975, then decreased from 27.3 percent in the first nine months of 1975 to 15.2 percent in the like period in 1976.

CONTRIBUTED IMPORTANTLY

Some customers who were surveyed stated that they had switched purchases of steel from Armco Steel Corporation to imports. Other customers who do not purchase imported steel stated that they had bought less from Armco because these customers had lost sales to competitors who do purchase imported steel.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with carbon steel plates, structural shapes and pipe produced at the Houston, Texas plant of Armco Steel Corporation contributed importantly to the total or partial separation of the workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the Houston, Texas plant of Armco Steel Corporation who became totally or partially separated from employment on or after October 15, 1975 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 14th day of April 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-12355 Filed 4-28-77;8:45 am]

[TA-W-1544]

ARTVOGUE OF CALIFORNIA

Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1544: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on January 4, 1977 in response to a worker petition received on that date which was filed by the workers and former workers producing men's cut and sewn sport shirts at Artvogue of California, San Francisco, California.

The Notice of Investigation was published in the FEDERAL REGISTER on January 18, 1977 (42 FR 3366). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Artvogue of California, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That imports of articles like or directly competitive with articles produced by such workers' firm or an appropriate subdivision therof, have increased either actual, or relative to domestic production, and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or producion. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment at Artvogue of California, San Francisco, California began to decline in the second quarter of 1976. Employment declined 4.7 percent in the last two quarters of 1976 compared to the same period of 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Production at Artvogue of California declined 33 percent in quantity and 27 percent in value in 1976 compared to 1975. Sales at Artvogue declined 29 percent in quantity and 24 percent in value in 1976 compared to 1975.

INCREASED IMPORTS

Imports of men's and boy's woven sport shirts decreased from 63,310 thousand units in 1971 to 49,375 thousand units in 1974. Imports increased to 61,008 thousand units in 1975 and continued to increase to 79,820 thousand units in 1976.

Imports increased relative to domestic production and consumption from 31.6 percent and 25.0 percent, respectively, in 1974, to 41.0 percent and 30.2 percent, respectively, in 1975.

CONTRIBUTED IMPORTANTLY

Customers of Artvogue of California indicated they have reduced purchases of men's sport shirts from Artvogue and have increased purchases of imported men's sport shirts.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with men's sport shirts produced by Artvogue of California, San Francisco, California contributed importantly to the total or partial separations of the workers of that plant. In accordance with the provisions of the Trade Act of 1974, I make the following certification:

All workers at Artvogue of California, San Francisco, California who became totally or partially separated from employment on or after April 7, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 15th day of April 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-12356 Filed 4-28-77;8:45 am]

[TA-W-1234]

BETHLEHEM STEEL CORP.

Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1234: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 8, 1976 in response to a worker petition received on November 8, 1976 which was filed by the United Steelworkers of America on behalf of workers and former workers producing structural steel shapes and reinforcing bars at the South San Francisco, California plant of Bethlehem Steel Corporation.

The Notice of Investigation was published in the FEDERAL REGISTER on November 23, 1976 (41 FR 51628). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Bethlehem Steel Corporation, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four of the above criteria have been met in relation to structural steel shapes. The investigation also revealed that without regard to whether any of the other criteria has been met, criterion (4) was not met in relation to reinforcing steel bars; and criterion (3) was not met for hot rolled carbon bars.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Production workers are used interchangeably between structural shapes and hot rolled carbon bars. Employment of these production workers declined 35.8 percent in 1975 compared to 1974 and decreased 34.9 percent in the first nine months of 1976 compared to the same period in 1975.

Employment of production workers in the reinforcing bars department increased 8.7 percent in 1975 compared to 1974 and declined 20.0 percent in the first nine months of 1976 compared to the same period in 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales of structural shapes, in units, declined 51.4 percent in 1975 compared to 1974 and decreased 48.4 percent in the first nine months of 1976 compared to the same period in 1975. Production in units, of structural shapes declined 46.3 percent in 1975 compared to 1974 and 49.6 percent in the first nine months of 1976 compared to the same period in 1975.

Sales of steel bars including reinforcing bars, in units, declined 29.3 percent in 1975 compared to 1974 and decreased 23.2 percent in the first nine months of 1976 compared to the same period in 1975. Production of steel bars, in units, declined 33.7 percent in 1975 compared to 1974 and 39.3 percent in the first nine months of 1976 compared to the same period in 1975.

INCREASED IMPORT

Imports of carbon steel structural shapes declined each year from 1.614 thousand short tons in 1972 to 804.9 thousand short tons in 1975 and increased from 629,100 short tons in the first nine months of 1975 to 909,800 short tons in the same period in 1976.

Imports of concrete reinforcing bars declined from 477,500 net tons in 1974 to 141,900 net tons in 1975 and increased from 121,300 net tons in the first nine months of 1975 to 143,400 net tons in the same period in 1976.

Imports of hot rolled carbon steel bars declined each year from 804,100 short tons in 1972, to 423,100 short tons in 1975 and declined from 378,900 short tons in the first nine months of 1975 to 233,600 short tons in the same period in 1976.

CONTRIBUTED IMPORTANTLY

A representative sample of the plant's customers indicated that customers increased this purchases of imported structural shapes while decreasing their purchases of this product from the South San Francisco plant.

A representative sample of the plant's customers for reinforcing bars indicated

that nearly all did not purchase imported reinforcing bars. One customer accounting for less than four percent of Bethlehem's total sales in 1975 purchased imports in 1975. This customer decreased purchases of re-bars in the first nine months of 1976 both from the subject firm and from foreign sources while increasing purchases from other domestic sources.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with structural steel shapes produced at the South San Francisco, California plant of Bethlehem Steel Corporation contributed importantly to the total or partial separations of the workers engaged in the production of such product at that plant. In accordance with the provisions of the Act, I make the following certification:

All hourly, piecework, and salaried workers engaged in employment related to the production of structural steel shapes at the South San Francisco, California plant of Bethlehem Steel Corporation, who became totally or partially separated from employment on or after October 27, 1975 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

It is further concluded that increases of imports like or directly competitive with hot rolled carbon bars and reinforcing carbon steel bars produced at the South San Francisco, California plant of the Bethlehem Steel Corporation did not contribute importantly to the total or partial separations of the workers engaged in the production of such products. Therefore, workers engaged in the production of hot rolled carbon bars and reinforcing steel bars are not eligible to apply for adjustment assistance.

Signed at Washington, D.C. this 18th day of April 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-12357 Filed 4-28-77;8:45 am]

(TA-W-1381)

C-E GLASS, INC.

Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1381: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 7, 1976 in response to worker petitions received on that date which were filed by the International Association of Machinist and Aerospace Workers and the United Glass and Ceramic Workers of North America on behalf of workers and former workers producing rolled figured glass and polished wire glass at the St. Louis, Missouri plant of C-E Glass, Incorporated, Pennsauken, New Jersey.

The Notice of Investigation was published in the FEDERAL REGISTER on January 4, 1977 (42 FR 872). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of C-E Glass, Inc., its customers, the U.S. Department of Commerce, the U. S. International Trade Commission and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the above criteria have been met with respect to polished wire glass. The investigation further revealed that criteria (2) and (4) were not met with respect to rolled figured glass.

SIGNIFICANT TOTAL PARTIAL SEPARATIONS

Average hourly employment of workers engaged in the production of polished wire glass declined 53.0 percent in 1976 compared to 1975. Production related employment was terminated throughout the second half of 1976; some workers continue to work in inventory reduction operations.

Average hourly employment of workers engaged in the production of rolled figured glass was unchanged in 1976 compared to 1975. Average quarterly employment in the third and fourth quarters of 1976 was 13.6 percent and 10.6 percent lower, respectively, than levels for the same quarter in 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECLINED ABSOLUTELY

Sales of polished wire glass decreased 17.8 percent in quantity from 1974 to 1975 and decreased 40.3 percent in 1976 compared to 1975.

The quantity of finished wire glass produced by C-E Glass increased 2.9 percent from 1974 to 1975 and declined 60.4 percent in the first seven months of 1976 compared to the same period in 1975. All production of finished polished wire glass was terminated in August 1976.

Sales of rolled figured glass manufactured at the St. Louis plant decreased 11.8 percent by quantity from 1974 to 1975 and increased 41.7 percent in 1976 compared to 1975.

The quantity of rolled figured glass produced at the St. Louis plant declined 17.3 percent from 1974 to 1975 and increased 54.9 percent in 1976 compared to 1975.

INCREASED IMPORTS

Imports of rolled and wired glass, which includes both polished wire and rolled figured glass, increased from 20.7 million square feet in 1971 to 29.4 million square feet in 1972, an increase of 42.0 percent. Imports declined each year from 1972 through 1975 and then increased from 18.4 million square feet in 1975 to 21.9 million square feet in 1976, an increase of 19.0 percent.

CONTRIBUTED IMPORTANTLY

Retail sales of polished wire glass and rolled figured glass manufactured at the St. Louis plant declined in 1975 compared to 1974 as the result of declines in demand by the domestic construction industry. In 1976, conditions in the construction industry improved and there was a corresponding increase in sales and production of rolled figured glass. Facing mounting competition from imported wire glass, in July 1976 C-E Glass began importing finished polished wire glass. The St. Louis plant's wire glass operation was permanently phased out beginning in August 1976. C-E Glass now imports all the polished wire glass it sells.

Although production of rolled figured glass and related employment increased in 1976 compared to 1975, the equipment used to manufacture rolled figured glass was also used to manufacture rough ⅜ inch thick wire glass. Production of rough ⅜ inch thick wire glass accounted for approximately one-quarter of total glass output on that equipment. All rough ⅜ inch thick wire glass was later processed into the polished wire glass made at the St. Louis plant. All separations of workers engaged in employment related to the production of rolled figured glass in the second half of 1976 were due to the termination of polished wire glass output.

Customers representing approximately 45 percent of C-E Glass' total polished wire glass sales indicated that they had decreased their purchases from the firm in 1976 in order to purchase imported polished wire glass.

Customers purchasing rolled figured glass from the St. Louis plant indicated that they did not purchase imports of that type of glass and that they had increased their purchases from the plant in 1976 compared to 1975.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with polished wire glass produced at the St. Louis, Missouri plant of C-E Glass, Incorporated contributed importantly to the total or par-

tial separations of the workers at that plant. In accordance with the provisions of the Trade Act of 1974, I make the following certifications:

All workers engaged in employment related to the production of polished wire glass at the St. Louis, Missouri plant of C-E Glass, Incorporated who became totally or partially separated from employment on or after January 1, 1976, and all workers engaged in employment related to the production of rough ⅜-inch thick wire glass who became totally or partially separated on or after July 1, 1976 and before January 1, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974. Workers engaged in employment related to production of rough ⅜-inch thick wire glass who were separated from such employment before July 1, 1976 and after December 31, 1976 are denied eligibility.

I further conclude that increases of imports like or directly competitive with rolled figured glass produced at the St. Louis, Missouri plant of C-E Glass, Inc., did not contribute importantly to the total or partial separations of the workers engaged in the production of such product at that plant.

Signed at Washington, D.C., this 13th day of April 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 77-12358 Filed 4-28-77;8:45 am]

[TA-W-1313]

COPPER RANGE CO., NORTHERN HARDWOODS DIVISION

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1313: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 30, 1976 in response to a worker petition received on that date which was filed by the United Steelworkers of America on behalf of workers and former workers producing furniture components at the Houghton, Michigan plant of Copper Range Company, Northern Hardwoods Division.

The Notice of Investigation was published in the FEDERAL REGISTER on December 14, 1976 (41 FR 54554). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Copper Range Company, Northern Hardwoods Division, the United Steelworkers of America, the U.S. Department of Commerce, the U.S. International Trade Commission, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criteria (2) and (4) have not been met.

The Northern Hardwoods Division of the Copper Range Company operates the Houghton, Michigan plant. The plant produces furniture components, institutional shelving and cutting boards. Furniture components accounted for approximately 84 percent of total production in 1976. Institutional shelving and cutting boards each accounted for eight percent of total production in 1976. Production workers are used interchangeably on all products.

Total production increased 54.1 and 73.3 percent in quantity and value respectively in the fourth quarter of 1975 compared to the same quarter in 1974. Total production in quantity and value increased 26.6 and 31.6 percent respectively in the first eleven months of 1976 compared the same period in 1975.

Total sales increased 51.1 and 46.5 percent in quantity and value respectively in the fourth quarter of 1975 compared to the same quarter in 1974. Total sales in quantity and value increased 22.6 and 29.0 percent respectively in the first eleven months of 1976 compared to the same period in 1975.

None of the customers of the Northern Hardwoods Division surveyed reported any purchases of imported furniture components, shelving or cutting boards.

After careful consideration of the facts obtained in the investigation, I conclude that total sales and production of furniture components, institutional shelving and cutting boards at the Houghton, Michigan plant of the Northern Hardwoods Division of the Copper Range Company have not declined as required for certification under Section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 13th day of April 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-12359 Filed 4-28-77;8:45 am]

[TA-W-1184]

JACK L. INSELMAN & CO.

Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-1184: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on October 19, 1976 in response to a worker petition received on October 19, 1976 which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing children's coats at Jack L. Inselman and Company, Philadelphia, Pennsylvania.

The Notice of Investigation was published in the FEDERAL REGISTER on November 5, 1976 (41 FR 48811). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Jack L. Inselman and Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production;

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of production workers remained constant in 1975 compared to 1974 before declining 22.0 percent in the first four months of 1976 compared to the same period of 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Company sales equal production. Sales decreased 1.1 percent in 1975 compared to 1974, and further declined 23.0 percent in the first four months of 1976 compared to the same period of 1975.

Production of children's coats ceased on April 30, 1976.

INCREASED IMPORTS

Imports of women's, misses' and children's coats increased from 1,441,000 dozens in 1971 to 1,807,000 dozens in 1973. Imports then decreased in 1974 to 1,478,000 dozens, before increasing again to 1,517,000 dozens in 1975 an increase of 2.6 percent in 1975 compared to 1974. Imports also increased in the first three quarters of 1976 compared to the same period of 1975, from 1,109,000 dozens to 1,680,000 dozens—an increase of 51.5 percent.

CONTRIBUTED IMPORTANTLY

Several customers of Jack L. Inselman and Company decreased purchases from the subject firm in 1975 compared to 1974 and in the first four months of 1976 compared to the same period of 1975, and increased purchases of imported products like or directly competitive with children's coats.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports like or directly competitive with children's coats produced at Jack L. Inselman and Company, Philadelphia, Pennsylvania, contributed importantly to the total or partial separations of the workers of that Company. In accordance with the provisions of the Act, I make the following certification:

All workers at Jack L. Inselman and Company, Philadelphia, Pennsylvania, who became totally or partially separated on or after January 1, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 18th day of April 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-12360 Filed 4-28-77;8:45 am]

[TA-W-1528]

JUDSON STEEL CORP.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1528: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 28, 1976 in response to a worker petition received on that date which was filed by the United Steelworkers of America on behalf of workers and former workers producing concrete reinforcing bars at the Emeryville, California plant of the Judson Steel Corporation.

The notice of investigation was published in the FEDERAL REGISTER on January 18, 1977 (42 FR 3374). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Judson Steel Corporation its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any other criteria have been met, criterion (2) has not been met.

The Judson Steel Corporation, Emeryville, California produces concrete reinforcing bars (rebars) from scrap metal.

Production of concrete reinforcing bars by the Emeryville plant increased in quantity and value 49.1 and 62.6 percent respectively in the last quarter of 1975 compared to the last quarter of 1974. Rebar production further increased in quantity and value 20.9 and 22.5 percent respectively in 1976 compared to 1975.

In the final quarter of 1975, sales of rebars increased in both quantity and value 72.1 and 89.2 percent respectively, compared to the same quarter in 1974. Compared to 1975, sales of rebars increased in quantity and value in 1976 33.4 and 7.9 percent respectively.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that sales or production of concrete reinforcing bars at Judson Steel Corporation, Emeryville, California, have not decreased as required for certification under Section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 18th day of April 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-12361 Filed 4-28-77;8:45 am]

[TA-W-1409]

KENTUCKY ELECTRIC STEEL CO.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1409: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 14, 1976 in response to a worker petition received on that date which was filed by the United Steelworkers of America on behalf of workers and former workers producing hot and cold rolled carbon steel bars and carbon steel bar-sized light structural shapes at the Ashland, Kentucky plant of the Kentucky Electric Steel Company.

The Notice of Investigation was published in the FEDERAL REGISTER on January 11, 1977 (42 FR 2374). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Kentucky Electric Steel Company, the U.S. Department of Commerce, the United Steelworkers of America, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any other criteria have been met, criterion (3) has not been met.

The Ashland, Kentucky plant of the Kentucky Electric Steel Company produces hot and cold rolled carbon steel bars and carbon steel bar-sized light structural shapes which are used in various fabrication operations.

Evidence developed by the Department's investigation reveals that imports of hot and cold rolled carbon steel bars have decreased absolutely and relative to domestic production from 1973 through September 1976. Imports of carbon steel bar-sized light structural shapes have decreased absolutely and relative to do-

mestic production from 1975 through September, 1976, the latest date of published aggregate import statistics.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that imports like or directly competitive with hot and cold rolled carbon steel bars and carbon steel par-sized light structural shapes produced at the Ashland, Kentucky plant of the Kentucky Electric Steel Company have not increased as required in Section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 15th day of April 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-12362 Filed 4-28-77;8:45 am]

[TA-W-1530]

LIGGETT SPRING & AXLE CO.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1530: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 30, 1976 in response to a worker petition received on that date which was filed by the United Steelworkers of America on behalf of workers formerly producing leaf springs and axles at Liggett Spring & Axel Company, Monongahela, Pennsylvania.

The Notice of Investigation was published in the FEDERAL REGISTER on January 18, 1977 (42 FR 3375. No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Liggett Spring & Axle Company, its customers, the United Steelworkers of America, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make on affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation revealed, with respect to Liggett workers producing leaf springs, that although the first three criteria have been met, the fourth criterion has not been met. The investigation further revealed, with respect to Liggett workers producing axles, that the third criterion has not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of hourly workers employed at Liggett declined 25.0 percent from 1974 to 1975 and fell 86.5 percent from 1975 to 1976. Average hourly employment declined in every quarter of 1976 compared to the same quarters in 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED

Liggett's production of leaf springs declined 28.3 percent in quantity from 1974 to 1975 and fell 92.8 percent in quantity from 1975 to 1976. Production of axles declined 52.9 percent in quantity from 1974 to 1975 and fell 35.5 percent in quantity from 1975 to 1976. Production of both leaf springs and axles declined in every quarter of 1976 compared to the same quarters in 1975.

INCREASED IMPORTS

Imports of leaf springs, like or directly competitive with leaf springs manufactured by Liggett, increased in value from 1972 to 1974, declined from 1974 to 1975 and then increased from 1975 to 1976. The ratios of imports to domestic production and consumption rose each year from 1972 to 1976.

Imports of axles, like or directly competitive with axles produced by Liggett, are not separately identifiable in the official trade statistics. However, a survey of industry sources indicates that there are no significant imports of axles.

CONTRIBUTED IMPORTANTLY

The only involuntary separations that occurred at Liggett during the period from November 1975 through December 1976 occurred in January 1976 when more than 90 percent of all hourly workers were laid off as a result of a fire on January 14, 1976 that destroyed Liggett's leaf spring operations. From February 1976 through December 1976, average hourly employment at Liggett rose gradually but remained at relatively low levels.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of leaf springs, like or directly competitive with leaf springs produced at Liggett Spring & Axle Company, did not contribute importantly to the total or partial separation of workers producing such articles at the firm.

I further conclude that imports of axles, like or directly competitive with axles produced at Liggett Spring & Axle Company, have not been imported in increased quantities, either actual or relative to domestic production, as required under Section 222(3) of the Trade Act of 1974.

Signed at Washington, D.C. this 14th day of April 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-12363 Filed 4-28-77;8:45 am]

[TA-W-1453]

PHILADELPHIA COKE CO.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1453: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 15, 1976 in response to a worker petition received on December 15, 1976 which was filed by the United Steelworkers of America on behalf of workers and former workers producing coke at the Philadelphia Coke Company, Philadelphia, Pennsylvania.

The Notice of Investigation was published in the FEDERAL REGISTER on January 7, 1977 (42 FR 1537). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Philadelphia Coke Company, the United Steelworkers of America, U.S. Department of Commerce publications, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That imports of articles like or directly competitive with articles produced by such workers' firm or an appropriate subdivision thereof, have increased either actual, or relative to domestic production, and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any other criteria have been met, criterion (3) has not been met.

Evidence developed in the Department's investigation reveals that imports of metallurgical coke have decreased ab-

solutely and relative to domestic production from 1974 through 1976.

CONCLUSION.

After careful review of the facts obtained in the investigation, I conclude that imports of metallurgical coke like or directly competitive with coke produced at the Philadelphia Coke Company, Inc., Philadelphia, Pennsylvania have not increased as required in section 222 of the Trade Act of 1974. The petition is, therefore, denied.

Signed at Washington, D.C. this 18th day of April 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-12364 Filed 4-28-77;8:45 am]

[TA-W-1474]

STANDARD STEEL, A DIVISION OF TITANIUM METALS CORP. OF AMERICA

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1474: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 20, 1976 in response to a worker petition received on December 20, 1976 which was filed by the United Steelworkers of America on behalf of workers and former workers producing railroad wheels, axles, and rings at the Burnham, Pennsylvania plant of the Standard Steel Division of the Titanium Metals Corporation of America.

The notice of investigation was published in the FEDERAL REGISTER on January 7, 1977 (42 FR 1539). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Standard Steel Division of the Titanium Metals Corporation of America.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any other criteria have been met, criterion (2) has not been met.

The Burnham, Pennsylvania plant of Standard Steel produces railroad wheels, axles, and rings.

Evidence developed in the Department's investigation reveals that sales of railroad wheels declined 1.9 percent by quantity in 1975 compared to 1974 and then increased 6.0 percent in 1976 compared to 1975.

Sales of axles declined 6.7 percent by quantity in 1975 compared to 1974 and then increased 8.3 percent in 1976 compared to 1975.

Sales of rings declined 8.1 percent by quantity in 1975 compared to 1974 and then increased 3.9 percent in 1976 compared to 1975.

Company officials stated that inventories are minimal and that production is almost equal to sales.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that neither sales nor production of railroad wheels, axles, or rings at the Burnham, Pennsylvania plant of the Standard Steel Division of the Titanium Metals Corporation of America have decreased absolutely as required in Section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 18th day of April 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-12365 Filed 4-28-77;8:45 am]

[TA-W-1338]

STOCKHAM VALVES & FITTINGS, INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1338: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 1, 1976 in response to a worker petition received on December 1, 1976 which was filed by the United Steelworkers of America on behalf of workers producing valves, non-malleable cast iron pipe fittings, and malleable cast iron pipe fittings at the Birmingham, Alabama plant of Stockham Valves and Fittings, Inc.

The notice of investigation was published in the FEDERAL REGISTER on December 21, 1976 (41 FR 55609). No public hearing was requested and none was held.

The information upon which the determination was made was obtained from the United Steelworkers of America, Stockham Valves and Fttings, Incorporated, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

With respect to valves and malleable cast iron pipe fittings, without regard to whether any other criteria have been met, criterion (1) has not been met. With respect to nonmalleable cast iron pipe fittings, without regard to whether any other criteria have been met, criterion (33) has not been met.

The evidence developed in the Department's investigation reveals that Stockham Valves and Fittings, Incorporated manufactures three products: valves, nonmalleable cast iron pipe fittings and malleable cast iron pipe fittings. The company operates only one plant located in Birmingham, Alabama.

Employees are separately identifiable by product line at the Birmingham plant. All of the workers at the Birmingham plant are engaged in employment related to the production of one of the three products described above.

Both company and union officials stated that no involuntary separations occurred among hourly employees engaged in valve production from November 1, 1975, one year prior to the signature date of the petition, to the present.

Company records revealed that no layoffs occurred among hourly employees engaged in the production of malleable cast iron pipe fittings from November 1, 1975, one year prior to the signature date of the petition, to the present. Pursuant to the requirements of 29 CFR 90.2, "partial separation" means, that the worker's hours of work have been reduced to 80 percent or less of the worker's average weekly hours at the firm or appropriate subdivision thereof.

Evidence developed in the Department's investigation revealed that among employees engaged in the production of malleable cast iron pipe fittings the average weekly hours per worker were not reduced to 80 percent or less of the workers' average weekly hours from November 1, 1975, one year prior to the signature date of the petition, to the present.

The investigation also revealed that imports of non-malleable cast iron pipe fittings have been declining and are of negligible quantities compared to U.S. production during the period 1971 through the first 3 quarters of 1976. Imports increased from 11.4 million pounds in 1971 to 14.2 million pounds in 1972, then decreased to 4.9 million pounds in 1973. Imports decreased to 3.3 million pounds in 1974 then increased to 4.5 million pounds in 1975. In the first 3 quarters of 1976 imports decreased 44.1 percent compared to the like period in 1975, from 3.4 million pounds to 1.9 million pounds.

The ratio of imports to domestic production of non-malleable cast iron pipe fittings increased from .74 percent in 1971 to 1.0 percent in 1972. In 1973 the import to production ratio declined to .36 percent, then declined to .28 percent in 1974. In 1975, the ratio increased to .56 percent. The ratio declined from .56 percent in the first 9 months of 1975 to .29 percent in the first 9 months of 1975.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that a significant number or proportion of workers engaged in employment related to the production of valves and malleable cast iron pipe fittings at the Birmingham, Alabama plant of Stockham Valves and Fittings, Incorporated have not become totally or partially separated as required by Section 222 of the Trade Act of 1974.

I further conclude that articles like or directly competitive with the non-malleable cast iron pipe fittings produced at the Birmingham, Alabama plant of Stockham Valves and Fittings, Incorporated are not being imported in increased quantities, either actual or relative to domestic production, as required by Section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 14th day of April 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-12366 Filed 4-28-77;8:45 am]

[TA-W-1285]

SUPERB GLOVE CORP.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-1285: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 16, 1976 in response to a worker petition received on November 16, 1976 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing leather dress gloves at the Johnstown, New York plant of Superb Glove Corporation, a division of Crescendoe Gloves, Incorporated.

The notice of investigation was published in the FEDERAL REGISTER on December 3, 1977 (41 FR 53096). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Superb Glove Corporation, its customers, the National Association of Glove Manufacturers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average annual employment declined 18.1 percent from 1974 to 1975 and 11.8 percent in 1976 compared to 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

The value of total sales decreased 18.0 percent from 1974 to 1975 and increased 1.9 percent in 1976 compared to 1975.

Production at the Johnstown plant declined 24.4 percent from 1974 to 1975 and declined 13.5 percent in 1976 compared to 1975.

INCREASED IMPORTS

Imports of dress gloves and mittens increased from 3,685 thousand dozen pairs in the first nine months of 1975 to 4,506 thousand dozen pairs in the first nine months of 1976. The ratio of imports to domestic production increased from 238.8 percent in 1974 to 257.1 percent in 1975 and increased from 307.1 percent the first nine months of 1975 to 317.5 percent in the first nine months of 1976.

Customers of Superb state that most domestic distributors of gloves from whom they purchase have increased the amount of imported gloves they handle. Superb itself has increased the amount of imported gloves sold under its own label. Imports of gloves by Superb increased by 35.9 percent from 1974 to 1975 and increased by 9.3 percent from 1975 to 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with gloves produced at Superb Glove Corporation, Johnstown, New York contributed importantly to the total or partial separation of workers at that firm. In accordance with the provisions of the Act I make the following certification:

All hourly and salaried workers at the Johnstown, New York plant of Superb Glove Corporation who became totally or partially separated on or after November 1, 1975 are eligible to apply for adjustment under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 13th day of April 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-12367 Filed 4-28-77;8:45 am]

[TA-W-1250]

TERRACE FOOTWEAR, INC.

Revised Certification of Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 222 of the Trade Act of 1974 and in accordance with Section 223(a) of such Act, on March 11, 1976, the Department of Labor issued a certification of eligibility to apply for adjustment assistance applicable to workers and former workers of Terrace Footwear, Inc., So. Norwalk, Connecticut (TA-W-1250). The notice of certification was published in the FEDERAL REGISTER March 22, 1977 (42 FR 15481).

Subsequent to the publication of the original determination, the Office of Trade Adjustment Assistance received an inquiry on behalf of six additional workers who were engaged in employment related to the production of women's footwear and should have been included in the original certification as eligible to apply for adjustment assistance even if separated after the termination date. The six workers were omitted from the original certification because they were retained to complete shut down operations.

CONCLUSION

Based on additional evidence, a review of the entire record, and in accordance with the provisions of the Act, I have determined that the original certification is hereby revised as follows:

All workers at Terrace Footwear, Inc., So. Norwalk, Connecticut who became totally or partially separated from employment on or after July 1, 1976 and on or before October 30, 1976, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974, except that the following identified employees of Terrace Footwear, Inc. shall be eligible to apply for adjust-

ment assistance even if they become totally or partially separated after October 30, 1976.

1. Genevieve Cuneo, 17 Joemar RD, So. Norwak, Conn.
2. Oscar Greenberg, 20 Friendly Dr., Norwalk, Conn.
3. Jeffrey Waldron, 400 N. Main St., Ansonia, Conn.
4. Preston Fryr, 408A Washington Village, So. Norwalk, Conn.
5. Angel Morales, 16 Pine St., So. Norwalk, Conn.
6. Charles Nastro, 432 Rowayton Ave., So. Norwalk, Conn.

Signed at Washington, D.C. this 14th day of April 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-12368 Filed 4-28-77;8:45 am]

AGGRESSIVE MFG., ET AL.

Investigations regarding certifications of eligibility to apply for worker adjustment assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competititve with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 9, 1977.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 9, 1977.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 11th day of April 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Aggressive Mfg., Inc. (ILGWU).	Hammonton, N.J.	Apr. 7, 1977	Mar. 18, 1977	TA-W-1,968	Ladies' coats.
Central Slipper Co., Inc. (USWA).	Wilkes-Barre, Pa.	Apr. 6, 1977	Apr. 4, 1977	TA-W-1,969	Ladies' fabric casual slippers and children's basketball sneakers.
H. W. Gossard Co. (ILGWU).	Troy, Mo.	Apr. 11, 1977	Mar. 14, 1977	TA-W-1,970	Night gowns and robes.
Jacobson Mfg. Co., Inc. (UAW).	Kenilworth, N.J.	Apr. 7, 1977	Apr. 1, 1977	TA-W-1,971	Nuts and washers.
Knapp King-Size Corp. (workers).	New Bedford, Mass.	do	Apr. 4, 1977	TA-W-1,972	Men's and ladies' shoes.
Phoenix Footwear (company).	Secaucus, N.J.	do	do	TA-W-1,973	Ladies' casual shoes and bedroom slippers.

[FR Doc.77-12193 Filed 4-28-77;8:45 am]

APOLLO DYEING & FINISHING CO. ET AL.

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 9, 1977.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 9, 1977.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 18th day of April 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Apollo Dyeing & Finishing Co. (Machine Printers & Engravers Association).	Paterson, N.J.	Apr. 18, 1977	Apr. 11, 1977	TA-W-1,964	Textile prints on fabrics for men's, women's, and children's wear.
Chippewa Shoe Co. United Shoe Workers of America).	Chippewa Falls, Wis.	do	Apr. 4, 1977	TA-W-1,985	Men's work and sport shoes.
Conaway Winter, Inc. (boot and shoe workers union).	Willow Springs, Mo.	do	Apr. 11, 1977	TA-W-1,986	Infants' shoes.
Daco Manufacturing, Inc. (company).	New Bedford, Mass.	do	Apr. 15, 1977	TA-W-1,987	Men's and boys' trousers.
A. E. Nettleton Co. (United Shoe Workers of America).	Syracuse, N.Y.	do	Apr. 11, 1977	TA-W-1,988	Men's shoes.
Webster Enterprises, Inc. (company).	Cleveland, Ohio.	do	Apr. 12, 1977	TA-W-1,989	Infants' squeeze toys.

[FR Doc.77-12196 Filed 4-28-77;8:45 am]

CREINER & BROMBERG, INC., ET AL.

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assisstance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 9, 1977.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 9, 1977.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Buerau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 12th day of April, 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Creiner & Brumberg, Inc. (workers).	New York, N.Y.	Apr. 11, 1977	Apr. 7, 1977	TA-W-1,974	Wholesale distributor of ladies' handbags.
Ellwood City Forge Corp. (workers).	Ellwood City, Pa.	do	do	TA-W-1,975	Open die steel forgings and multiple throw crankshafts.
Kennebec River Pulp & Paper, Inc. (IAM).	Madison, Maine	do	Apr. 6, 1977	TA-W-1,976	Paper for paper back covers and books.
S. Klein Die Cutting, Inc. (ILGWU).	New York, N.Y.	do	Mar. 21, 1977	TA-W-1,977	Cutting and dying of corsets and brassieres.
National Footwear Corp. (workers).	Epping, N.H.	do	Apr. 6, 1977	TA-W-1,978	Children's shoes.
Totsy Manufacturing Co. (workers).	Fitchburg, Mass	do	Apr. 4, 1977	TA-W-1,979	Sewing of doll clothes.

[FR Doc.77-12194 Filed 4-28-77;8:45 am]

MALDEN RENTAL SERVICE, INC., ET AL.

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 9, 1977.

Interested persons are invited to submit written comments regarding the sub-

ject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 9, 1977.

The petitions filed in this care are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 14th day of April, 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Malden Rental Service, Inc. (workers).	Malden, Mass.	Apr. 12, 1977	Apr. 7, 1977	TA-W-1,980	Transportation of products made by the Converse Rubber Co.
Miller Abattoir Co. (company).	North Bergen, N.J.	Apr. 13, 1977	Apr. 4, 1977	TA-W-1,981	Slaughtered and dressed lambs.
NL Industries, Titanium Pigment Division (OCAW).	Sayreville, N.J.	Apr. 11, 1977	Mar. 28, 1977	TA-W-1,982	Pure titanium dioxide pigment.
White Pine School District (Michigan Education Association).	White Pine, Mich.	do	Apr. 5, 1977	TA-W-1,983	Teaching grade school and high school.

[FR Doc.77-12195 Filed 4-28-77;8:45 am]

NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

RESEARCH GRANTS PANEL

Meeting

APRIL 22, 1977.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463) notice is hereby given that a meeting of the Research Grants Panel will be held at 806 15th Street, NW., Washington, D.C. 20506, in room 1130, from 9 a.m. to 5:30 p.m. on June 30, 1977.

The purpose of the meeting is to review General Research applications in the field of Literature and the Fine Arts submitted to the National Endowment for the Humanities for projects beginning after October 1, 1977.

Because the proposed meeting will consider financial information and personnel and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 13, 1973, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b (c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 15th Street. N.W., Washington, D.C. 20506, or call area code 202-382-2031.

JOHN W. JORDAN,
Advisory Committee Management Officer.

[FR Doc.77-11259 Filed 4-28-77;8:45 am]

RESEARCH GRANTS PANEL

Meeting

APRIL 22, 1977.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463 notice is hereby given that a meeting of the Research Grants Panel will be held at 806 15th Street NW., Washington, D.C. 20506, in room 1130, from 9 a.m. to 5:30 p.m. on June 13, 1977.

The purpose of the meeting is to review General Research applications in the field of Social Sciences submitted to the National Endowment for the Humanities for projects beginning after October 1, 1977.

Because the proposed meeting will consider financial information and personnel and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 13, 1973, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 15th Street, NW., Washington, D.C. 20506, or call area code 202-382-2031.

JOHN W. JORDAN,
Advisory Committee Management Officer.

[FR Doc.77-12260 Filed 4-28-77;8:45 am]

RESEARCH GRANTS PANEL

Meeting

APRIL 22. 1977.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463) notice is hereby given that a meeting of the Research Grants Panel will be held at 806 15th Street NW., Washington, D.C. 20506, in room 1130, from 9 am. to 5:30 pm. on May 25, 1977.

The purpose of the meeting is to review General Research applications in the field of History submitted to the National Endowment for the Humanities for projects beginning after October 1, 1977.

Because the proposed meeting will consider financial information and personnel and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 13, 1973, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b (c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 15th Street NW., Washington, D.C. 20506, or call area code 202-382-2031.

JOHN W. JORDAN,
Advisory Committee Management Officer.

[FR Doc.77-12261 Filed 4-28-77;8:45 am]

NATIONAL SCIENCE FOUNDATION

ADVISORY PANEL FOR ELOLOGICAL SCIENCES

Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Advisory Panel for Ecological Sciences.

Date and time: May 17 and 18, 1977—8:30 a.m. to 5:00 p.m. each day.

Place: Room 338, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

Type of meeting: Closed.

Contact person: Dr. Peter W. Frank, Program Director, Ecology Program, Room 336, National Science Foundation, Washington, D.C. 20550, telephone 202-632-7324.

Purpose of panel: To provide advice and recommendations concerning support for research in ecology.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Acting Committee Management Officer.

[FR Doc.77-12406 Filed 4-28-77;8:45 am]

ADVISORY PANEL FOR SCIENCE EDUCATION PROJECTS, SUBPANEL ON THE DEVELOPMENT IN SCIENCE EDUCATION PROGRAM (DISE)

Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subpanel on the Development in Science Education Program (DISE) of the Advisory Panel for Science Education Projects.

Date and time: May 15 through June 4, 1977, 8:30 a.m. to 5 p.m.

Place: Holiday Inn, Chevy Chase, Maryland.

Type of meeting: Closed.

Contact person: Dr. John L. Snyder, Program Director, DISE, Room w-618, National Science Foundation, Washington, D.C. 20550, telephone 202-282-7910.

Purpose of panel: To provide advice and recommendations concerning support for research in the DISE program.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c) Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of P.L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Acting Committee Management Officer.

APRIL 26, 1977.

[FR Doc.77-12405 Filed 4-28-77;8:45 am]

ADVISORY PANEL FOR SCIENCE EDUCATION PROJECTS. SUBPANEL FOR THE MINORITY CENTERS FOR GRADUATE EDUCATION (MCGE)

Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subpanel for the Minority Centers for Graduate Education (MCGE) of the Advisory Panel for Science Education Projects.

Date and time: May 16, 1977, 8:30 a.m. to 5 p.m., May 17, 1977, 8:30 a.m. to 5 p.m.

Place: Sheraton Park Hotel, 2660 Woodley Road, NW., Washington, D.C.

Type of meeting: Closed.

Contact person: Dr. Shirley M. McBay, Program Director, MCGE, Room W-450, National Science Foundation, Washington, D.C. 20550, Telephone 202-282-7760.

Purpose of panel: To provide advice and recommendations concerning support for research in the MCGE Program.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Acting Committee Management Officer.

APRIL 26, 1977.

[FR Doc.77-12404 Filed 4-28-77;8:45 am]

FEDERAL SCIENTIFIC AND TECHNICAL INFORMATION MANAGERS

Meeting

The next and final meeting of the 1976-1977 season of the Federal Scientific and Technical Information Managers will be held on Wednesday, May 11, 1977, from 9:30 a.m. to 12 noon, in the Conference Room 543, National Science Foundation, 1800 G Street, NW., Washington, D.C. The theme of this meeting will be:

Improving Access to Federal Technical Information and Data: Is Creating a Federal Network for the Purpose Feasible:

These meetings, sponsored by the National Science Foundation, provide a forum for the interchange of information concerning common problems and coordination in the areas of Federal scientific and technical information and communications.

The meetings are designed solely for the benefit of Federal employees and officers and do not fall under the provisions of the Federal Advisory Committee Act (Pub. L. 92-463). However, this meeting is believed to be of sufficient importance and interest to the public to be announced in the FEDERAL REGISTER.

Any persons wishing to attend this meeting or requiring further information should notify Mr. Andrew A. Aines, Division of Science Information, National Science Foundation, 1800 G Street, N.W., Washington, D.C. 20550, telephone: (202) 632-5836.

ANDREW A. AINES,
Senior Staff Associate, Division of Science Information.

APRIL 21, 1977.

[FR Doc.77-12407 Filed 4-28-77;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on April 25, 1977 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice thru this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, 202-395-4529, or from the reviewer listed.

NEW FORMS

National Commission on the Observance of International Women's Year Nomination Form (Washington, D.C.), on occasion, delegates national conference, Caywood, D. P., 395-3443.

Nomination Form (Nevada), on occasion, delegates national conference, Caywood, D. P., 395-3443.

DEPARTMENT OF LABOR

Employment and Training Administration, apple harvest plan, ETA-7-158, annually, growers who anticipate a need for temporary agriculture workers, Strasser, A., 395-5867.

REVISIONS

VETERANS ADMINISTRATION

Designation of Beneficiary and Optional Settlement, VA29-336, on occasion, insured, Warren Topelius, 395-5872.

DEPARTMENT OF AGRICULTURE

Farmer Cooperative Service:

Questionnaire to identify farmer cooperative enterprises, FCS-13, on occasion, farmer cooperatives, Gaylord Worden, 395-4730.

Annual Survey of Farmer Cooperatives—Regional and Local, FCS-14b, annually, farmer cooperatives, Gaylord Worden, 395-4730.

DEPARTMENT OF DEFENSE

Department of the Army (excluding Defense Civil Preparedness Agency) Army Advertising Awareness and Attitude Survey, single time, parents of nonprior service males age 17-21, Maria Gonzalez, National Security Division, 395-6132.

EXTENSIONS

TENNESSEE VALLEY AUTHORITY

Salary Survey, TVA 5322, annually, employers, Strasser, A., 395-5867.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service, request for Work Schedule—Grading or Inspection (poultry, eggs, rabbits), PY-100, PY-100-1, on occasion, poultry, egg, egg products processors, Marsha Traynham, 395-4529.

Soil Conservation Service:

Flood damage Survey—Transportation and Utilities, SCS-WS-4, on occasion, Government agencies, Lowry, R. L., 395-3772.

Flood Damage Survey—Residential Properties, SCS-WS-2, on occasion, individuals, Lowry, R. L., 395-3772.
Flood Damage Survey—Cropland Drainage, SCS-WS-6, on occasion, farms, Lowry, R. L., 395-3772.
Flood Damage Survey—Agricultural Land, SCS-WS-1, on occasion, property affected by floods, Lowry, R. L., 395-3772.
Flood Damage Survey—Commercial and and Industrial Properties, SCS-WS-3, on occasion, property affected by floods, Lowry, R. L., 395-3772.
Flood Damage Survey—Irrigated Land, SCS-WS-5, on occasion, property affected by floods, Lowry, R. L., 395-3772.

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service:
Departure Information Card, I-438, on occasion, individuals, Marsha Traynham, 395-4529.
Application for Nonresident Alien-Canadian Border Crossing Cards, I-175, on occasion, Canadian Border Crossers, Marsha Traynham, 395-4529.
Supplement to Application To File Petition for Naturalization, (Seamen), N-400B, on occasion, individuals, Marsha Traynham, 395-4529.
Application to Correct Certificate of Naturalization, N-458, on occasion, correct certificate of naturalization, Marsha Traynham, 395-4529.
Application for a Certificate of Naturalization or Repatriation, N-580, on occasion, certification of naturalization or repatriation, Marsha Traynham, 395-4529.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.77-12467 Filed 4-28-77;8:45 am]

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on April 22, 1977 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, 202-395-4529, or from the reviewer listed.

NEW FORMS

DEPARTMENT OF COMMERCE

Bureau of Census:
1977 Census of Manufacturers: Report from Penal Institutions, MC-D4, single time, State and Federal Penal Institutions, Peterson, M. O., 395-5631.
1977 Census of Governments Survey of Government Employment, E-1 through E-7, E-6A, single time, State and Local Governments, Ellett, C. A., Strasser, A., 395-5867.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of Health, data for interrogatory: Amniocentesis, single time, scientists with PHS grants in amniocentesis, Richard Eisinger, 395-6140.

REVISIONS

ACTION

Peace Corps Volunteers: Background Information Form, PC 5, on occasion, Peace Corps Volunteers, Tracey Cole, 395-5870.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Resources Administration, Pretest of 1978 Health Interview Survey Questionnaire NCHS 1014, other (see SF-83), samples of households in two locations, Richard Eisinger, 395-6140.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.12468 Filed 4-28-77;8:45 am]

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on April 21, 1977 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

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NEW FORMS

GENERAL SERVICES ADMINISTRATION

Bidders Mailing List Application Code Sheet, GSA 3038, on occasion, firms wishing to receive copies of solicitations, Caywood, D. P., 395-3433.

ENVIRONMENTAL PROTECTION AGENCY

Recreational Water Quality and Health Questionnaire, on occasion, users of two swimming beaches, Richard Eisinger, Ellett, C. A., 395-6140.

DEPARTMENT OF AGRICULTURE

Statistical Reporting Service, Barley Variety Surveys, annually, Barley Growers, Gaylord Worden, 395-4730.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education:

Survey of State Education Provisions for Gifted and Talented, OE9064, single time, State education agencies, Kathy Wallman, 395-6140.
National Needs Assessment for Media and Materials for the Handicapped, OE 9059-1, single time, SEA's LEA's teachers and special education supervisors, Human Resources Division, Kathy Wallman, 395-3532.
A Study of The State of Bilingual Materials Development and the Transition of Materials to the Classroom, OE-515-1, single time, book publishers and LEA administrators, Kathy Wallman, 395-6140.
A Survey of Viewership of Television Series Sponsored by ESAA Legislation, OE-522-1, single time, teachers, principals, students, and parents, Human Resources Division, Raynsford, R., 395-3532.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Housing Management, Section 8, Existing Housing Allowances for Tenant Furnished Utilities and Other Services, HUD-52667, on occasion, Section 8, applicants and PHAS with section 8 programs, Housing, Veterans, and Labor Division, 395-3532.
Policy Development and Research, Solar Water Heating Questionnaire, single time, households in 8 demonstration sites, Larry Haber, 395-5631.

REVISIONS

DEPARTMENT OF THE TREASURY

Bureau of Customs, Protest, CF 19, on occasion, brokers and importers, Tracey Cole, 395-5870.

EXTENSIONS

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education, Financial Status and Performance Reports—Follow Through Program, OE 376, semiannually, SEA's colleges, and universities, Marsha Traynham, 395-4529.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.77-12469 Filed 4-28-77;8:45 am]

SECURITIES AND EXCHANGE CMMISSION

[File No. 7-4919—7-4922]

AMERICAN GREETINGS CORP., ET AL.

Extension of Time for Comment

APRIL 15, 1977.

In the matter of application of the Philadelphia Stock Exchange, for unlisted trading privileges in certain securities, Securities Exchange Act of 1934.

On March 9, 1977 the Commission gave notice of an application filed by the Philadelphia Stock Exchange ("PHLX") pursuant to section 12(f)(1)(C) of the Securities Exchange Act of 1934 (the "Act") and Rule 12f-1 thereunder. (Securities Exchange Act of 1934 Release No. 13361 (March 11, 1977), 42 FR 16009 (March 24, 1977)). PHLX has applied for unlisted trading privileges in the securities of the companies as set forth below, which securities are registered with the Commission pursuant to

Section 12 of the Act or which would be required to be so registered except for the exemption from registration provided in subsection (g) (2) (B) or (g) (2) (G) of Section 12.

American Greetings Corporation: Class A Common Stock, $1.00 par value; File No. 7-4919.

Combined Insurance Company of America: Common Stock, $1.00 par value; File No. 7-4920.

Kearney & Trecker Corporation: Common Stock, $2.00 par value; File No. 7-4921.

Pennzoil Offshore Gas Operators Incorporated: Class B Common Stock, $1.00 par value; File No. 7-4922.

The initial time for filing comments on these applications expires April 15, 1977. The Commission has received requests from interested persons asking that the time for comment be extended one month so that they would have sufficient time to comment on the issues raised by this matter. The Commission notes that these applications are the first to be considered by it under section 12(f)(1)(C) and finds that, because of the complexity of the issues involved, an extension of the time for comment in this matter will facilitate comment and thereby assist the Commission in its determinations. Accordingly, the Commission hereby extends the comment period in this matter to May 13, 1977.

Upon receipt of a request on or before May 13, 1977 from any interested person the Commission will determine whether the application with respect to the company named shall be set down for hearing. Any such request should state briefly the title of the security in which the party is interested, the nature of the party's interest in making the request, and the position which the party proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications or amendments thereto by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no one requests a hearing with respect to the application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-12311 Filed 4-28-77;8:45 am]

[Release No. 34-13440; File No. SR-Amex-77-6]

AMERICAN STOCK EXCHANGE, INC.

Self-Regulatory Organization; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), as amended by Pub. L. 94-29, 16 (June 4, 1975), notice is hereby given that on April 4, 1977 the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The Amex proposes to amend its Rule 152 to permit a member or member organization which acts as principal in executing a customer's order to obtain the customer's acceptance of the trade promptly after execution of the order, rather than requiring prior consent in all cases, as is presently provided by the rule.

The proposed rule change would also delete a provision in Rule 152 which referred to charging, with the customer's consent, of an amount equal to the commission which would be charged if the transaction were executed on an agency basis.

The proposed rule change would not modify other provisions of Rule 152 which require a member to attempt to obtain a better price on the floor for his customer's agency order before filling that order as principal.

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

Under existing Rule 152, a member or member organization is permitted, as principal, to take or supply the securities named in an agency order accepted from a customer only if the customer has given his consent prior to the execution of the trade. As a practical matter, requiring the customer's consent prior to the execution of the trade creates a severe logistical problem in many instances. There are occasions when a firm may buy or sell securities for its own account, or for the accounts of principals of the firm, at prices which could afford a customer a more favorable execution than holding the customer's order and executing it as agent. However, if for some reason the customer cannot be reached to obtain his or her consent, then under the present language of the Rule the firm may not execute the trade as principal.

Rule 152 as proposed to be amended would permit a member or member organization to trade as principal with a customer in those situations where the customer receives a favorable execution and is promptly notified by the member so that he or she can determine whether or not to accept the trade. (The provision for obtaining prior consent would also be retained to cover those instances where the customer is contacted prior to execution of the trade.) To safeguard the interests of customers, other provisions in the Rule specifically require the member to test the market before executing an agency order as principal.

In cases where a member organization deals with his customer as principal after having accepted an agency order, the member is presently required by Rule 152 to obtain the customer's agreement to pay a commission equal to the commission that would be charged for a similar transaction if executed on an agency basis. Since fixed commissions are no longer permissible, the Amex has proposed to amend Rule 152 to leave the question of the charging of commissions strictly to the member and the customer.

The amendments to Rule 152 permitting a member who acts as principal in executing a customer's order to obtain the customer's acceptance of the trade after execution of the order are proposed pursuant to the provisions of section 6(b)(5) of the Act which mandate that the rules of an Exchange be designed to facilitate transactions in securities.

The amendments to Rule 152 deleting the requirement that a member obtain his customer's agreement to pay a commission equal to the commission that would be charged for a similar transaction if executed on an agency basis is proposed to effect compliance with SEC Rule 19b-3.

No comments were solicited or received with respect to the proposed rule change.

The Amex has determined that no burden on competition will be imposed by the proposed rule change.

On or before June 3, 1977, 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 above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six (6) copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., 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 referenced in the caption above and should be submitted on or before May 20, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

APRIL 13, 1977.

[FR Doc.77-12309 Filed 4-28-77;8:45 am]

[Release No. 19987; 70-5895]

GEORGIA POWER CO.

Proposed Issuance and Sale of Pollution Control Bonds Secured by Collateral Bonds; Exception From Competitive Bidding

APRIL 15, 1977.

In the matter of Georgia Power Company, 270 Peachtree Street NW., Atlanta, Georgia 30302.

Notice is hereby given that Georgia Power Company ("Georgia"), a wholly-owned electric utility subsidiary of The Southern Company, a registered holding company, has filed a post-effective amendment to an application-declaration previously filed with this Commission pursuant to section 6(b) of the Public Utility Holding Company Act of 1935 ("Act") and rule 50(a)(5) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration and the post-effective amendment for a complete statement of the proposed transaction.

On October 22, 1976, this Commission issued an order in this matter (HCAR No. 19728) authorizing Georgia to enter into installment sales agreements ("Installment Sales Agreements") with Putnam, Appling, Heard and Coweta Counties, Georgia ("Counties") for the construction of pollution facilities ("Projects") financed by sales of pollution control revenue bonds ("Revenue Bonds") and industrial development revenue bonds ("Small Issue Bonds") by the Counties. The Installment Sales Agreements between Georgia and Appling and Heard Counties were consummated pursuant to a supplemental order of this Commission dated November 1, 1976 (HCAR No. 19740), jurisdiction being reserved with respect to the semi-annual installment payment obligations to be undertaken by Georgia pursuant to the Installment Sales Agreements with Putnam and Coweta Counties. Recent amendments to the Development Authorities Law of the State of Georgia permit direct loans by Development Authorities and Georgia now proposes to restructure its proposed transactions with Putnam and Coweta Counties so as to take advantage of the amendments to the Georgia statute.

Georgia proposes to enter into loan agreements ("Loan Agreements") with the Development Authorities of Putnam and Coweta Counties which will provide for the issuance by the Authorities of Revenue Bonds and Small Issue Bonds in maximum aggregate principal amounts of $25,000,000 by Putnam County and $15,000,000 by Coweta County. The Loan Agreements will be substantially in the form of the Installment Sales Agreements Georgia has entered into with the Development Authorities of Appling and Heard Counties. Such Loan Agreements will be entered into with respect to both the Revenue Bonds and Small Issue Bonds to be sold by each County. The Loan Agreements will provide that each Authority will loan to Georgia the proceeds of its sales of Revenue Bonds and Small Issue Bonds and that Georgia will issue nonnegotiable promissory notes ("Notes") to evidence the loans and Georgia's obligation to repay the loans, including interest thereon, in an amount sufficient (together with other moneys held by the Trustee under the Indenture for that purpose) to pay the principal of, premium, if any, and interest on the Authority's Bonds as the same become due and payable. There will be no disposition or acquisition of the Project pursuant to these arrangements nor will the Project serve as collateral. The Indenture under which each Authority's Bonds will be issued and Georgia's Supplemental Indenture under which Georgia's Collateral Bonds will be issued to secure its obligations under the Notes will be in substantially the same form as those used in connection with the Installment Sale Agreements.

The Loan Agreements will obligate Georgia to pay the fees and charges of the Trustee. Such Agreements will also provide that Georgia may at any time, so long as it is not in default thereunder, prepay the Notes, including interest thereon, in whole or in part, such payments to be sufficient to redeem or purchase outstanding Revenue Bonds in the Manner and to the extent provided in the indentures. The Indentures will provide that the Revenue Bonds will be redeemable (a) at any time on or after 10 years from the date of issuance, in whole or in part, at the option of Georgia, initially with a premium of 3 percent of the principal amount and declining by ½ of 1 percent thereafter and (b) in whole, at the option of Georgia, in certain other situations. The Revenue Bonds will mature in 30 years and such bonds will be entitled to the benefit of mandatory redemption sinking funds calculated to retire not less than 25 percent of the aggregate principal amount of the issues prior to maturity.

In order to obtain the benefit of a rating for the Revenue Bonds equivalent to the rating enjoyed by the first mortgage bonds outstanding under its Indenture dated as of March 1, 1941, between Georgia and Chemical Bank, as Trustee, as supplemented and amended ("Mortgage"), which rating Georgia has been advised may be thus attained, Georgia proposes to obtain the authentication of certain series of such first mortgage bonds ("Collateral Bonds") under the Mortgage, as proposed to be supplemented by a further supplemental indenture to be dated as of the first day of the month in which the Collateral Bonds are to be authenticated and delivered. To secure its obligations under the Agreements, Georgia proposes to deliver to the Trustee to be held as collateral the Collateral Bonds in principal amount equal to the principal amount of the Revenue Bonds to be issued by the Authorities. The Collateral Bonds will bear interest at a rate equal to the interest rate per annum to be borne by the Revenue Bonds, will mature on the maturity date of such bonds and will be nontransferable by the Trustee. The supplemental indenture will provide, however, that the obligation of Georgia to make payments with respect to the Collateral Bonds will be satisfied to the extent that payments are made under the Loan Agreements sufficient to meet payments when due in respect of the Revenue Bonds. The supplemental indenture will provide that upon acceleration by the Trustee of the principal amount of all outstanding Revenue Bonds under the Indentures, the Trustee may demand the mandatory redemption of the Collateral Bonds then held by it as collateral at a redemption price equal to the principal amount thereof plus accrued interest, if any, to the date fixed for redemption.

The supplemental indentures will also provide that, upon the option redemption of the Revenue Bonds, in whole or in part, at any time after they have been outstanding for 10 years, an equal principal amount of the Collateral Bonds will be redeemed at an initial premium of 3 percent declining by ½ percent every year. Because interest accrues in respect of the Collateral Bonds until satisfied by payments under the Loan Agreements, "annual interest charges" in respect of the Collateral Bonds will be included in computing the "interest earnings requirement" restricting the amount of first mortgage bonds which may be issued and sold to the public in relation to Georgia's net earnings. The Collateral Bonds will be issued on the basis of unfunded net property additions.

The indentures will provide that, upon deposit with the Trustee of funds sufficient to pay or redeem all or any part of the Revenue Bonds, or upon direction to the Trustee by Georgia to so apply funds available therefor, or upon delivery of outstanding Revenue Bonds to the Trustee by or for the account of Georgia, the Trustee will be obligated to deliver to Georgia or for the account of Georgia the Collateral Bonds then held as collateral in an aggregate principal amount equal to the aggregate principal amount of Revenue Bonds for the payment or redemption of which such funds have been deposited or applied or which shall have been so delivered.

It is contemplated that the Revenue Bonds will be sold by the Authorities pursuant to arrangements with one or more underwriters. In accordance with the laws of the State of Georgia, the interest rate to be borne by the Revenue Bonds will be fixed by the Authorities. Georgia will not be party to the underwriting arrangements for the Revenue Bonds. Bond counsel are to issue an opinion that interest on the Revenue Bonds will be exempt from Federal income taxation. Georgia has been advised that the annual interest rates on obligations, the interest on which is tax exempt, historically have been and can be expected at the time of issue of the Revenue Bonds, to be 1½ percent to 2½ percent lower than the rates of obligations of like tenor and comparable quality, interest on which is fully subject to Federal income tax.

A portion of the revenue bonds to be issued by each Authority may be issued as a separate but contemporaneous issue of revenue bonds (the "Small Issue Bonds") whose tax exempt status depends upon section 103(c)(6) of the Internal Revenue Code of 1954, as amended (relating to small issues involving the acquisition, construction, reconstruction

or improvement of and or property of a character subject to the allowance for depreciation), rather than upon section 103(c)(4)(F) (relating to providing air or water pollution control facilities) of such Code.

The maximum principal amount of the Small Issue Bonds of any Authority is $1,000,000 and, if any Small Issue Bonds of an Authority are issued, the maximum principal amount will be issued. To the extent the Authorities issue Small Issue Bonds, the amount of Revenue Bonds issued by the Authorities will be reduced so that the aggregate of the Revenue Bonds and Small Issue Bonds to be issued will not exceed the amounts set forth above. Separate Loan Agreements and indentures will be provided in respect of the Small Issue Bonds which will be substantially similar to the Agreements and Indentures relating to the Revenue Bonds (aside from provisions relating to the kinds of facilities which may be financed thereby). The obligations of Georgia under the separate Loan Agreements relating to such series of Small Issue Bonds would be secured by a separate series of Georgia's first mortgage bonds issued under the Mortgage upon terms substantially similar to the Collateral Bonds relating to the Revenue Bonds. Georgia will grant the Authorities, in connection with their Small Issue Bonds, liens on certain property of Georgia other than the Projects financed by either the Revenue Bonds or the Small Issue Bonds. Each such lien will be subordinate to the lien of the Mortgage and will be assigned by the Authorities to the Trustee. The liens will be created by means of Deeds to Secure Debt. The Small Issue Bonds would be marketed contemporaneously with the Revenue Bonds.

A statement of the fees and expenses to be incurred by Georgia in connection with the proposed issuance of the Notes will be filed by amendment. The proposed transactions are subject to the jurisdiction of the Georgia Public Service Commission. It is stated that no other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Georgia states further that the competitive bidding requirements of Rule 50 in respect of the issuance of the Collateral Bonds are inappropriate under the circumstances described herein, inasmuch as the Collateral Bonds are to be issued and pledged solely to secure Georgia's obligations to the Authorities and no public offering of the Collateral Bonds is to be made.

Notice is further given that any interested person may, not later than May 9, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended or as it may be further amended, may be granted and permitted to become effective as provided in rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-12303 Filed 4-28-77;8:45 am]

[File No. 1-5073]

HARMON INTERNATIONAL INDUSTRIES, INC.

Application to Withdraw from Listing and Registration

APRIL 19, 1977.

In the matter of Harmon International Industries, Inc. Common stock, $1.00 par value.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to section 12(d) of the Securities Exchange Act of 1934 and rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange, Inc.

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

This security has become listed and registered on the New York Stock Exchange, Inc., and the Company has concluded that the expenses of maintaining the listing of the common stock on both exchanges outweigh any benefits that might be derived therefrom.

The American Stock Exchange, Inc. has not objected to this application.

Any interested person may, on or before May 11, 1977, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. An order granting the application will be issued after the date mentioned above, on the basis of the application and any other information furnished to the Commission, unless it orders a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-12304 Filed 4-28-77;8:45 am]

[Release No. 9730; 812-4105]

LIFE INSURANCE COMPANY OF NORTH AMERICA AND LIFE INSURANCE COMPANY OF NORTH AMERICA, SEPARATE ACCOUNT A

Application for Order Approving Offers of Exchange and Order of Exemption

APRIL 21, 1977.

In the matter of Life Insurance Company of North America and Life Insurance Company of North America, Separate Account A, 1600 Arch Street, Philadelphia, Pennsylvania 19101.

Notice is hereby given that Life Insurance Company of North America ("LINA"), a stock life insurance company organized under the laws of the State of Pennsylvania, and Life Insurance Company of North America Separate Account A ("Separate Account"), a separate account of LINA registered under the Investment Company Act of 1940 (the "Act") as a unit investment trust, (hereinafter referred to as "Applicants"), filed an application on March 10, 1977 and amendments thereto on April 4 and April 14, 1977 pursuant to section 11 of the Act for an order approving certain offers of exchange and pursuant to section 6(c) of the Act for an order granting an exemption from section 27(a)(3) of the Act. LINA is the Depositor and Sponsor of Separate Account. 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 Separate Account was established by LINA pursuant to the laws of the State of Pennsylvania in connection with the issuance of group and individual variable annuity contracts ("Contracts") to certain persons who qualify for tax-deferred benefits under sections 401, 403(a), 403(b) and 408 of the Internal Revenue Code of 1954 ("Code"), as amended. Applicants also offer the Contracts under deferred compensation and other retirement plans for persons who may not qualify for similar tax treatment.

Net purchase payments under Contracts currently issued, including the Group Variable Annuity Contract which is the subject of the Application, are allocated to one of six divisions of the Separate Account and are invested in shares of Decatur Income Fund, Inc., National Investors Corporation, Oppenheimer Fund, Inc., Trustees Equity Fund, Inc., Dreyfus Third Century Fund, Inc., or Qualified Dividend Portfolio, Inc. (collectively called "Fund(s)"), which are open-end, diversified management investment companies registered under the

Act. Contractowners or Participants may also allocate a portion of their net purchase payments to the LINA fixed accumulation account to provide for fixed annuity payments.

Applicants' Group Variable Annuity Contract ("Group Contract") contemplates that periodic payments will be made on behalf of each Participant until the date when his or her annuity payments are to commence. The normal charge for sales and administrative expenses deducted from each payment is 6%, of which 4% is for sales expenses. Premium taxes are also deducted wherever applicable.

Applicants represent that occasionally payments are received under existing Group Contracts or its Group Contracts are newly purchased with amounts which have previously been accumulated under existing retirement plans. These "transfer payments" are received either in a lump sum or in periodic installments during a period not exceeding one year. Except in the case of a payment made under a retirement plan qualifying under section 403(b) of the Code, transfer payments will be in minimum amounts of $5,000. Section 403(b) transfer payments may be less but will be made under the circumstances set forth below. Where transfer payments are to be made, Applicants propose to issue their Group Contract and accept the transfer payment under an existing Group Contract, at a reduced charge of 2.5% of the transfer payment. Such reduction will only be available where the transfer payment arises from the transfer of accumulations under: (a) a Plan qualifying under section 401 or 403(a) of the Code provided that the Plan has been in effect for at least one year; (b) a Plan meeting the requirements of section 403(b) of the Code provided that no Participant account transfer under an existing plan will be accepted unless the Participant has been in the plan for at least one year; and (c) an existing deferred compensation plan where the plan has been in effect for at least one year. The reduction will only be available under the above situations where the Contractowner will be making continuing contributions on behalf of persons who became participants under the Group Contract. Of the 2.5% charge proposed, Applicants will apply 2% for sales expenses. The normal charge of 6% for sales and administrative expenses will be applicable to all regular purchase payments subsequent to the transfer payment. Required deductions for state premium taxes will also be made, if applicable.

Applicants represent that the reduction to a 2.5% charge on transfer payments would give recognition to the economies of scale involved in administering a larger aggregate purchase. Applicants represent further that the sales charge reduction on transfer payments may serve the best interest of persons who are currently Participants in an existing retirement plan. The reduction, Applicants asset, would permit them to appropriately compensate personnel engaged in the sale of the Contracts in such situations and would give recognition to the continuing nature of the Applicants' and salesmen's responsibilities under the Group Contract. Applicants believe that it is appropriate to assess the normal Contract charge of 6% on payments subsequent to the transfer payment since administrative and sales costs will be the same as are incurred under its normal continuing contribution Group Contracts.

Applicants represent further that the transfer and reinvestment of assets under the Group Contract will not cause adverse tax consequences to the existing retirement plan or its Participants if done in a proper and timely manner. Applicants represent also that the transfer itself should not cause the plan to terminate or result in the establishment of a new plan. In this connection, Applicants will provide Contract-owners with appropriate disclosure regarding possible tax ramifications involved in a transfer payment and LINA will administratively attempt to assure that adverse tax consequences will not result to the plan or its Participants involved in the transfer.

SECTION 27(a)(3)

Section 27(a)(3) of the Act provides that no registered investment company issuing periodic payment plan certificates and no depositor of, or underwriter for such company, may sell any such certificate if the amount of sales load deducted from any one of the first twelve monthly payments exceeds proportionately the amount deducted from any other such payment, or if the amount deducted from any subsequent payment exceeds proportionately the amount deducted from any other subsequent payment.

Applicants assert that if the proposed sales charge reduction on transfer purchases under their Group Contracts is instituted, the proportionate amount deducted for sales and administrative expenses from subsequent periodic purchase payments under Group Contracts issued in connection with the same plan would exceed the proportionate amount deducted from the transferred amount, thereby violating section 27(a)(3) unless exemptive relief is obtained.

Applicants believe that section 27(a)(3) was intended to apply to periodic payment plans of the conventional front-end load type under which the total sales charge assessment could otherwise equal, or exceed, 9% of the total purchase payments to be made. Under no circumstances will the total sales charges to be made on these Group Contracts equal, or exceed, 9%. The proposed reduction on transfer payments does not involve any of the complex sales charge schedules which section 27(a)(3) was enacted to curb. The proposed transfer charges will be described in Applicants' prospectus describing their Group Contracts and are not unduly complex in their application. Applicants believe that Section 27(a)(3) was not intended to apply to the transfer situations of the type described herein and that granting the requested relief cannot result in excessive charges to Owners or to Participants under the Group Contracts.

SECTION 6(c)

Section 6(c) of the Act authorizes the Commission by order upon application to exempt any person, security or transaction or any class or classes of persons, securities or transactions from any provisions of the Act and rules thereunder if 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.

SECTION 22(d)

Applicants assert that the proposed sales charge variations are permitted within the purview of Rule 22d-3 under section 22(d) of the Act in that the economies contemplated therein will be present in their transfer proposal. Accordingly, no exemption from the provisions of section 22(d) of the Act is believed to be necessary to enable Applicants to offer their Group Contract at the reduced sales charge under circumstances which will be described in their Group Variable Annuity Prospectuses.

SECTION 11

Section 11(a) of the Act provides that it shall be unlawful for any registered open-end company or principal underwriter for such company to make, or cause to be made, an offer to the holder of a security of such company or of any other open-end investment company to exchange his security for a security in the same or another such company on any basis other than the relative net asset values of the respective securities to be exchanged, unless the terms of the offer have first been submitted to and approved by the Commission. Section 11(c) provides that, irrespective of the basis of exchange, the provisions of section 11(a) shall be applicable to any type of offer of exchange of the securities of registered unit investment trusts for the securities of any other investment company.

Applicants represent that, under certain circumstances, the transfer purchases under their Group Contracts would be made with amounts which have previously been invested in the shares of a registered, open-end investment company. Applicants state this could result in a determination that an offer has been made to the holder of a security of another open-end investment company to exchange his security for Applicants' Group Contract within the contemplation of section 11(a) of the Act. Applicants represent that, where the transfer purchase is made with the proceeds from a liquidation of open-end investment company shares, they will not, in any way, be involved in such transaction. Any such liquidation would take place by the Contractowner or Participant unilaterally without Applicants' partici-

pation. Further, Applicants will, under no circumstances, accept the securities of any other issuer as payment under its Contract nor will it assist in or otherwise process the liquidation of such securities.

Applicants assert that it is appropriate for the Commission to approve their transfer proposal not only for the reasons stated above, but also because the transfer purchases under Applicants' Group Contracts will, in most circumstances, involve a sale to a sophisticated employer applicant who will agree to install the Group Contract or make transfers under an existing Contract only after meaningful study of the product and LINA. Because of this and the administrative procedures which Applicant follows when underwriting a transfer purchase, Applicants assert that it is highly unlikely that an unsuitable transaction will take place. The disclosures which Applicant will make include a caution about the possible additional charges which may be incurred in making the transfer purchases. Further, Applicants will monitor transfer sales to assure that no improper replacement activity takes place which could be detrimental to Owners or Participants when transfer payments are made. When issuing a Group Contract in connection with a transfer payment, Applicants will comply with all state insurance laws which may be applicable to the transaction.

Notice is further given that any interested person may, not later than May 16, 1977 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 interest, the reason for such request and the issues of fact or law proposed to be controverted or he may request that he 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 upon Applicants at the address stated above. Proof of such service (by affidavit or in 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 application will be issued as of course following May 16, 1977, 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.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-12305 Filed 4-28-77;8:45 am]

[Release No. 13450; SR-MSE-77-3]

MIDWEST STOCK EXCHANGE, INC.

Order Approving Proposed Rule Change

APRIL 18, 1977.

On February 23, 1977, the Midwest Stock Exchange, Incorporated ("MSE"), 120 South LaSalle Street, Chicago, Illinois 60603, filed with the Commission, pursuant to Section 19(b) of the Securities Exchange Act of 1934 (the "Act"), as amended by the Securities Acts Amendments of 1975, and Rule 19b-4 thereunder, copies of a proposed rule change to amend Rule 9 of Article XVII by (1) inserting in subsection (a) a requirement that certain off-floor principal transactions in securities admitted to dealing on the MSE be transacted only with a third market maker or non-member block positioner; (2) eliminating from subsection (b) restrictions pertaining to the protection of limit orders in connection with the execution of off-floor agency transactions in securities admitted to dealing on the MSE; and (3) by inserting in subsection (b) the Exchange's continued prohibition against "in house" agency crosses. Additionally, the MSE proposed to delete Rule 6 of Article XXII which relates to off-floor transactions in securities traded on the MSE.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 13333, (March 4, 1977)) and by publication in the FEDERAL REGISTER (42 FR 13882 (March 14, 1977)).

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered national securities exchanges, and in particular, the requirements of section 6 of the Act and the rules and regulations thereunder.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act, that the proposed rule change filed with the Commission on February 23, 1977, 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.77-12310 Filed 4-28-77;8:45 am]

[Release No. 13456; File Nos. SR-NSCC-77-1 and SR-NSCC-77-2]

NATIONAL SECURITIES CLEARING CORP.

Order Approving Rule Changes Submitted by the National Securities Clearing Corp.

APRIL 21, 1977.

In the matter of National Securities Clearing Corporation, Two Broadway, New York, N.Y. 10005.

On February 22, 1977, the National Securities Clearing Corporation ("NSCC") submitted, pursuant to rule 19b-4 under the Securities Exchange Act of 1934 (the "Act"), proposed rule changes providing for the settlement of American Stock Exchange, Inc. ("Amex") transactions in listed debt securities through NSCC's Stock Clearing Corporation Division ("SCC Division") rather than through NSCC's American Stock Exchange Clearing Corporation Division ("ASECC Division"). NSCC also submitted on the same date proposed rule changes amending the definition and function of a Special Representative.

In accordance with section 19(b) of the Act and rule 19b-4 thereunder, the rule changes were published in the FEDERAL REGISTER (42 FR 13172, 13174, March 9, 1977), and the public was invited to submit comments until March 30, 1977. Notice of the filings and an invitation for comments also appeared in Securities Exchange Act Release Nos. 13308 and 13318, February 28, 1977. Four letters of comment were received. Three of these letters were received within the comment period from Bradford National Clearing Corporation, Bradford Securities Processing Services, Inc. ("BSPS") and TAD Depository Corporation. A fourth comment letter from BSPS was received after the expiration of the comment period. At the staff's request, NSCC granted the Commission a one week extension of the time provided in rule 19b-4 for consideration of the rule changes in order to permit Commission consideration of the second BSPS letter.

The first submission would amend section 1 of rule 3 of the SCC Division of NSCC to add to its list of cleared securities all debt securities listed on the Amex. The purpose of this change is to permit the inclusion of transactions in Amex listed debt securites in the SCC Division interfaces with Midwest Clearing Corporation, Pacific Clearing Corporation and Stock Clearing Corporation of Philadelphia.

Pursuant to its second submission, NSCC proposes to amend rule 7, section 10 and rule 39 of the SCC Division Rules of NSCC to expand the class of persons who may become "Special Representatives" under the SCC Division rules to include any registered clearing agency and any member of the SCC Division. The clearing agency or member would be required to apply to NSCC for Special Representative status and would be required to designate those members and non-participants for which it will act.

A Special Representative would be permitted to submit data regarding transactions other than odd-lot transactions when acting for a member or a non-participant. A Special Representative acting for a member could submit trade data for both sides of a transaction between two members and thereby bind both members to the trade in the same manner as two clearing members are bound when a compared trade is confirmed by them. Each member would be responsible to the SCC Division for the performance of the member's side of trades submitted on its behalf, and any objection by either member to the Special

Representative's submission would be resolved between the member and the Special Representative. A Special Representative acting for a non-participant could submit trade data for both sides of a transaction between the Special Representative and the non-participant if the non-participant were a participant in a registered clearing agency which, through participation in the SCC Division's Regional Interface Operation ("RIO"), had an interface with the SCC Division. Under the SCC Division's Rules, the Special Reoresentative would be responsible to NSCC for the performance of both sides of any trade submitted on behalf of a non-participant by the Representative and not accepted by the interfacing clearing agency.

The four comment letters raise a number of objections to the proposed rule changes and three of the letters request that the Commission institute proceedings to disapprove the proposed rule changes. First, the commentors state that both submissions are inconsistent with the order granting NSCC registration as a clearing agency.[1] Specifically, the commentors allege that the proposed rule changes are an attempt by NSCC to evade "The Free Interface Condition" to that order which requires NSCC to establish interfaces and appropriate links with other registered clearing agencies prior to consolidating into a single processing operation the three discrete operations inherited by NSCC from its three predecessor clearing corporations. Second, the commentors express concern that the proposed rule changes will adversely affect competition among registered clearing agencies in view of the present restrictions regarding clearance and settlement of trades executed on the floor of the Amex and the New York Stock Exchange, Inc. ("NYSE"). Third, BSPS request that the SCC Special Representative proposal be amended so that an SCC member can determine whether, by acting as a Representative, he would be performing clearing agency functions within the meaning of section 3(a)(23) of the Act and therefore be required to register as a clearing agency. Fourth, BSPS suggests that by submitting trade data to SCC for non-participants a Special Representative could subvert the purpose of section 17A(b)(3)(B) of the Act which enumerates those entities which must be granted access by a registered clearing agency. Finally, BSPS raises a question concerning the obligations to NSCC of a non-participant for whom a trade is submitted to the SCC Division by a Special Representative.

The Commission has reviewed the proposed rule changes and the comment letters received and has determined that the proposed rules are consistent with the order granting NSCC's registration as a clearing agency and with the purposes of the Act. Both proposed rule changes are designed to implement "The Free Interface Condition" to the order. The first submission would add transactions in Amex-listed debt securities to the transactions in NYSE- and Amex-listed equity securities and NYSE-listed debt securities which currently may be cleared through clearing agencies participating in the SCC Division's RIO interfaces. The second submission would enable a non-participant in NSCC who participates in a clearing agency interfaced with the SCC Division through RIO to clear and settle, through the interface, transactions in any security eligible for clearance through the SCC Division. Instead of restricting competition among registered clearing agencies, the proposed rule change would allow broker-dealers a wider choice in clearance and settlement.

Although Article XII of the NYSE Constitution, other NYSE rules and comparable Amex provisions arguably restrict the clearance and settlement of NYSE and Amex listed transactions to the SCC and ASECC Divisions of NSCC, on their face those provisions permit parties to NYSE and Amex transactions to make alternative clearance and settlement arrangements. By facilitating the use of alternative clearing and settlement arrangements, we believe the proposed rule changes would, in effect, break the link betwen NYSE and Amex trading and SCC and ASECC Division clearing and settlement which has existed historically due to the unavailability of viable alternative arrangements. Moreover, each of the NYSE and Amex provisions containing restrictions has been identified by the Commission, pursuant to section 31(b) of the Securities Acts Amendments of 1975 (the "1975 Amendments"), as possibly inconsistent with the Act.[2]

The Commission has determined that the SECC proposals need not be clarified to enable an SCC member to determine whether his activities as a Special Representative require registration as a clearing agency. Any question which may arise concerning the need for a SCC member acting as a Special Representative to register as a clearing agency can be resolved on a case by case basis at the time they arise and need not be resolved generally in connection with the Commission's review of the proposed rule changes.[3]

An entity for which a Special Representative submits trades would not, without more, be a participant in NSCC within the meaning of the Act.[4] Accordingly, the Commission does not believe it is necessary to consider whether, under the SCC Division Rules, a Special Representative could submit trades for entities not enumerated under section 17A(b)(3)(B) of the Act as persons who may participate in registered clearing agencies.

Finally, the staff has reviewed the commentor's question regarding the obligations of a non-participant for a trade submitted to the SCC Division by a Special Representative on the non-participant's behalf. The proposed rule provides that if the registered clearing agency of which the non-participant is a member does not accept responsibility for the obligations of the non-participant reflected in the transaction data, the Special Representative will be responsible for the transaction. Also, operation of the clearing fund and mark-to-the-market[5] provisions of the SCC Division Rules[6] would provide the same protection for transactions submitted by a Special Representative as for any other transactions submitted to SCC's CNS system. To eliminate any question concerning the Special Representative's liability, NSCC has deleted a reference in the proposed rule changes which unintentionally gave the appearance of establishing an obligation to NSCC by a nonparticipant for trades submitted on his behalf by a Special Representative.[7]

The Commission has reviewed the NSCC submissions and finds that they are consistent with the order granting NSCC registration as a clearing agency and with the requirements of the Act and the rules and regulations thereunder applicable to registered clearing agencies.

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[1] Securities Exchange Act Release No. 13163, January 13, 1977.

[2] Section 31(b) of the 1975 Amendments provides a statutory mechanism for the Commission to review the rules of national securities exchanges and registered securities associations for compliance with the Act. On December 1, 1976, pursuant to section 31(b), the Commission mailed letters to, among others, the Amex and the NYSE specifying provisions of their rules which appeared not to be in compliance with the Act. Securities Exchange Act Release No. 13027 (December 1, 1976) 41 FR 53557 (December 7, 1976.) While the Commission recognizes that not all steps necessary to implement the 1975 Amendments can be taken simultaneously, the Commission expects that any amendments necessary to bring the Amex and NYSE rules into conformity with the securities processing provisions of the Act will be made before NSCC satisfies the conditions contained in the order and combines its three currently discrete processing operations.

[3] For example, under the Act, and unless the Commission by rule provides otherwise, the term "clearing agency" does not include a broker or dealer who would be deemed to be a clearing agency solely by reason of functions performed by him as part of his customary brokerage and dealing activities.

[4] Section 3(a)(24) of the Act in pertinent part provides "('participant') does not include a person whose only use of a clearing agency is (A) through another person who is a participant . . ."

[5] A "mark-to-the-market" payment is the amount required by a clearing system from any party to a trade guaranteed by the system who becomes a potential net obligor of the system because the market price of the securities involved in the clearing transactions moves away from the contract price for the clearing transactions.

[6] SCC Division Rules 4 and 13, respectively.

[7] Letter dated April 15, 1977.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, That the proposed rule changes contained in File Nos. SR-NSCC-77-1 and SR-NCSS-77-2 be, and hereby are, approved.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-12306 Filed 4-28-77;8:45 am]

[File No. 1-6008]

PRECISION POLYMERS, INC., CAPITAL STOCK, $.05 PAR VALUE

Application to Withdraw from Listing and Registration

APRIL 19, 1977.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to section 12(d) of the Securities Exchange Act of 1934 and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the Boston Stock Exchange.

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

Since October 21, 1976 trading in this security has been suspended on the Exchange because the Company had filed a petition under Chapter XI of the Federal Bankruptcy Act. The Company believes that continued listing will serve no purpose during the pendency of the Chapter XI proceedings, and the Exchange has not objected to this application.

Any interested person may, on or before May 11, 1977 submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. An order granting the application will be issued after the date mentioned above, on the basis of the application and any other information furnished to the Commission, unless it orders a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-12307 Filed 4-28-77;8:45 am]

[Release No. 9728; 812-4114]

SCUDDER MANAGED MUNICIPAL BONDS

Filing of Application for Supplemental Order of Exemption

APRIL 20, 1977.

Notice is hereby given that Scudder Managed Municipal Bonds ("Applicant"), 175 Federal Street, Boston, Massachusetts 02110, an open-end diversified management company registered under the Investment Company Act of 1940 ("Act"), filed an application on February 22, 1977, and an amendment thereto on March 31, 1977 pursuant to section 6(c) of the Act for a supplemental order declaring that Mrs. Hester L. Sargent, a Trustee of Applicant, shall not be deemed an "interested person" of Applicant or its investment adviser or principal underwriter within the meaning of section 2(a)(19) of the Act by reason of her position as a director of Boston Safe Deposit and Trust Company ("Boston Safe"). All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below.

On May 10, 1976, the Commission issued an order (Investment Company Act Release No. 9284) pursuant to section 6(c) of the Act granting an exemption from section 2(a)(19) of the Act to the effect that Mrs. Sargent, along with other individuals named in the application to which the order referred (the "Original Application"), shall not be deemed to be "interested persons" of the registered investment companies which were the applicants to the Original Application. The Applicant was organized after the issuance of such order. This application relates to substantially the same situation as did the Original Application.

Mrs. Sargent's principal occupation is President of the Board of Governors of New England Medical Center Hospital. She is a Director of New England Telephone & Telegraph Company, and Trustee of Tufts University and Boston Symphony Orchestra. Mrs. Sargent also serves as a director of Boston Safe and as a Trustee of the Applicant.

Boston Safe is a long established trust company engaged primarily in investment management and other trust company, fiduciary and related banking services, 99 percent of whose stock is owned by The Boston Company, Inc. The Boston Company, Inc. is a holding company whose subsidiaries are engaged in providing resources management services. The Boston Company Financial Strategies, Inc. ("Strategies") is a wholly-owned subsidiary of The Boston Company, Inc. Strategies currently provides financial planning and asset management services for its clients and is registered under the Investment Advisers Act of 1940. Subsequent to the date of the Original Application, Strategies formed a subsidiary, TBCFS, Inc., which has registered with Commission as a broker-dealer under the Securities Exchange Act of 1934 (the "1934 Act"). As contemplated by the Original Application, TBCFS, Inc.'s business relates primarily to the structuring and placement or sale of oil and gas programs and other investment programs and ventures.

Sections 2(a)(19) (A)(v) and (B)(v) of the Act define an "interested person" of an investment company, an investment adviser of an investment company, or a principal underwriter for an investmet company to include any broker or dealer registered under the 1934 Act or any affiliated person of such broker or dealer. An "affiliated person" under section 2(a)(3) of the Act includes any person directly or indirectly controlling, controlled by or under common control with, such other person.

The application states that while there is a statutory presumption in section 2(a)(9) of the Act that a natural person is not a controlled person, that presumption may be rebutted by evidence and a contrary determination made by Commission order that a director of one subsidiary may be determined to be under common control with another subsidiary. The application further states that under such an interpretation, Mrs. Sargent would be deemed to be an interested person of Applicant and of its investment adviser and principal underwriter. The application also states that while the Applicant does not necessarily agree with such an interpretation, it has deemed it advisable to clarify the status of Mrs. Sargent by applying for exercise of the Commission's exemptive authority under section 6(c) of the Act.

The Applicant believes that the relationship of Mrs. Sargent with Boston Safe, Strategies and TBCFS, Inc. will not impair her independence in acting on Applicant's behalf.

Mrs. Sargent is not a director or officer of TBCFS, Inc. and therefore has no authority or responsibility for management of the operations of TBCFS, Inc. The application states that because of the special nature of the type of investments which TBCFS, Inc. is involved with, Applicant could not legally purchase or sell such investments from or through TBCFS, Inc. because of investment restrictions, and Applicant does not intend to make any such investments. Moreover, Applicant has undertaken in the application not to transact any business with TBCFS, Inc.

Applicant asserts that Mrs. Sargent is a person of recognized integrity, judgment, independence, and competence in the investment company industry. Applicant is also of the opinion that Mrs. Sargent is in fact a disinterested trustee and that it is in the best interests of Applicant that she be permitted to serve as such.

Section 6(c) of the Act provides that the Commission, by order upon application, may conditionally or unconditionally exempt any person or transaction from any provision of the Act or of any rule or regulation 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 may, not later than May 16, 1977, 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 interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he 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 upon the Applicant at the address stated above.

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 application 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.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-12308 Filed 4-28-77;8:45 am]

[File No. 500-1]

BENGAL OIL & GAS CORP.

Suspension of Trading

APRIL 19, 1977.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the securities of Bengal Oil & Gas Corp. being traded on a national securities exchange or otherwise is required in the public interest and for the protection of investors;

Therefore, pursuant to Section 12(k) of the Securities Exchange Act of 1934, trading in such securities on a national securities exchange or otherwise is suspended, for the period from 10:00 a.m. (EST) on April 19, 1977 through April 28, 1977.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-12326 Filed 4-28-77;8:45 am]

[Release No. 9725, 812-4099]

NARRAGANSETT CAPITAL CORP., ET AL.

Filing of Application for Order

APRIL 18, 1977.

Notice is hereby given that Narragansett Capital Corporation ("Narragansett"), 40 Westminster Street, Providence, Rhode Island 02903, registered under the Investment Company Act of 1940 (the "Act") as a non-diversified, closed-end management investment company, and licensed as a small business investment company under the Small Business Investment Act of 1958, Amtel, Inc. ("Amtel"), 40 Westminster Street, Providence, Rhode Island 02903, and Mr. A. T. Yu, Mr. Anthony Palladino, and Mr. Charles H. Ricker, Jr. (the "Executive Stockholders", referred to collectively with Narragansett and Amtel as the "Applicants"), % Orba Corporation, One Gothic Plaza, Fairfield, New Jersey 07006, filed an application on March 1, 1977, and amendments thereto on April 11, 1977, and April 15, 1977, for an order of the Commission (1) pursuant to Section 17(d) of the Act and Rule 17d-1 thereunder to permit a proposed purchase by Amtel of 50 percent of the outstanding Class A Common Stock of Orba Corporation ("Orba") from Narragansett and 30 percent of such outstanding stock from the Executive Stockholders, and (2) pursuant to Section 17(b) of the Act exempting from the provisions of Section 17(a) of the Act that proposed purchase from Narragansett. 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.

According to the application, Amtel, a publicly held corporation having a net worth of $45 million, is a diversified company engaged in process engineering and construction, petroleum marketing, and the manufacture and sale of industrial and consumer products. The application states that Narragansett holds 439,350 shares, or 9.4 percent, of the outstanding common stock of Amtel; that Royal Little, a director of Narragansett, is Chairman of the Board of Directors of Amtel and owns, directly or indirectly, 38,768 shares of such common stock; and that the officers and directors of Narragansett collectively own, directly or indirectly, 48,685 shares of such common stock. The application also states that Narragansett and Amtel have one other common director, Mr. Raymond J. Armstrong.

Applicants submit that Orba was organized in 1972 to engage in business as engineers in material handling systems on a worldwide basis for such bulk products as coal, copper, ore and chemicals. They state that Narranganset made an original investment of $725,000 in Orba, of which $600,000 was represented by subordinated debt and $125,000 was represented by 12,500 shares, or 50 percent of the outstanding Class A common stock of Orba, and that the balance of such outstanding common stock was acquired by the Executive Stockholders, who were the founders of Orba and presently serve as its directors, officers and employees. According to the application, Orba offered a new concept and a new approach to bulk material handling; it determined to offer total bulk material handling and transportation services, incorporating consultation and design, engineering and construction, financing, and facility operations. The application states that while operationally the Orba concept rapidly proved successful it became clear that the scale upon which its operations depended for cost-saving advantages created substantial capital demands, in excess of what Orba could itself generate, and that a financial reverse of a major French contract supplier of machinery for Orba stretched Orba's financial resources to the limit. Applicants allege that these two factors, together with a decline in the demand for Orba's services resulting from the cut-back in capital spending programs in the industry which it serves, made it necessary for Orba, in the fall of 1976, to seek refinancing with Narragansett as well as with Industrial National Bank of Rhode Island ("INB"). The application states that on December 8, 1976, Matran, a wholly owned subsidiary of Orba, entered into a "Loan Agreement" with INB for a $703,125 loan to Matran, and Narragansett exchanged its original $600,000 subordinated loan to Orba for two new subordinated Notes to Matran, for $775,000 (with an additional commitment for $125,000) and $35,076 (representing accrued but unpaid interest on old indebtedness) respectively, both Notes being guaranteed by Orba and both being subordinated to the INB indebtedness. The application states that at December 31, 1976, Orba had a net capital deficiency of $965,000 and had suffered losses for the seven month period ending on that date of $199,000. The application further states that Orba has suffered losses in four of its last five fiscal years.

According to the application, Orba's Board of Directors was persuaded that, to continue to operate successfully, Orba must have substantial capital resources available to it, but Narragansett's Board of Directors felt that Narragansett could not commit to Orba, only one of its portfolio companies, the further capital resources which might be needed. Applicants state, however, that the Executive Stockholders suggested that Amtel, a large company with sales in 1975 in excess of $349 million, a net worth of over $45 million, current assets of $117 million and annual income of $6 million, had financial resources that were on the scale required by Orba and might provide a solution to this problem.

Applicants submit that, at recent meetings of the Boards of Directors of Amtel and Narragansett, the Board of each company approved the acquisition by Amtel of 80 percent of the outstanding Class A common stock of Orba from Narragansett and the Executive Stockholders pursuant to a Stock Purchase Agreement (the "Agreement"), subject in each case to the order of the Commission requested herein and, in Amtel's case, to a favorable vote of its shareholders.

The Agreement provides that Amtel will purchase 80 percent, or 20,000 of the 25,000 outstanding shares of Class A common stock of Orba (the "Sold Shares"), and enter into certain commitments described below with respect to the 5,000 outstanding shares (the "Retained Shares"). It is proposed that Narragansett will sell all of the 12,500 shares owned by it, and that the Executive Stockholders will each sell 2,500 of the approximately 4,167 shares owned by

them, for a purchase price in each case of $40.00 per share payable in cash at the closing of the transaction (the "Closing"), which is to take place not later than May 31, 1977. Applicants allege that this will result in aggregate cash proceeds to Narragansett of $500,000, and will terminate Narragansett's interest in Orba except for subordinated notes of Matran, in the face amount of of 5 percent over prime per annum, but of 5 percent over price per annum, but not less than 12 percent nor more than 15 percent. Applicants further allege that each of the Executive Stockholders will realize cash proceeds of $100,000, and each will continue to hold approximately 6⅔ percent of the outstanding shares of Orba, subject to the rights and restrictions described in the Agreement.

The Agreement provides that the Retained Shares are subject to certain rights and restrictions, many of which relate, in the case of a future sale of Orba shares, to a "Formula Price" per share of Orba, computed as follows: $40 (the cash price per share for the Sold Shares), plus or minus 65 percent of the cumulative net amount of all consolidated net profit or loss (as defined in the Agreement) of Orba per share from the Closing to the date of such sale arising from long term gain or loss from the disposition of capital assets and 50 percent of the remaining portion of such consolidated net profit or loss. The application summarizes the provisions of the Agreement relating to the Retained Stock as follows: (1) Amtel has a right of first refusal on all Retained Shares (except for transfers to executors or family trusts) at the lower of (i) the price to the proposed purchaser, or (ii) the Formula Price; (2) Amtel cannot sell the Sold Shares or the business of Orba until January 1, 1980. In addition, if Orba has a cumulative consolidated net loss over a 24-month period commencing on or after January 1, 1978, Amtel can purchase the Retained Shares at the Formula Price, without any premium, terminate the employment contracts of the Executive Stockholders, and dispose of the stock or assets of Orba, subject, however, to a right of first refusal on the part of the Executive Stockholders. In the case of any other contemplated disposition of Orba, Amtel must call the Retained Shares at the price specified in (3) below; (3) at any time after December 31, 1979, Amtel has a call on any or all of the Retained Shares at percentages of the Formula Price, ranging from 112 percent in 1980 to 100 percent in 1986 and thereafter; (4) if the employment of any Executive Stockholder is terminated for a violation of his employment agreement, Amtel has a call on his Retained Shares at the lower of the Formula Price or $40 per share plus simple interest at the rate of 6 percent; (5) if the employment of any Executive Stockholder is terminated without violation of his employment agreement, including termination for death or total disability, Amtel has an obligation to buy his Retained Shares, and he has an obligation to sell them, at the Formula Price.

The application also states that so long as the Executive Stockholders continue to hold Retained Shares, they are entitled to certain powers and rights of veto including that, without the consent of a majority of the surviving Executive Stockholders, Orba cannot issue any stock, options, warrants or convertible securities. The application further states that the Agreement also requires, as a condition of closing, that each of the Executive Stockholders enter into employment contracts for a period ending December 31, 1979.

Applicants further represent that among the conditions of closing is the condition that INB and Narragansett shall have amended the terms of the aforementioned loan agreements with Matran dated December 8, 1976, so that, inter alia, INB and Narragansett will no longer have security interests in properties of Orba and Matran, and that Amtel, in order to induce INB and Narragansett to do so, shall have executed certain "Comfort Letters," relating to an expression of Amtel's intention, without obligation to do so, to advance sufficient funds to Matran to enable it to make payments under the loan agreements. The application also states, however, that if the Matran loans are not refinanced by the Closing in the manner indicated, it is anticipated that the parties may waive this condition of closing, and that Amtel may thereafter cause the prepayment in full of the entire principal amount of the INB and Narragansett loans under the December 8, 1976 Loan Agreements, in order to avoid the substantial interest charges to which such parties are entitled under such loan agreements.

Section 2(a)(3) of the Act includes, within the definition of "affiliated person" of another person, (1) any person controlled by such other person; (2) any person five per centum or more of whose outstanding voting securities are owned by such other person; and (3) any employee, officer or director of such other person. Section 2(a)(9) of the Act provides, in part, that any person owning more than 25 per centum of the voting securities of a company shall be presumed to control such company. Accordingly, it appears from the foregoing that (1) Amtel is an affiliated person of Narragansett, (2) Orba is an affiliated person of, and presumed to be controlled by, Narragansett, and (3) the Executive Stockholders are affiliated persons of an affiliated person (Orba) of Narragansett.

Section 17(a) of the Act provides, in part, that it is unlawful for any affiliated person of a registered investment company knowingly to purchase from such registered company, or from any company controlled by such registered company, any security or other property, except securities of which the seller is the issuer. Section 17(b) of the Act generally provides that, upon application, the Commission shall exempt a proposed transaction from the provisions of Section 17(a) if evidence establishes that the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned and that the proposed transaction is consistent with the policy of each registered investment company concerned and with the general purposes of the Act.

Section 17(d) of the Act and Rule 17d-1 thereunder, taken together, provide, in part, that it is unlawful for an affiliated person of a registered investment company, or any affiliated person of such person, acting as principal, to effect any transaction in which such investment company is a joint participant, without the permission of the Commission. Rule 17d-1 provides, in part, that in passing upon applications for orders granting such permission, the Commission will consider (1) whether the participation of the investment company in such transaction on the basis proposed is consistent with the provisions, policies and purposes of the Act, and (2) the extent to which such participation is on a basis different from or less advantageous than that of other participants.

Applicants accordingly request an order of the Commission (1) pursuant to Section 17(d) of the Act and Rule 17d-1 thereunder permitting the proposed purchase by Amtel, from Narragansett and the Executive Stockholders, of 80 percent, collectively, of the outstanding Class A common stock of Orba, and (2) pursuant to Section 17(b) of the Act exempting from the provisions of Section 17(a) of the Act the proposed purchase by Amtel from Narragansett of 50 percent of such outstanding common stock.

Applicants assert that the $800,000 consideration proposed to be paid by Amtel for 80 percent of the outstanding equity of Orba was determined in arm's-length negotiations between Harvey J. Sarles, Chairman of the Executive Committee and Chief Executive Officer of Narragansett, acting on behalf of Narragansett and its shareholders, Jerome Ottmar, as President and Chief Executive Officer of Amtel, acting on behalf of Amtel, and the Executive Stockholders, acting on their own behalf. In addition, Applicants assert that the two common directors of Amtel and Narragansett did not participate in the vote of Amtel's Board approving the Agreement.

Applicants further assert that the terms of the proposed transaction, including the consideration to be paid, are reasonable and fair for the following reasons: (1) a present contract for management and operation of the Superior Coal Transshipment Terminal in Superior, Wisconsin, has, in Applicants' estimation, a minimum after-tax present value to Orba of at least $871,000; (2) Amtel's management believes that the "energy crisis" may lead to an increase of emphasis on coal as an energy source, resulting in a significant increase in the need for coal handling facilities such as

are designed and operated by Orba; (3) on March 4, 1977, Georgia Power Company chose Orba to operate its new coal transloader terminal on the Tennessee River at Pride, Alabama, pursuant to which arrangement the planned commitment for 1977–1982 has an after-tax present value to Orba, Applicants assert, of approximately $770,000; (4) Applicants assert that Orba's operations will complement the operations of Amtel's engineering and construction subsidiaries and divisions; (5) Applicants allege that Amtel has the financial resources to finance Orba's working capital requirements and that Amtel will benefit from Orba's ability to utilize its net operating loss carryforward of approximately $2,800,000; (5) Amtel's management believes that Orba and its personnel have, in the brief period of Orba's existence, gained a wide reputation for excellent performance and technical expertise, in the engineering of material handling systems and that Orba is pursuing opportunities to design, engineer, and build additional transshipment facilities which may generate significant revenues and profits; (6) Applicants represent that Orba has developed certain proprietary shiploading and materials handling systems which, Amtel's management believes have an excellent potential for generating future revenues; and (7) Applicants state that Orba's budgeted statement of operations for the year ended December 31, 1977, shows profitable operations by the last quarter of 1977.

Applicants assert that the participation of Narragansett in the proposed transaction will not be on a basis less advantageous than that of other participants. However, they concede that, since only 60 percent of Orba's Class A common stock held by the Executive Stockholders is to be bought by Amtel at the Closing, while 100 percent of the common stock held by Narragansett is to be so bought, those two classes of stockholders are participating on a different basis. They concede that Narragansett may also be viewed as participating on a different basis in that the Agreement provides that Narragansett amend the terms of its loan agreement with Matran and its guaranty agreements with Nrba, so that Narragansett may be viewed as giving and receiving "consideration" in connection with the agreement, apart from the cash price of $40 per share of Orba, which is different from the "consideration" given and received by the Executive Stockholders apart from their $40 per share of Orba.

Applicants state that the purpose to have the Executive Stockholders continue to retain 20 percent of the equity of Orba was suggested by the President of Amtel and not by either Narragansett or the Executive Stockholders; they assert that the purpose of this arrangement is to provide additional incentive to the individuals who will be continuing to operate Orba after acquisition of its control by Amtel. Applicants further submit that, although the Executive Stockholders may in the future realize a price difference from $40 per share for the Retained Shares, in that instance the basic price from which the Formula Price is computed is $40 per share, and the extent to which the Executive Stockholders would therefore realize more or less than $40 per share in the future is a direct reflection of their success or failure in running Orba's business after the Closing. Applicants also submit that the Executive Stockholders are committing their individual futures to the Orba business, while Narragansett, originally the larger investor, is realizing somewhat more cash from the present sale from the Executive Stockholders, but still has a considerable investment at stake in the form of subordinated loans.

Applicants submit that the terms of the proposed transaction, including the consideration to be paid and received, are reasonable and fair and do not involve overreaching. Applicants further represent that the proposed transaction is consistent with Narragansett's investment policy and the purposes of the Act and that the participation by Narragansett in such transaction is not on a basis less advantageous than that of other participants.

Notice is further given that any interested person may, not later than May 6, 1977, 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 interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he 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 upon Applicants at their respective addresses as set forth above. 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 application 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.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77–12327 Filed 4–28–77;8:45 am]

[Rel. No. 19990; 70–6007]

NEW ENGLAND ELECTRIC SYSTEM

Proposed Issue and Sale of Unsecured Note to Insurance Company

Notice is hereby given that New England Electric System ("NEES"), 20 Turnpike Road, Westborough, Massachusetts 01581, a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a), 7, and 9(a) of the Act and Rules 42 and 50 (a)(2) promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

NEES proposes to issue its note ("Note") for cash in the principal amount of $27,500,000 to John Hancock Mutual Life Insurance Company ("Hancock"). The Note will be issued pursuant to an agreement ("Agreement") between NEES and Hancock, will mature ten years from date of issue, and will bear interest at the rate of 8⅝ percent per annum from the date of issue to maturity. The Agreement will provide for an annual sinking fund of $2,000,000 beginning at the end of the second year. The Note will be issued on May 31, 1977, and may not be refunded by NEES during the first five years from the proceeds of borrowings at a lower effective interest cost to NEES or with a weighted average life to maturity less than that remaining on the Note at the time of refunding. Subject to this requirement the Note may be prepaid by NEES at any time upon payment of a premium in an amount equal to a decreasing percentage of the principal amount. The Agreement will also contain covenants regarding, among other things, additional indebtedness of NEES, funds from which dividends may be paid, retention by NEES of the common stock of its principal subsidiaries, and retention by such subsidiaries of their properties.

Proceeds from the issue and sale of the Note will be applied to pay at maturity $27,500,000 aggregate principal amount of NEES Debentures, 3¼ percent series, due June 1, 1977. The Indenture concerning said Debenture requires NEES to deposit funds for such payment with the trustee one day prior to maturity date.

It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction. Fees and expenses to be incurred in connection with proposed transaction are estimated at $37,000, including legal fees of $20,000, and certain services to be performed at cost by New England Power Service Company (an affiliate of NEES), which services are estimated at $15,000.

Notice is further given that any interested person may, not later than May 16, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by

mail upon the declarant at the above-stated address and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. 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.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-12328 Filed 4-28-77;8:45 am]

SMALL BUSINESS ADMINISTRATION

[License No. 05/05-5109]

SC OPPORTUNITIES, INC.

Filing of Application for Approval of Conflict of Interest Transaction

Notice is hereby given that SC Opportunities (licensee), 1112 7th Avenue, Monroe, Wisconsin 53566 was licensed by the Small Business Administration on January 16, 1976, to operate as a small business investment company pursuant to the provisions of section 301(d) of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 et seq.).

On March 31, 1977, the licensee provided financing to SCO Columbia, Inc. (SCOC), a small business concern. SCOC is a Delaware corporation, operating a Swiss Colony franchise store in Columbia, Maryland. SCOC is an associate of the licensee since SCOC was owned by SC America, Inc. (SCA), a Wisconsin corporation. Mr. Ray Kubly, Mr. Robert Soderholm and Mr. Michael Kubly, all stockholders of the licensee own more than 10 percent of the stock of SCA. 50.1 percent of the stock of SCOC was sold to Mr. David A. Babler, and 49.9 percent of the stock was sold to the licensee.

The licensee provided financing in the amount of $11,200.00 on March 31, 1977, in the form of a note bearing interest at 9.5 percent annually, and purchased 499 shares of Class A voting stock of SCOC. The voting stock has a par value of $10/share.

The transaction falls within the purview of Section 107.1004 of the regulations because the financing was used to acquire property from an associate of the licensee.

Notice is hereby given that any person may submit to SBA written comments, on or before May 16, 1977, on this financing. Any such communication should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

A copy of this notice shall be published by the licensee in newspapers of general circulation in Columbia, Maryland.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies:)

Dated: April 21, 1977.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc.77-12289 Filed 4-28-77;8:45 am]

[Declaration of Disaster Loan Area No. 1312; Amdt. 1]

VIRGINIA

Declaration of Disaster Loan Area

The above numbered Declaration (See 42 FR 20695), is amended in accordance with the President's declaration of April 7, 1977, to include Giles County, Virginia. The Small Business Administration will accept applications for disaster relief loans from disaster victims within the above named county and adjacent counties within the State, and is extending the filing date for physical damage until the close of business on June 13, 1977, and for economic injury until the close of business on January 16, 1978.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: April 22, 1977.

A. VERNON WEAVER,
Administrator.

[FR Doc.77-12291 Filed 4-28-77;8:45 am]

[Declaration of Disaster Loan Area No. 1313; Amdt. 1]

WEST VIRGINIA

Declaration of Disaster Loan Area

The above numbered Declaration (see 42 FR 20695) is amended in accordance with the President's declaration of April 7, 1977, to include Mercer County, West Virginia. The Small Business Administration will accept applications for disaster relief loans from disaster victims within the above named county, and adjacent counties within the State, and is extending the filing date for physical damage until the close of business on June 13, 1977, and for economic injury until the close of business on January 12, 1978.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: April 19, 1977.

A. VERNON WEAVER,
Administrator.

[FR Doc.77-12290 Filed 4-28-77;8:45 am]

[Docket No. N-77-746]

FEDERAL ASSISTANCE TO DROUGHT STRICKEN AREAS AND RELATED DETERMINATIONS

Memorandum of Agreement

CROSS REFERENCE: For a document issued jointly by the Housing and Urban Development Department, the Small Business Administration, and the other members of the Interagency Drought Emergency Coordinating Committee of 1977 regarding the above entitled matter, see FR Doc. 77-12528 in the notices section of this issue.

DEPARTMENT OF STATE

[PUBLIC NOTICE 540]

HARMONIZATION TALKS

Open Meeting

There will be a meeting to report the results of exploratory talks held April 1 with the representatives of the Committee on Harmonization (CCH) of the Conference of European Posts and Telecommunication Administrations (CEPT).

This meeting will be held at 10:00 a.m. on Friday, May 13, 1977, in Room 1912, Department of State, 2201 C Street NW., Washington, D.C. Interested members of of the public are invited to attend the meeting.

Admittance will be limited to the seating available. In that regard, entrance to the Department of State building is controlled and entry will be facilitated if arrangements are made in advance of the meeting. It is therefore requested that prior to May 10, 1977, those who plan to attend the meeting inform the Office of International Communications Policy, Department of State, telephone 202-632-3405, of their intention. All non-Government attendees must use the C Street entrance to the building.

Dated: April 26, 1977.

JOHN J. O'NEILL, Jr.,
Director, Office of International Communications Policy.

[FR Doc.77-12428 Filed 4-28-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

INTERAGENCY STUDY OF POST-1980 GOALS FOR COMMERCIAL MOTOR VEHICLES

Extension of Time for Public Input

The FEDERAL REGISTER of January 31, 1977 (42 FR 5775), reported on the status of the draft "Interagency Study of Post-1980 Goals for Commercial Motor Vehicles" and requested further public comment for the preparation of a second draft of the study. Comments were requested (in three copies if possible) prior to the close of business, April 29, 1977.

A number of requests to extend the comment period beyond April 29 have been received. In response to those requests the comment period is hereby extended to the close of business on May 31, 1977. To the extent possible, consistent with the schedule for revising the draft study, late comments will also be considered.

All comments should reference the "Interagency Study of Post-1980 Goals for Commercial Motor Vehicles" and should be sent to: Mr. W. H. Close, Manager, Voluntary Truck and Bus Fuel Economy Program, TST-50, U.S. Department of Transportation, Washington, D.C. 20590.

Issued in Washington, D.C. on April 26, 1977.

W. H. CLOSE,
Manager, Voluntary Truck and Bus Fuel Economy Program.

[FR Doc. 77-12399 Filed 4-28-77;8:45 am]

UNITED STATES RAILWAY ASSOCIATION

[Docket 211-12]

CONSOLIDATED RAIL CORP.

Application for a Loan

Subsection (h) of section 211 of the Regional Rail Reorganization Act of 1973, as amended (45 U.S.C. 721) (the Act), authorizes the United States Railway Association (Association) to enter into loan agreements with the Consolidated Rail Corporation (ConRail), the National Railroad Passenger Corporation, and any profitable railroad to which rail properties are transferred or conveyed pursuant to section 303(b)(1) of the Act under conditions and for purposes set forth in this Subsection. Subsection (b) of section 211 requires that the Association publish notice of the receipt of any application thereunder in the FEDERAL REGISTER and afford interested parties an opportunity to comment thereon.

On March 1, 1976, ConRail submitted a preliminary application for a loan under the provisions of Section 211(h) in the amount of $230,000,000. Notice of this application was published in the FEDERAL REGISTER dated March 19, 1976. On March 29, 1976, ConRail supplemented its preliminary application by filing the certifications and exhibits required by "Procedures for Applications for Loans to Pay Obligations of Railroads in Reorganization", 49 CFR Sec. 922 (Loan Procedure), and requested an initial borrowing of $34,024,000. On April 1, 1976, ConRail and the Association entered into a loan agreement which authorized initial borrowings by ConRail of $34,024,000. On April 12, 1976, ConRail further supplemented its loan application with a request that the aggregate amount of the initial borrowings be increased to $51,157,000. On April 15, 1976, the Board of Directors of the Association approved that request.

On July 12, 1976 ConRail filed a Borrowing Application pursuant to subsection 211(h) of the Act requesting, among other things, new borrowings of $35,778,533.21 and an increase of the maximum amount reserved to $230,000,000.00. On July 29, 1976 the Board of Directors of the Association approved an additional loan to ConRail in the principal amount of $8,182,352.21.

No November 18, 1976 ConRail filed a Borrowing Application pursuant to subsection 211(h) of the Act requesting, among other things, new borrowings of $143,804,396.39 and a request for amendment of § 3.01 of the Loan Agreement to increase the Maximum Borrowing to $203,143,749.60. This application included the certification and exhibits required by the Loan Procedures. On December 6, 1976 the Board of Directors of the Association approved an additional loan to ConRail in the principal amount of $11,251,396.39.

On February 1, 1977, ConRail filed a Borrowing Application pursuant to section 211(h) of the Act requesting, among other things, new borrowings of $107,761,877.76. This application included the certification and exhibits required by the Loan Procedures. On February 17, 1977 the Executive Committee of the Board of Directors of the Association approved an additional loan to ConRail in the principal amount of $107,761,877.76.

On March 16, 1977 ConRail filed a Borrowing Application pursuant to section 211(h) of the Act requesting new borrowings of $25,333,400.00. This application included the certification and exhibits required by the Loan Procedures. On March 31, 1977, the Board of Directors of the Association approved an additional loan to ConRail in the principal amount of $25,333,400.00.

On April 25, 1977 ConRail filed a Borrowing Application pursuant to section 211(h) of the Act requesting new borrowings of $7,825,000.00. ConRail states that it will apply $7,675,000.00 of the new borrowings to the payment of certain non-employee related obligations of the Erie Lackawanna Railroad Company and $150,000.00 of the new borrowings to the payment of certain pre-conveyance employee obligations of the Central Railroad of New Jersey.

Interested parties are invited to submit written comments relevant to this application. Any such submissions must identify, by its Docket No., the application to which it relates, and must be filed with the Office of General Counsel, United States Railway Association, Room 2222, Transpoint Building, 2100 Second Street, SW., Washington, D.C. 20595, on or before May 9, 1977, to enable timely consideration by USRA. The docket containing the original application shall be available for public inspection at that address Monday through Friday (holidays excepted) between 8:30 a.m. and 5 p.m.

Dated at Washington, D.C., this 26th day of April, 1977.

EDWIN RECTOR,
Assistant Secretary, United States Railway Association.

[FR Doc.77-12393 Filed 4-28-77;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 379]

ASSIGNMENT OF HEARINGS

APRIL 26, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponesments of hearings in which they are interested.

MC 142602 Sub 1, Containerized Moving Service, Inc. now assigned May 4, 1977 at the Offices of the Interstate Commerce Commission in Washington, D.C. is postponed indefinitely.

MC 112801 Sub 191, Transport Service Co. now being assigned May 4, 1977 (1 day) at Chicago, Illinois and will be held in Room 1319, Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 118431 (Sub.-No. 23), Denver Southwest Express, Inc., application dismissed.

MC 117604 Sub 11, Meadors Freight Lines, Inc. now assigned June 6, 1977 at Atlanta, Georgia is postponed until September 12, 1977 (2 weeks) at Atlanta, Georgia in a hearing room to be later designated.

MC 142664 (Sub-2), Import Dealers Service Corporation, now being assigned July 12, 1977 (2 days) at Los Angeles, California, in a hearing room to be later designated.

MC 139967 (Sub-1), SPS Transport Co., now being assigned July 14, 1977 (2 days) at Los Angeles, California, in a hearing room to be later designated.

MC 16682 (Sub-88), Mural Transport, Inc., now being assigned July 18, 1977 (1 day) at San Francisco, California, in a hearing room to be later designated.

MC 141804 (Sub-43), Western Express, Division of Interstate Rental, Inc., now being assigned July 19, 1977 (1 day) at San Francisco, California, in a hearing room to be later designated.

MC 124211 (Sub-280), Hilt Truck Line, Inc., now being assigned July 20, 1977 (3 days) at San Francisco, California, in a hearing room to be later designated.

MC 134592 (Sub-9), Herb Moore & Hazel Moore, d/b/a H & H Trucking Co., now being assigned July 25, 1977 (1 week) at San Francisco, California, in a hearing room to be later designated.

MC-F-12411, Noel Transfer, Inc.—Control—Dakota Express, Inc., now assigned May 2, 1977, at Chicago, Ill. is postponed to May 3, 1977 (4 days), in Room 349, 230 South Dearborn St., Chicago, Ill.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-12376 Filed 4-28-77;8:45 am]

[Notice No. 160]

MOTOR CARRIER TRANSFER PROCEEDINGS

APRIL 29, 1977.

Application filed for temporary authority under Section 210a(b) in connection with transfer application under Section 212(b) and Transfer Rules, 49 CFR Part 1132:

No. MC-FC 77096. By application filed April 15, 1977, INTERNATIONAL TRAILER TRANSPORT, INC., 796 Frelinghuysen Avenue, P.O. Box 4067, Newark, NJ 07112, seeks temporary authority to transfer a portion of the operating rights of SKYWAY, INC., 310 Central Avenue, P.O. Box 360, South Kearny, NJ 07203, under section 210a(b). The transfer to INTERNATIONAL TRAILER TRANSPORT, INC., of a portion of the operating rights of SKYWAY, INC., is presently pending.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-12375 Filed 4-28-77;8:45 am]

FOURTH SECTION APPLICATION FOR RELIEF

APRIL 26, 1977.

An application, as summarized below, has been filed requesting relief from the requirements of section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the general rules of practice (49 CFR 1100.40) and filed on or before May 16, 1977.

FSA No. 43355—*Acetaldehyde to Points in West Virginia.* Filed by Southwestern Freight Bureau, Agent, (No. B-670), for interested rail carriers. Rates on acetaldehyde, in tank-car loads, as described in the application, from Bayport, Freeport, Texas, also Plaquemine, Louisiana, to Charleston, Institute, and South Charleston, West Virginia.

Grounds for relief—Market competition.

Tariff—Supplement 3 to Southwestern Freight Bureau, Agent, tariff 12-K, I.C.C. No. 5272. Rates are published to become effective on June 1, 1977.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-12374 Filed 4-28-77;8:45 am]

[AB 138 (SDM)]

McCLOUD RIVER RAILROAD CO.

System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations §1121.22, that the McCloud River Railroad Company, has filed with the Commission its color-coded system diagram map in docket No. AB-138 (SDM). The maps reproduced here in black and white are reasonable reproductions of that sys-

tem map and the Commission on April 21, 1977, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB-138 (SDM).

ROBERT L. OSWALD,
Secretary.

[AB 138 (SDM)]

MCCLOUD RIVER RAILROAD COMPANY

LINE DESCRIPTION OF SYSTEM DIAGRAM MAP

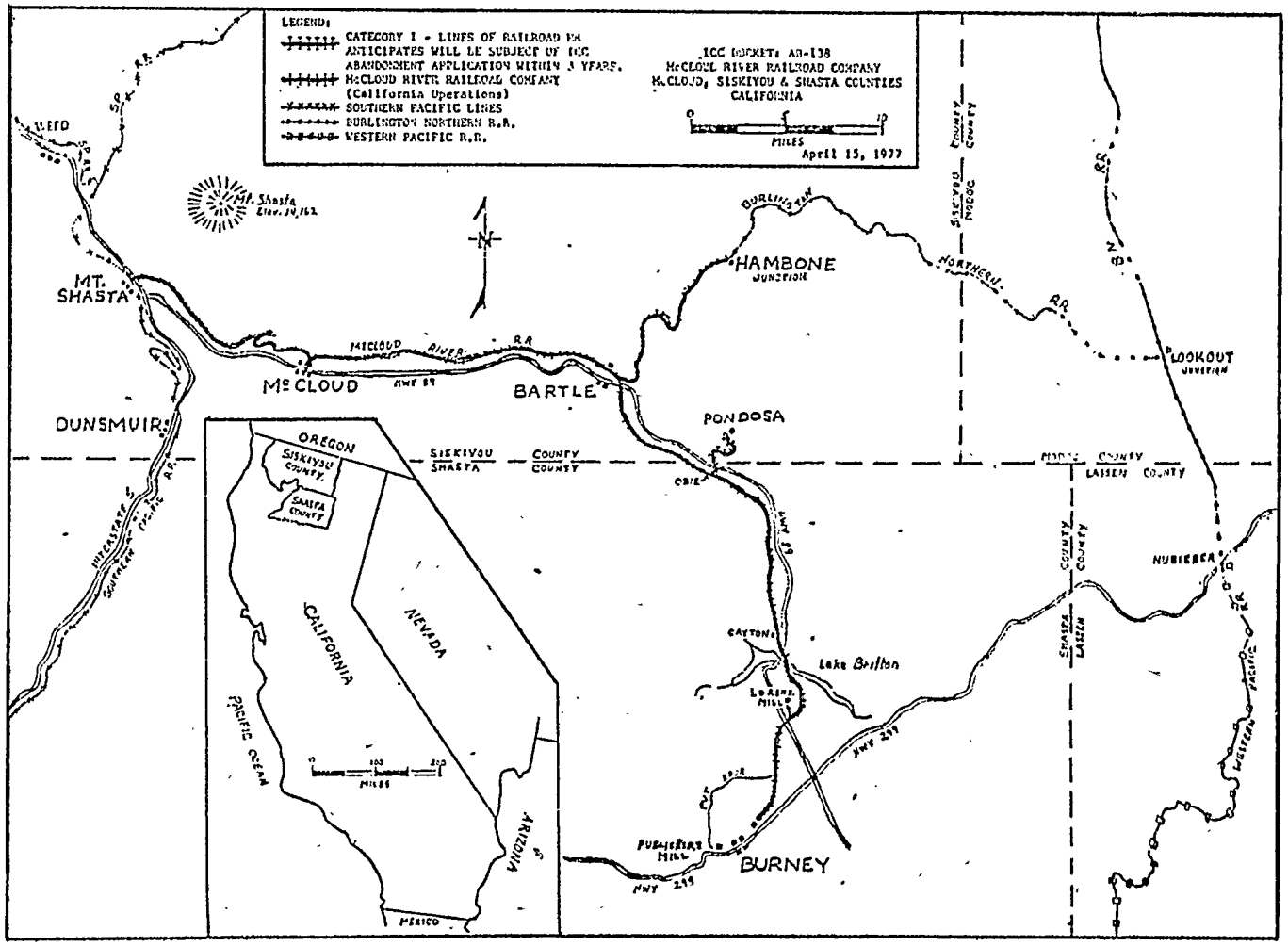
(a) The line of railroad of McCloud River Railroad listed in Category 1 is designated as its Pondosa Branch Line and is 5 miles in length.

(b) The line is located in the State of California.

(c) The line is located partially in the County of Siskiyou and partially in the County of Shasta.

(d) Mileposts delineating the line are: Milepost B-31 (Station Obie) to Milepost P-35 (Station Pondosa).

(e) There are no agency or terminal stations located on the Pondosa Branch Line, however, the nearest agency station is located at 325 Main Street, McCloud, California.



[FR Doc.77-12372 Filed 4-28-77;8:45 am]

[Notice No. 159]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under section 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include a request for oral hearing, must be filed with the Commission on or before May 31, 1977. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

No. MC-FC-76937, filed April 18, 1977. Transferee: David H. Murphy, doing business as TULLOS VAN & STORAGE, 666 Redwood Avenue, Seaside, California 93955. Transferor: Troy M. Tullos, doing business as Tullos Van & Storage, 666

Redwood Avenue, Seaside, California 93955. Applicant's representative: David H. Murphy, 666 Redwood Avenue, Seaside, California 93955. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC-129065 (Sub-No. 1), issued October 9. 1969, as follows: Used household goods between points in Santa Cruz and Monterey Counties, Calif.

Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

No. MC-FC-77040, filed March 18, 1977. Transferee: GEORGE DAVIS TRUCKING, INC., 2482 South Neel Street, Rapid City, S. Dak. 57701. Transferor: George F. Davis, Jr., doing business as George Davis Trucking Company, 2467 East 39th Street, Rapid City, S. Dakota 57701. Applicant's representative: J. Maurice Andren, 1734 Sheridan Lake Road, Rapid City, S. Dakota 57701. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Permits No. MC-127551 Sub-1, and Sub-2 and Sub-5, issued November 2, 1966, January 29, 1968, and January 29, 1969 respectively, as follows: *Meats, meat products, and meat by-products, dairy products,* and *articles distributed by meat packinghouses,* as described in Sections A, B, and C of Appendix I to the report in *Description in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Sioux Falls, S. Dak., to points in Boyd, Brown, Cherry, Dawes, Holt, Keya Paha, Rock, Sheridan, and Sioux Counties, Nebr., with no transportation for compensation on return except as otherwise authorized. From Sioux Falls, S. Dak., to points in Weston, Crook, Campbell, Johnson, and Sheridan Counties, Wyo., with no transportation for compensation on return except as otherwise authorized. From Rapid City, S. Dak., to points in Weston, Crook, Campbell, Johnson, and Sheridan Counties, Wyo., with no transportation for compensation on return except as otherwise authorized.

Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

No. MC-FC-77047 filed March 24, 1977. Transferee: VAN DYKE TRUCK LINES OF OREGON, INC., 150 South River Street, Seattle, Washington 98108. Transferor: V. Van Dyke, doing business as Van Dyke Truck Lines, 150 South River Street, Seattle, Washington 98108. Applicants' representative: V. Van Dyke, Address—same as transferee. Authority sought for purchase by transferor of the operating rights of transferor, as set forth in Certificate No. MC-114730, issued September 5, 1972, as follows: *Commodities,* the transportation of which, by reason of size or weight, requires the use of special equipment, and *related machinery parts, equipment and supplies* when the transportation thereof is incidential to the transportation of commodities, which by reason of size or weight, requires the use of special equipment, Between points in Douglas County, Oreg., on the one hand, and, on the other, points in Del Norte, Humboldt, Siskiyou, Modoc, Trinity, Shasta, Lassen, Tehama, Mendocino and Plumas Counties, Calif., except no service is authorized to or from points in that part of California on Interstate Highway 5 (formerly U.S. Highway 99); *Heavy machinery,* and *other commodities,* the transportation of which by reason of size or weight, requires the use of special equipment, and *related machinery parts and equipment* when their transportation is incidental to the transportation of heavy machinery and other commodities, which by reason of size or weight requires the use of special equipment, Between points in Lane County, Oreg., on the one hand, and, on the other, points in Modoc, Siskiyou, Del Norte, Humboldt, Trinity, Shasta and Lassen Counties, Calif., except no service is authorized to or from points in that part of California on Interstate Highway 5 (formerly U.S. Highway 99).

Transferee presently holds no authority from this Commission but is affiliated with Van Champ Horse Van Service, Inc., an authorized motor carrier operating under MC-119426 (Sub-No. 1) and MC-119426 (Sub-No. 8). Application has not been filed for temporary authority under section 210a(b).

No. MC-FC-77049 filed March 24, 1977. Transferee: RONALD L. CLOUTIER, INC., 211 Windwood Road, Porstmouth, Rhode Island, 02871. Transferor: O. Cloutier & Sons, Inc., 137 Crawford St., Fall River, Massachusetts. Applicants' representative: Russell B. Curnett, P.O. Box 366, 826 Orleans Road, Harwich, Massachusetts, 02645. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Permit Nos. MC-29848 and MC-29848 (Sub-No. 3), issued April 11, 1961 and July 21, 1975, respectively as follows: *Such commodities* as are dealt in by wholesale lumber companies, From Portsmouth, R.I., to points in Rhode Island, points in Massachusetts (except those in Berkshire County, Mass.), and points in that part of Connecticut on and east of a line beginning at the Massachusetts-Connecticut State line and extending along Connecticut Highway 8 to Shelton, Conn., and thence along Connecticut Highway 110 to Stratford, Conn.: RESTRICTION: The operations are limited to a transportation service to be performed under special and individual contracts or agreements with persons (as defined in Section 203(a) of the Interstate Commerce Act), who operate wholesale lumber companies, the business of which is the manufacture and sale of lumber products, for the transportation of the commodities indicated and in the manner specified; *Lumber,* From Portsmouth, R.I., to points in Berkshire County, Mass., and points in New Hampshire and Maine; From Port Newark, N.J., to Portsmouth, R.I.; *Lumber* and *forest products,* From Portsmouth, R.I., to Boston, Mass., Hartford, Conn., Syracuse, and Buffalo, N.Y., Port Newark, Port Elizabeth, and Camden, N.J., Philadelphia, and Pittsburgh, Pa., and points in Vermont (except Hancock); From Woburn, Mass., Hartford, Conn., points in that part of the New York, N.Y., Commercial Zone as defined in *Commercial Zones and Terminal Areas,* 53 M.C.C. 451, within which local operations may be conducted pursuant to the partial exemption of Section 2033(b)(8) of the Interstate Commerce Act (the "exempt zone"), Irvington, New Windsor, and Farmingdale, N.Y., Port Newark, Camden, and Freehold, N.J., and Pittsburgh, Ridgeway, and Philadelphia, Pa., to points in Connecticut, Massachusetts and Rhole Island; From Boston, Mass., Syracuse and Buffalo, N.Y., Port Elizabeth, N.J., and points in Vermont (except Hancock), to the facilities of Weyerhaeuser Company located in Connecticut, Massachusetts, and Rhode Island: RESTRICTION: The operations are limited to a transportation service to be performed under a continuing contract, or contracts, with Weyerhaeuser Company.

Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

No. MC-FC-77054 filed March 25, 1977. Transferee: CARL SCHAEFER JR. TRUCK LINE, INC., 2600 Willowburn Avenue, Dayton, Ohio, 45427. Transferor: J-Truck Line, Inc., Springfield, Illinois, 62702. Applicant's representative: Earl N. Merwin, 85 East Gay Street, Columbus, Ohio, 43215. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC-118780 issued September 18, 1974, as follows: *Agricultural machinery and implements,* From Coldwater, Ohio, to points in that part of Illinois south of Mercer, Knox and Peoria Counties and on, south and west of a line beginning at Peoria and extending southeasterly along U.S. Highway 150 to Bloomington, thence along Illinois Highway 9 to Paxton, thence southerly along U.S. Highway 45 to Stonefort, as the eastern boundary of Williamson County, thence along the eastern boundary of Williamson and Johnson Counties, thence along the southern boundary of Johnson County to the eastern boundary of Pulaski County and thence along the eastern boundary of Pulaski County to the Ohio River, southern boundary of Illinois, including points in Mercer and Knox Counties; *Agricultural machinery and agricultural implements,* From Coldwater, Ohio, to points in Clarke, Crawford, Edgar, Edwards, Gallatin, Hamilton, Jasper, Lawrence, Pope, Richland and Wabash Counties, Ill., and those east of, but not on, U.S. Highway 45, in Clay, Coles, Cumberland, Douglas, Effingham, Saline, Wayne, and White Counties, Ill.; *Animal and poultry feed,* From Clinton and Cedar Rapids, Iowa, to points in DeWitt, Logan, Macon and Sangamon Counties, Ill., *Animal and poultry feed ingredients,* From points in

DeWitt, Logan, Macon and Sangamon Counties, Ill., to points in Racine County, Wis.; *Concentrates and Minerals* used in the mixing of animal and poultry feed and calf meal, From points in Racine County, Wis., to points in DeWitt, Logan, Macon and Sangamon Counties, Ill.; *Baled straw*, From points in Logan and Sangamon Counties, Ill., to Terre Haute, Ind.; *Brick, tile and clay products*, From points in Clay, Vigo, Parke and Vermillion Counties, Ind., to points in DeWitt, Logan, Macon and Sangamon Counties, Ill.; *Building materials*, From points in Indiana and Missouri to points in Logan County, Ill.; *Grain*, From points in Logan County, Ill., to points in Missouri; *Fence posts*, From points in Missouri to points in Logan County, Ill.; *Harvester combines*, From La Porte, Ind., and Des Moines, Iowa, to points in that part of Illinois within a described boundary; *Livestock*, From points in Missouri to points in Illinois.

Transferee is presently authorized to operate as a common carrier under Certificate No. MC-87476 and subs thereunder. Application has not been filed for temporary authority under section 210a (b).

No. MC-FC-77055, filed March 29, 1977. Transferee: ASSOCIATED TOWING, INC., 5715 W. Maryland Ave., Phoenix, Arizona, 85301. Transferor: Gasoline Alley 25 Hour Towing, Inc., 1700 S. 19th Ave., Phoenix, Arizona, 85009. Applicant's representative: A. Michael Bernstein, 1441 E. Thomas Rd., Phoenix, Arizona, 85014. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 116305 issued February 8, 1973, as follows: *Wrecked and disabled vehicles*, by use of wrecker equipment only, Between Phoenix, Ariz., on the one hand, and, on the other, points in California, New Mexico, Utah, and Nevada. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

No. MC-FC-77059, filed March 31, 1977. Transferee: MODERN TRANSPORTATION SERVICES, INC., 8192 Newington Rd., Newington, Va. 22122. Transferor: Haulmark Transfer, Inc., P.O. Box 343, Stenerson Lane, Cockeysville, Maryland 21030. Applicant's representative: Joan Pascavage, 8192 Newington Rd., Newington, Va. 22122. F. V. Schmidt, P.O. Box 343, Stenerson Lane, Cockeysville, Md., 21030. Authority sought for purchase by transferee of a portion of the operating rights of transferor, as set forth in Certificate No. MC 127579, issued June 24, 1968, as follows: *Household goods* as defined by the Commission. Between Baltimore, Maryland, on the one, and, on the other, Philadelphia, Pennsylvania; New York, New York; and Washington, D.C. Also between points in the District of Columbia, St. Marys, Charles, Calvert, Prince Georges, and Anne Arundel Counties, Maryland. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

No. MC-FC-77063, filed April 1, 1977. Transferee: CARMEN W. SACCO, doing business as SACCO'S TRUCKING, 76 Turner Ave., Pittsfield, Mass. 01201. Transferor: Carmella P. Sacco (Virginia B. Sacco, Administratrix), doing business as Sacco's Trucking, 76 Turner Ave., Pittsfield, Mass. 01201. Applicant's representative: Carmen W. Sacco, 76 Turner Ave., Pittsfield, Mass. 01201. Authority sought for purchase by transferee of the operating rights of transferor set forth in Certificate No. MC 95147, issued July 14, 1970, as follows: Household goods, between Boston, Mass., on the one hand, and, on the other, points in Massachusetts, New Hampshire, Rhode Island, and Connecticut, and between Pittsfield, Mass., on the one hand, and, on the other, points in New York. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

No. MC-FC-77065, filed April 5, 1977. Transferee: JOSEPH BUCCIERO CONTRACTING, INC., 185 Third Street, Troy, N.Y. 12180. Transferor: Lester M. Gundrum, an individual, doing business as, P & E BUEHLER TRUCKING, 15 Smith Ave., Troy, N.Y. 12180. Applicant's representative: Leslie M. Apple, attorney at law, 90 State St., Albany, N.Y. 12207. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 115059 and, Certificate of Registration, No. MC 115059 Sub-2, each issued December 9, 1969, as follows: General commodities, with exceptions between Cherryplain, N.Y., and Albany, N.Y., serving all intermediate points: From Cherryplain over New York Highway 22 to Petersburg, N.Y., thence over New York Highway 2 to Troy, N.Y., and thence over New York Highway 32 to Albany, and return over the same route. From Cherryplain over New York Highway 22 to Stephentown, N.Y., thence over New York Highway 43 to West Sand Lake, N.Y., thence over New York Highway 150 to Troy, N.Y., and thence over New York Highway 32 to Albany, and return over the same route. Also General Commodities, as defined in section 800.1 of Title 16 of the Official Compilation of Codes, Rules and Regulations of the State of New York; between the hamlet of Cherryplain (Rensselaer County) N.Y. and the City of Albany, N.Y., as follows: From the hamlet of Cherryplain via N.Y. 22 to Petersburg; thence via N.Y. 2 to Troy; thence via bridge to N.Y. 32; thence via N.Y. 32 to Albany, and returning in the reverse direction via such routes; from the hamlet of Cherryplain via N.Y. 22 to Stephentown; thence via N.Y. 43 to Albany, and returning in the reverse direction via such routes; between the city of Troy, N.Y. and the hamlet of Averill Park (Rensselaer County), N.Y. via N.Y. 66, and returning via the same route; with service to, from and between all intermediate points on each of the above routes and the following off-route points: Garfield, Poestenkill, Lebanon Springs, North Petersburg. B. *Cut Piece Goods, in Shipper's Containers*: From the city of Troy, N.Y. to the village of Cobleskill (Schoharie County), N.Y. C. *Children's Dresses, in Shipper's Containers*: From the village of Cobleskill (Schoharie County), N.Y. to the city of Troy, N.Y. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under section 210a(b).

No. MC-FC-77066, filed April 4, 1977. Transferee: EXPRESSWAYS, INC., N. 10505 Juanita Rd., Spokane, Washington 99218. Transferor: Spirit of 76 Overland Express, Inc., 4520 Evard Rd., Ft. Wayne, Ind. 46801. Applicant's representative: George R. LaBissoniere, attorney at law, 1100 Norton Bldg., Seattle, Wash. 98104. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 139381, issued November 26, 1974, and corrected January 8, 1975, as follows: Irregular routes: *General commodities* (except commodities in bulk, foodstuffs, and classes A and B explosives), with restrictions. From the facilities of Essex International, Inc., in Michigan, Ohio, Indiana, and Illinois, to points in Arizona, California, Colorado, Kansas, Nevada, New Mexico, Oklahoma, Oregon, Texas, Utah, and Washington, with no transportation for compensation on return except as otherwise authorized. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

No. MC-FC-77067, filed April 4, 1977. Transferee: BRASIER TRUCKING, INC., 860 North Kenosha, Tulsa, Okla. 74106. Transferor: Joe R. Brasier, doing business as, Joe R. Brasier Trucking Contractor, 860 North Kenosha, Tulsa, Okla. 74106. Applicant's representative: Dean Williamson, attorney at law, 280 National Foundation Life Building, 3535 N.W. 58th, Oklahoma City, Okla. 73112. Authority sought for purchase by transferee of the operating rights of transferor set forth in Permit No. MC 102300, issued June 14, 1965, as follows: Such materials as are used in or are incidental to the construction, operation, and maintenance of telephone lines, between points in Oklahoma. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-12371 Filed 4-28-77;8:45 am]

[Notice No. 55]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

APRIL 25, 1977.

The following are notices of filing of applications for temporary authority

under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official 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 Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 115495 (Sub-No. 34TA), filed April 11, 1977. Applicant: UNITED PARCEL SERVICE, INC., 300 N. 2nd Street, St. Charles, Ill. 60174. Applicant's representative: S. Harrison Kahn, 733 Investment Bldg., 1511 K Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, for 180 days, over irregular routes, transporting: *General Commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), between points in Alabama, Arkansas, Arizona, California, Colorado, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, South Carolina, South Dakota, Tennessee, Texas, Utah, Washington, Wisconsin and Wyoming, points in Pennsylvania, West Virginia and Virginia, within 10 miles of the Pennsylvania-Ohio, the West Virginia-Ohio, the West Virginia-Kentucky, the Virginia-Kentucky, the Virginia-Tennessee or the Virginia-North Carolina State lines;

(1) Restricted against the transportation of traffic originating at and destined to points in Texas, Oklahoma, and Kansas, that part of Nebraska on, south, and within 10 miles north of a line beginning at the Nebraska-Colorado state line and extending along U.S. Highway 138 to junction with U.S. Highway 30, and thence along U.S. Highway 30 to the Nebraska-Iowa state line, Fort Smith, Fayetteville and points in Benton, Carroll, and Boone counties, Arkansas, and those points in Arkansas on and west of U.S. Highway 71, points in Adair, Atchison, Andrew, Barry, Barton, Bates, Benton, Boone, Buchanan, Caldwell, Callaway, Camden, Carroll, Cass, Cedar, Chariton, Christian, Clay, Clinton, Cole, Cooper, Dade, Dallas, Daviess, DeKalb, Gentry, Greene, Grundy, Harrison, Henry, Hickory, Holt, Howard, Jackson, Jasper, Johnson, LaClede, Lafayette, Lawrence, Linn, Livingston, McDonald, Macon, Mercer, Miller, Moniteau, Morgan, Newton, Nodaway, Pettis, Platte, Polk, Putnam, Randolph, Ray, St. Claire, Caline, Schuyler, Stone, Sullivan, Taney, Vernon, Webster, and Worth Counties, Missouri.

(2) Restricted against the transportation of traffic originating at Memphis, Tenn., and points in its commercial zone, as defined by the Commission and destined to points in Arkansas. (3) Restricted against the transportation of traffic originating at points in Arkansas and destined to Memphis, Tenn., and points in its commercial zone, as defined by the Commission. (4) Restricted against the transportation of traffic between Memphis, Tenn., on the one hand, and, on the other, points in that part of Mississippi north of U.S. Highway 80. (5) Restricted against the movement of traffic between Denver, Colorado, on the one hand, and, on the other, points in Kansas and those in that part of Nebraska on and south, and within 10 miles north of a line beginning at the Nebraska-Iowa state line and extending along U.S. Highway 138 to junction U.S. Highway 30 to the Nebraska-Iowa state line. (6) No service shall be rendered in the transportation of any package or article weighing more than 50 pounds or exceeding 108 inches in length and girth combined, and each package or article shall be considered as a separate and distinct shipment. (7) No service shall be provided in the transportation of packages or articles weighing in the aggregate 100 pounds or less or more than 300 pounds from one consignor at one location to one consignee at one location on any one day.

The following areas are also subject to the additional restrictions shown, as well as to the restrictions set forth above:

(1) A. Between points in Minnesota, Kentucky, Michigan (except that part of Michigan bounded by a line beginning at Detroit and extending north along the Michigan State line to Port Huron, thence westerly along Michigan Highway 21 to Davison, thence northerly along Michigan Highway 15 to Bay City, thence westerly along U.S. Highway 10 to junction Michigan Highway 20, thence along Michigan Highway 20 to Mount Pleasant, thence southerly along U.S. Highway 27 to junction U.S. Business Route 27, thence southerly along U.S. Business Route 27 to Alma, thence easterly along U.S. Business Route 27 to junction U.S. Highway 27, thence along U.S. Highway 27 to Ola, thence westerly along Michigan Highway 57 to the eastern boundary of Kent County, thence along the eastern and northern boundaries of Kent County to the northern boundary of Muskegon County, thence along the northern and eastern boundaries of Muskegon County, including all of Kent and Muskegon Counties, to Lake Michigan, thence southerly along the Michigan State line to the Indiana-Michigan State line, thence easterly along the Indiana-Michigan State line to the Michigan-Ohio State line, thence easterly along the Michigan-Ohio State line to Lake Erie, and thence northerly along the Michigan State line to Detroit, and except all points on the described highways and those on the described county lines which do not coincide with State lines), points in Wisconsin (except that part of Wisconsin bounded by a line beginning at the Illinois-Wisconsin State line at Lake Michigan and extending northerly along the shore of Lake Michigan to and including Two Rivers, thence northerly along Wisconsin Highway 147 to junction U.S. Highway 141, thence northerly along U.S. Highway 141 to and including Green Bay, thence southerly along U.S. Highway 41 to the northern boundary of Fond du Lac County, thence westerly and southerly along the northern and western boundaries of Fond du Lac County to the northern boundary of Dodge County, thence westerly and southerly along the northern and western boundaries of Dodge County to junction U.S. Highway 151, thence southwesterly along U.S. Highway 151 to the northern boundary of Dane County,

Thence along the northern, western, and southern boundaries of Dane County to the western boundary of Rock County, thence southerly along the western boundary of Rock County to the Wisconsin-Illinois State line, and thence easterly along the Wisconsin-Illinois State line to Lake Michigan and except all points, on the described highways and those on the described county lines which do not coincide with State lines), points in Missouri (except that part of Missouri bounded by a line beginning at St. Louis and extending northwesterly along the Mississippi River to Hannibal, Mo., thence northerly along Missouri Highway 168 to junction combined U.S. Highways 24 and 61, thence southerly along combined U.S. Highways 24 and 61 to junction U.S. Highway 36, thence easterly along U.S. Highway 36 to junction U.S. Highway 61, thence southerly along U.S. Highway 61 to junction Missouri Highway 19, thence southwesterly and southerly along Missouri Highway 19 to junction U.S. Highway 54, thence westerly along U.S. Highway 54, to junction Missouri Highway 22, thence westerly along Missouri Highway 22 to junction U.S. Highway 63, thence northerly along U.S.

Highway 63 to junction U.S. Highway 24, thence westerly along U.S. Highway 24 to junction Missouri Highway 3, thence southerly along Missouri Highway 3 to junction Missouri Highway 240, thence southerly along Missouri Highway 240 to the Missouri River, thence southeasterly along the Missouri River to Jefferson City, thence southeasterly along U.S. Highway 63 to Rolla, thence easterly along U.S. Highway 63 to junction U.S. Highway 66, thence easterly along U.S. Highway 66 to junction Missouri Highway 68, thence southerly along Missouri Highway 68 to junction Missouri 8, thence easterly along Missouri Highway 8 to junction Missouri Highway 21, thence southerly along Missouri Highway 21 to junction Missouri Highway 72, thence southeasterly along Missouri Highway 72 to the Mississippi River, thence northwesterly along the Mississippi River to the point of beginning, and except all points on the described highways, and points in Iowa (except Davenport, Clinton, and Dubuque, Iowa) Grand Forks and Fargo, N. Dak., Omaha, Nebr., Kansas City, Kans., and points in West Virginia and Virginia within 10 miles of the Kentucky-West Virginia and Kentucky-Virginia State lines.

B. Between points in Minnesota, Kentucky, those portions of Michigan, Wisconsin, Missouri and Iowa described immediately above, Grand Forks and Fargo, N. Dak., Omaha, Nebra., Kansas City, Kans., and points in West Virginia and Virginia within 10 miles of the Kentucky, West Virginia and Kentucky-Virginia State lines, on the one hand, and, on the other, points in Illinois, Indiana, Ohio, that part of Michigan bounded by a line beginning at Detroit and extending north along the Michigan State line to Port Huron, thence westerly along Michigan Highway 21 to Davison, thence northerly along Michigan Highway 15 to Bay City, thence westerly along U.S. Highway 10 to junction Michigan Highway 20, thence along Michigan Highway 20 to Mount Pleasant, thence southerly along U.S. Highway 27 to junction U.S. Business Route 27, thence southerly along U.S. Business Route 27 to Alma, thence easterly along U.S. Business Route 27 to junction U.S. Highway 27, thence along U.S. Highway 27 to Ola, thence westerly along Michigan Highway 57 to the eastern boundary of Kent County, thence along the eastern and northern boundaries of Kent County to the northern boundary of Muskegon County, thence along the northern and eastern boundaries of Muskegon County (including all of Kent and Muskegon Counties) to Lake Michigan, thence southerly along the Michigan State line to the Indiana-Michigan State line, thence easterly along the Indiana-Michigan State line to the Michigan-Ohio State line, thence easterly along the Michigan-Ohio State line to Lake Erie, and thence northerly along the Michigan State line to Detroit, that part of Wisconsin bounded by a line beginning at the Illinois-Wisconsin State line at Lake Michigan and extending northerly along the shore of Lake Michigan to and including Two Rivers, thence northerly along Wisconsin Highway 147 to junction U.S. Highway 141, thence northerly along U.S. Highway 141 to and including Green Bay, thence southerly along U.S. Highway 41 to the northern boundary of Fond du Lac County, thence westerly and southerly along the northern and western boundaries of Fond du Lac County to the northern boundary of Dodge County, thence westerly and southerly along the northern and western boundaries of Dodge County to junction U.S. Highway 151, thence southwesterly along U.S. Highway 151 to the northern boundary of Dane County, thence along the northern, western, and southern boundaries of Dane County to the western boundary of Rock County, thence southerly along the western boundary of Rock County to the Wisconsin-Illinois State line, and

Thence easterly along the Wisconsin-Illinois State line to Lake Michigan, that part of Missouri bounded by a line beginning at St. Louis and extending northwesterly along the Mississippi River to Hannibal, Mo., thence northerly along Missouri Highway 168 to junction combined U.S. Highways 24 and 61, thence southerly along U.S. Highways 24 and 61 to junction U.S. Highway 36, thence easterly along U.S. Highway 36 to junction U.S. Highway 61, thence southerly along U.S. Highway 61 to junction Missouri Highway 19, thence southwesterly and southerly along Missouri Highway 19 to junction U.S. Highway 54, thence westerly along U.S. Highway 54 to junction Missouri Highway 22, thence westerly along Missouri Highway 22 to junction U.S. Highway 63, thence northerly along U.S. Highway 63 to junction U.S. Highway 24, thence westerly along U.S. Highway 24 to junction Missouri Highway 3, thence southerly along Missouri Highway 3 to junction Missouri Highway 240, thence southerly along Missouri Highway 240 to the Missouri River, thence southeasterly along the Missouri River to Jefferson City, thence southeasterly along U.S. Highway 63 to Rolla, thence easterly along U.S. Highway 63 to junction U.S. Highway 66, thence easterly along U.S. Highway 66 to junction Missouri Highway 68, thence southerly along Missouri Highway 68 to junction Missouri Highway 8, thence easterly along Missouri Highway 8 to junction Missouri Highway 21, thence southerly along Missouri Highway 21 to junction Missouri Highway 72, thence southeasterly along Missouri Highway 72 to the Mississippi River, thence northwesterly along the Mississippi River to the point of beginning, and Davenport, Clinton, and Dubuque, Iowa, including all points on the described highways and those on the described county lines which do not coincide with State lines.

Restrictions: No service shall be rendered between department stores, specialty shops, and retail stores or the branches or warehouses of such stores, or between department stores, specialty shops, and retail stores or the branches or warehouses thereof, on the one hand, and, on the other, the premises of the customers of such stores. No service shall be provided in the transportation of motion picture film, material, equipment, concession and supplies between motion picture distributors and suppliers, on the one hand, and, on the other, motion picture theaters and television stations. No service shall be rendered in the transportation of shipments received from or to be delivered to any other motor carrier for movement to or from any points beyond those specifically granted herein. No delivery service shall be provided to the premises of persons who or which have entered into contracts with applicant or with its affiliates, and are served by them pursuant to permits issued by the Commission.

(2) Between points in California, Oregon, Washington, and those parts of Idaho and Nevada within the areas described as follows: (1) that part of Idaho north and west of a line beginning at a point on the Washington-Idaho State line near Lewiston, Idaho, thence extending southeasterly along U.S. Highway 95 to Grangeville, Idaho, thence northeasterly along Idaho Highway 13 to junction Idaho Highway 9, thence along Idaho Highway 9 to eastern boundary of Nez Perce County, Idaho, thence northerly along the eastern boundaries of Nez Perce, Latah, Benewah, and Kootenai Counties, Idaho, to U.S. Highway 10, thence easterly along U.S. Highway 10 to the Idaho-Montana State line, thence northerly along the Idaho-Montana State line to the United States-Canada Boundary line; (2) that part of Idaho bounded by a line beginning at the Oregon-Idaho State line, thence extending easterly along U.S. Highway 30-N to Weiser, Idaho, thence southerly along U.S. Highway 95 to junction Idaho Highway 52, thence easterly along Idaho Highway 52 to Horse Shoe Bend, Idaho, thence southerly along Idaho Highway Highway 15 to Boise, Idaho, thence westerly along U.S. Highway 30 to Nampa, Idaho, thence westerly along Idaho Highway 72 to junction U.S. Highway 95, thence southerly along U.S. Highway 95 to the Oregon-Idaho State line, and thence northerly along the Oregon-Idaho State line to the point of beginning; (3) that part of Nevada bounded by a line beginning at a point on the California-Nevada State line, near Verdi, Nev., thence extending easterly along U.S. Highway 40 (Interstate Highway 80) to junction Alternate U.S. Highway 95, thence easterly along Alternate U.S. Highway 95 through Hazen, Nev., to junction U.S. Highway 50, thence westerly along U.S. Highway 50 to Carson City, Nev., thence southerly along U.S. Highway 395 to the California-Nevada State line, and thence northerly along the California-Nevada State line to the point of beginning; and (4) that part of Nevada bounded by a line beginning at a point on the California-Nevada State line, thence extending northerly along U.S. Highway 91 (Interstate Highway 15) to Las Vegas, Nev., thence southeasterly

along U.S. Highway 93 to junction U.S. Highway 95, thence southerly along U.S. Highway 95 to the California-Nevada State line, and thence northwesterly along the California-Nevada State line to the point of beginning; and Fallon and Boulder City, Nev., including all points on the described highways and those on the described county lines which do not coincide with State lines.

Restrictions: No service shall be rendered in the transportation of shipments under through routes or joint rates with other common carriers of property by motor vehicle. No service shall be rendered for the account of a freight forwarder holding a permit issued under Part IV of the Interstate Commerce Act.

(3) (A) Between points in Alabama, Florida, Georgia, North Carolina, South Carolina, and Tennessee.

(B) Between points in Alabama, Florida, Georgia, North Carolina, South Carolina, and Tennessee, on the one hand, and, on the other, points in Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, Ohio, and Wisconsin, Grand Forks and Fargo, N. Dak., Omaha, Nebr., and Kansas City, Kans.

(C) Between points in Alabama, Florida, Georgia, North Carolina, South Carolina, Tennessee, Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, Ohio, Wisconsin, Grand Forks and Fargo, N. Dak., Omaha, Nebr., and Kansas City, Kans., on the one hand, and, on the other, points in Pennsylvania, West Virginia, and Virginia within 10 miles of the Pennsylvania-Ohio, the West Virginia-Ohio, the West Virginia-Kentucky, the Virginia-Kentucky, the Virginia-Tennessee, or the Virginia-North Carolina State lines.

Restrictions: (1) No service shall be rendered between department stores, specialty shops and retail stores and the branches or warehouses of such stores; or between department stores, specialty shops and retail stores or the branches or warehouses thereof, on the one hand, and, on the other, the premises of the customers of such stores. (2) No service shall be provided in the transportation of motion picture films, materials, supplies, and equipment, used or useful in a motion picture theater, between motion picture distributors and suppliers, on the one hand, and, on the other, motion picture theaters. (3) No delivery service shall be provided to the premises of persons who or which have entered into contracts with carrier or its affiliates and are served by them pursuant to permits issued by the Commission. (4) Between points in North Dakota, South Dakota, Nebraska (except those points on, south, and within 10 miles north of a line beginning at the Nebraska-Colorado State line and extending along U.S. Highway 138 to junction U.S. Highway 30 and thence along U.S. Highway 30 to the Nebraska-Iowa State line), Arkansas (except Fort Smith, Fayetteville, points in Benton, Carroll, and Boone Counties and those points on and west of U.S. Highway 71), Louisiana and Mississippi. (a) between points in North Dakota (except Fargo and Grand Forks), South Dakota, Nebraska (except those points in Benton, Carroll, and Boone Counties and those points on and west of U.S. Highway 71); (c) between Memphis, Tenn., on the one hand, and, on the other, points in North Dakota, South Dakota, Louisiana, that part of Mississippi south of U.S. Highway 80, and Nebraska (except those points on, south, and within 10 miles north of a line beginning at the Nebraska-Colorado State line and extending along U.S. Highway 138 to junction U.S. Highway 30 and thence along U.S. Highway 30 to the Nebraska-Iowa State line).

Restrictions: A. Said service is restricted against the transportation of traffic originating at Memphis, Tenn., and points in its commercial zone, as defined by the Commission and destined to points in Arkansas.

B. Said service is restricted against the transportation of traffic originating at points in Arkansas and destined to Memphis, Tenn., and points in its commercial zone, as defined by the Commission.

C. Said service is restricted against the transportation of perishable commodities, motion picture films between motion picture distributors and motion picture theaters, and commodities having a prior or subsequent movement by air, water, or rail (other than trailer-on flatcar service).

D. No service shall be rendered between department stores, specialty shops, retail stores, and the branches or warehouses of such stores; or between department stores, specialty shops, and retail stores or the branches or warehouses thereof, on the one hand, and, on the other, the premises of the customers of such stores.

E. No delivery service shall be provided to the premises of persons who or which have entered into contracts with carrier or its affiliates and are served by them pursuant to permits issued by the Commission.

(5) Between points in Montana, Idaho, Nevada, Utah, Arizona, Washington, Oregon, and California. Between points in Montana, Idaho, Nevada, Utah, Arizona, Washington, Oregon, and California, on the one hand, and, on the other, points in Wyoming, Colorado, New Mexico, North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Texas, Minnesota, Iowa, Missouri, Arkansas, Louisiana, Illinois, Tennessee, and Mississippi.

Restrictions: A. No service shall be rendered between department stores, specialty shops, retail shops, and the branches or warehouses of such stores, or between department stores, specialty shops, and retail stores or the branches or warehouses thereof, on the one hand, and, on the other, the premises of the customers of such stores.

B. No delivery service shall be provided to the premises of persons who or which have entered into contracts with applicant or its affiliates and are served by them pursuant to permits issued by the Commission.

(6) Between points in Colorado, New Mexico, and Wyoming, on the one hand, and, on the other, points in Kansas, Nebraska, Oklahoma, South Dakota, and Texas.

Restrictions: A. Restricted against the movement of traffic between Denver, Colo., on the one hand, and, on the other, points in Kansas and those in that part of Nebraska on and south, and within 10 miles north, of a line beginning at the Nebraska-Colorado State line and extending along U.S. Highway 138 to junction U.S. Highway 30, and thence along U.S. Highway 30 to the Nebraska-Iowa State line.

B. Restricted against the transportation of perishable commodities, motion picture film moving between motion picture distributors and motion picture theaters, and traffic having a prior or subsequent movement by air at Denver, Colo.

C. No service shall be rendered between department stores, speciality shops, retail shops, and the branches or warehouses of such stores: or between department stores, speciality shops, and retail stores or the branches or warehouses thereof, on the one hand, and, on the other, the premises of the customers of such stores.

D. No delivery service shall be provided to the premises of persons who or which have entered into contracts with carrier or its affiliates and are served by them pursuant to permits issued by the Commission.

(7) Between points in California, Oregon, Washington, and points in those parts of Idaho and Nevada within the areas described as follows: A. That part of Idaho north and west of a line beginning at a point on the Washington-Idaho State Boundary line near Lewiston, Idaho, and extending southeasterly along U.S. Highway 95 to Grangeville, Idaho, thence northeasterly along Idaho Highway 13 to intersection Idaho Highway 9, thence along Idaho Highway 9 to the eastern boundary of Nez Perce County, Idaho, thence northerly along the eastern boundaries of Nez Perce, Latha, Benewah, and Kootenai Counties, Idaho, to U.S. Highway 10, thence easterly along U.S. Highway 10 to the Idaho-Montana State Boundary line, thence northerly along the Idaho-Montana State Boundary line to the International Boundary line between the United States and Canada.

(B) That part of Idaho bounded by a line beginning at the Oregon-Idaho State Boundary line, and extending easterly along U.S. Highway 30-N to Weiser, Idaho, thence southerly along U.S. Highway 95 to intersection Idaho Highway 52, thence easterly along Idaho Highway 52 to Horse Shoe Bend, Idaho, thence southerly along Idaho Highway 15, to Boise, Idaho, thence westerly along U.S. Highway 30 to Nampa, Idaho, thence westerly along U.S. Highway 72 to intersection U.S. Highway 95, thence southerly along U.S. Highway 95 to the Oregon-Idaho State Boundary line, to the point of beginning.

(C) That part of Nevada bounded by a line beginning at a point on the California-Nevada State Boundary line, near Verdi, Nev., and extending easterly along U.S. Highway 40 (Interstate Highway 80) to intersection Alternate U.S. Highway 95, thence easterly along Alternate U.S. Highway 95 through Hazen, Nev., to intersection U.S. Highway 50, thence westerly along U.S. Highway 395 to the California-Nevada State Boundary line to the point of beginning.

(D) That part of Nevada bounded by a line beginning at a point on the California-Nevada State Boundary line, and extending northerly along U.S. Highway 91 (interstate Highway 15) to Las Vegas, Nev., thence southeasterly along U.S. Highway 93 to intersection U.S Highway 95, thence southerly along U.S. Highway 95 to the California-Nevada State Boundary line, and thence northwesterly along the California-Nevada State Boundary line to the points of beginning and Fallon and Boulder City, Nev., and all points on the above-described highways, and those points on the above-described county boundary lines which do not coincide with State Boundary lines, on the one hand, and, on the other, (1) Phoenix, Ariz., and points within 25 miles of the United States Post Office located at Phoenix; (2) Tucson, Ariz., and points within 15 miles of the United States Post Office located at Tucson; (3) Yuma and Somerton, Ariz.; points located on and within two miles of U.S. Highways 66 and 89, and Arizona Highway 84, 87, and 187, between Flagstaff and Nogales, Ariz., through Prescott, Wickenburg, Phoenix, Mesa, Coolidge, Tucson and Casa Grande, Ariz.; (5) points located on Arizona Highway 187 between Florence and Coolidge, Ariz., (6) points located on U.S. Highways 60, 70 and 80 between Buckeye and Globe, Ariz.; through Florence Junction, Ariz., and (7) points located on U.S. Highway 80 between Tucson and Douglas, Ariz., with service authorized at all points in any city or town (including the commercial zone thereof, as defined by the Commission), any part of which lies within the above described Arizona areas.

Restrictions: A. No service shall be rendered in the transportation of shipments under through routes or joint rates with other common carriers of property by motor vehicle.

B. No service shall be rendered for the account of a freight forwarder holding a permit issued under Part IV of the Interstate Commerce Act.

C. In connection with the areas described in (D), above, no service shall be rendered in the transportation of any package or article received from or to be delivered to any other motor carrier for movement to or from any points beyond those specifically granted.

D. No service shall be provided in the transportation of commodities requiring temperature control.

(8) Between points in Colorado, New Mexico, and Wyoming, on the one hand, and, on the other, Fort Smith, Fayetteville and points in Benton, Carroll and Boone Counties, Ark., and those points in that part of Arkansas on and west of U.S. Highway 71, and points in Adair, Atchison, Andrew, Barry, Barton, Bates, Benton, Boone, Buchanan, Caldwell, Callaway, Camden, Carroll, Cass, Cedar, Chariton, Christian, Clay, Clinton, Cole, Cooper, Dade, Dallas, Daviess, DeKalb, Gentry, Greene, Grundy, Harrison, Henry, Hickory, Holt, Howard, Jackson, Jasper, Johnson, Laclede, Lafayette, Lawrence, Linn, Livingston, McDonald, Macon, Mercer, Miller, Moniteay, Morgan, Newton, Nodaway, Pettis, Platte, Polk, Putnam, Randolph, Ray, St. Clair, Saline, Schuyler, Stone, Sullivan, Taney, Vernon, Webster, and Worth Counties, Mo.

Restrictions: A. No service shall be provided in the transportation of motion picture film, material, equipment, concession and supplies between motion picture distributors and suppliers, on the one hand, and, on the other, motion picture theaters and television stations;

B. No service shall be rendered in the transportation of shipments received from or to be delivered to any other motor carrier for movement to or from any points beyond those specifically granted herein.

C. No service shall be rendered in the transportation of perishable commodities, and commodities having a prior or subsequent movement by air, water, or rail (rather than trailer-on-flatcar service).

D. No service shall be rendered between department stores, specialty shops, retail shops, and the branches or warehouses of such stores; or between department stores, specialty shops, and retail stores or the branches or warehouses thereof, on the one hand, and, on the other, the premises of the customers of such stores.

E. No delivery service shall be provided to the premises of persons who or which have entered into contracts with carrier or its affiliates and are served by them pursuant to permits issued by the Commission.

Applicant has also filed an underlying ETA seeking up to 90 days of operating authority.

Applicant intends to interline with its affiliate, United Parcel Service, Inc. (a New York corporation), at points in Pennsylvania, West Virginia and Virginia, within ten miles of the Pennsylvania-Ohio, the West Virginia-Kentucky, the Virginia-Kentucky, the Virginia-Tennessee and the Virginia-North Carolina State lines.

The sole effect of this requested temporary authority will be to increase basis, the present 100 pound aggregate daily restriction in applicant's present certificates to 300 pounds. No other additional authority is sought, and all other restrictions will remain in effect. Supporting shipper: There are 800 statements of support to this application, which may be examined at the Interstate Commerce Commission, Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Transportation Assistant Patricia A. Roscoe, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 S. Dearborn Street, Room 1386, Chicago, Ill. 60604.

No. MC 116200 (Sub-No. 12TA), filed April 7, 1977. Applicant: UNITED PARCEL SERVICE, INC., 643 West 43rd Street, New York, N.Y. 10036. Applicant's representative: S .Harrison Kahn, 1511 K Street NW., Washington, D.C., 20005. Authority sought to operate as a common carrier, by motor vehicle, for 180 days, over irregular routes, transporting: *General Commodities,* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), between points in Connecticut, Delaware, the District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia and West Virginia.

RESTRICTIONS: A. No service shall be rendered in the transportation of any package or article weighing more than 50 pounds or exceeding 108 inches in length and girth combined, and each package or article shall be considered as a separate and distinct shipment.

B. No service shall be provided in the transportation of packages or articles weighing in the aggregate 100 pounds or less or more than 300 pounds from one consignor at one location to one consignee at one location on any one day.

C. No delivery shall be provided to the premises of persons who or which have entered into contracts with carrier or its affiliates and are served by them pursuant to permits issued by this Commission.

D. No service shall be rendered between department stores, specialty shops and retail stores or the branches or warehouses of such stores; or between department stores, specialty shops, and retail stores or the branches or warehouses thereof, on the one hand, and, on the other, the premises of the customers of such stores.

The following areas are also subject to the additional restrictions shown, as well as to the restrictions set forth above: 1. Between points in New York, New Jersey, Connecticut, Rhode Island, Massachusetts, points in Adams, Berks, Bucks, Carbon, Chester, Cumberland, Dauphin, Delaware, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne, Montgomery, Northampton, Philadelphia, Schuylkill, and York Counties, Pa., points in that part of Vermont on and south of Vermont highway 9, points in that part of New Hampshire on and south of a line beginning at the New Hampshire-Vermont State line and extending along New Hampshire Highway 9 to Concord, N.H., and thence along U.S. Highway 202 to the New Hampshire-Maine State line, and points in that part of Maine on and south of a line beginning at the Maine-New Hampshire State line and extending along U.S. Highway 202 to junction Maine Turnpike, thence along Maine Turnpike to junction U.S. Highway 202, thence north along U.S. Highway 202 to Augusta, Maine, and thence south along Maine Highway 27 to Boothbay Harbor, Maine, including points on the highway boundary lines in Maine, New Hampshire, and Vermont.

Restrictions: A. No service shall be rendered in the transportation of moving picture and sound reproduction film, apparatus, mechanisms, installations, accessories, premiums, tickets, and complete film set-ups between motion picture distributors and motion picture theaters or television stations.

B. No service shall be rendered in the transportation of magazines, newspapers, and newspaper cuts and mats, from magazine and newspaper distributor, newsstand operators or printers.

(2) A. Between points in that part of Vermont lying north of Vermont Highway 9, those in that part of New Hampshire lying north of a line beginning at the New Hampshire-Vermont State line and extending along New Hampshire Highway 9 to Concord, N.H., and thence along U.S. Highway 202 to the New Hampshire-Maine State line, and points in that part of Maine lying north of a line beginning at the Maine-New Hampshire State line and extending along U.S. Highway 202 to junction Maine Turnpike, thence along Maine Turnpike to junction U.S. Highway 202, thence north along U.S. Highway 202 to Augusta, Maine, and thence south along Maine Highway 27 to Boothbay Harbor, Maine.

B. Between points in that part of Vermont lying north of Vermont Highway 9, those in that part of New Hampshire lying north of a line beginning at the New Hampshire-Vermont State line and extending along New Hampshire Highway 9 to Concord, N.H., and thence along U.S. Highway 202 to the New Hampshire-Maine State line, and points in that part of Maine lying north of a line beginning at the Maine-New Hampshire State line and extending along U.S. Highway 202 to junction Maine Turnpike, thence along Maine Turnpike to junction U.S. Highway 202, thence north along U.S. Highway 202 to Augusta, Maine, and thence south along Maine Highway 27 to Boothbay Harbor, Maine, on the one hand, and on the other, points in Clinton, Essex, Warren, Washington, Saratoga, Schenectady, Rensselaer, Albany, Greene, and Columbia Counties, N.Y., points in Massachusetts, those in that part of Vermont lying on and south of Vermont Highway 9, points in that part of New Hampshire lying on and south of a line beginning at the New Hampshire-Vermont State line and extending along New Hampshire Highway 9 to Concord, N.H., and thence along U.S. Highway 202 to the New Hampshire-Maine State line, points in that part of Maine lying on and south of a line beginning at the Maine-New Hampshire State line and extending along U.S. Highway 202 to junction Maine Turnpike, thence along Maine Turnpike to junction U.S. Highway 202, thence north along U.S. Highway 202 to Augusta, Maine, and thence south along Maine Highway 27 to Boothbay Harbor, Maine, including points on the highway boundary lines in Maine, New Hampshire, and Vermont.

Restriction: No service shall be rendered between banks or any branches, facility, or offices thereof. Applicant intends to interline with its affiliate, United Parcel Service, Inc. (an Ohio corporation), at points in Pennsylvania, West Virginia, and Virginia, within ten miles of the Pennsylvania-Ohio, the West Virginia-Kentucky, the Virginia-Kentucky, the Virginia-Tennessee and the Virginia-North Carolina State lines. The sole effect of this requested temporary authority will be to increase, on a temporary basis, the present 100 pound aggregate daily restriction in applicant's present certificates to 300 pounds. No other additional authority is sought, and all other restrictions will remain in effect. Supporting shippers: There are 906 statements of support to this application, which may be examined at the Interstate Commerce Commission, Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-12373 Filed 4-28-77;8:45 am]

[Notice No. 16]

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER OPERATING RIGHTS APPLICATIONS

APRIL 29, 1977.

The following applications are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the FEDERAL REGISTER. Failure to seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with § 247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if not representative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of § 247(d)(4) of the special rules, and shall include the certification required therein.

Section 247(f) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request dismissal thereof, and that failure to prosecute an application under procedures ordered by the Commission will result in dismissal of the application.

Further processing steps will be by Commission order which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the FEDERAL REGISTER of a notice that the proceeding has been assigned for oral hearing.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 99214 (Sub-No. 6), filed April 27, 1977. Applicant: PATTERSON TRUCK LINE, INC., 600 Roosevelt Street, Houma, Louisiana 70360. Applicant's representative: Richard P. Kissinger and Richard J. Bara, Steele Park 330, 50 South Steele Street, Denver, Colorado 80209. Authority sought to operate as a common carrier by motor vehicle, over irregular routes transporting: (1) *Machinery, equipment, materials and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, *and machinery, materials, equipment and supplies* used in, or in connection with the construction, operation, repair, servicing, maintenance and dismantling of pipe lines, including the stringing and picking up thereof, (2) earth drilling machinery and equipment, and machinery equipment, materials, supplies and pipe incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage and transmission of commodities resulting from drilling operations at well or hole sites and (d) the injection or removal of commodities into or from holes or wells. Between points in Connecticut, Delaware Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Rhode Island, South Carolina, and Virginia, on the one hand, and, on the other, Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Rhode Island, South Carolina, Virginia, Alabama, Texas, Louisiana, Mississippi, Arkansas, and Oklahoma.

NOTE.—Applicant requests that this application be considered with similar applications in MC 19227 (Sub-No 232), Leonard Bros. Trucking Co., Inc., et. al., scheduled for hearing commencing May 9, 1977 in Houston, Texas.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-12530 Filed 4-29-77;8:45 am]

sunshine act meetings

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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AGENCY HOLDING THE MEETING: U.S. Commission on Civil Rights.

DATE AND TIME: May 3, 1977; 4:30 p.m.

PLACE: Room 800, 1121 Vermont Avenue NW., Washington, D.C.

STATUS: Closed to the public.

MATTER TO BE CONSIDERED:

Review of Los Angeles School Desegregation Report.

CONTACT PERSON FOR FURTHER INFORMATION:

Barbara Brooks, Public Affairs Unit, 202-254-6697.

[S-288-77 Filed 4-27-77;2:06 pm]

2

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 10:00 a.m., May 2, 1977.

PLACE: 8th Floor Conference Room, 2033 K St. NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Executive session of CFTC.

CONTACT PERSON FOR MORE INFORMATION:

The Secretariat, 254-6314.

[S-282-77 Filed 4-26-77;4:09 pm]

3

AGENCY HOLDING THE MEETING: Equal Employment Opportunity Commission.

TIME AND DATE: 9:30 a.m. (Eastern Time), Tuesday, May 3, 1977.

PLACE: Chairman's Conference Room, No. 5240, on the fifth floor of the Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

STATUS: Closed to the public.

MATTERS TO BE CONSIDERED:

(1) *Litigation Authorization; General Counsel Recommendations.* Closed to the public under Section 1612.13(a) of the Commission's regulations.

(2) *Decision in Charge No. TIN3-0838.* A proposed decision, first discussed at the meeting of April 5, 1977, will be further considered by the Commission.

(3) *Proposed Procurement; Job Evaluation Analysis.* A recommendation will be presented to the Commission that a request for proposals be issued to potential contractors to analyze job factors involved in a group of charges of discrimination filed by female employees against one employer.

CONTACT PERSON FOR MORE INFORMATION:

Executive Officer, Office of the Executive Secretariat. Marie D. Wilson, at 202-634-6748.

[S-285-77 Filed 4-27-77;11:19 am]

4

AGENCY HOLDING MEETING: Federal Power Commission.

TIME AND DATE: May 3, 1977, 2:00 p.m.

PLACE: 825 North Capitol Street, Room 9306, Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED:

(Agenda.) NOTE.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth F. Plumb, Secretary, telephone 202-275-4166.

This is a list of the matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda. However, all public documents may be examined in the Office of Public Information, Room 1000.

POWER AGENDA, 7590TH MEETING—MAY 3, 1977; REGULAR MEETING—PART I (2:00 p.m.)

P-1—Docket No. E-8650, Columbus and Southern Ohio Electric Company.

P-2—Docket Nos. E-8641, E-8476, E-8251, E-8169, New England Power Company.

P-3—Docket Nos. E-7631 and E-7633, *City of Cleveland, Ohio* v. *Cleveland Electric Illuminating Company* and Docket No. E-7713, City of Cleveland, Ohio.

P-4—Docket No. E-8218, Consolidated Edison Company of New York, Inc. Orange & Rockland Utilities, Inc.

P-5—Docket No. E-9571, Potomac Edison Company.

P-6—Project No. 2754, City of Keene, New Hampshire.

POWER AGENDA, 7590TH MEETING—MAY 3, 1977; REGULAR MEETING—PART II

CP-1—Docket No. ER77-293, Central Illinois Light Company.

CP-2—Docket No. ER77-282, El Paso Electric Company.

CP-3—Docket Nos. ER77-239 and ER77-291, Indiana & Michigan Electric Company, Consumers Power Company, Detroit Edison Company.

CP-4—Docket No. ER77-224, Indianapolis Power & Light Company, Southern Indiana Gas & Electric Company.

CP-5—Docket No. ER77-281, Ohio Power Company.

CP-6—Docket No. ER77-260, Southern California Edison Company.

CP-7—Docket No. ER77-285, Tucson Gas & Electric Company.

CP-8—Docket Nos. ER77-258 and ER77-262, Indiana & Michigan Electric Company.

CP-9—Docket No. ER77-137, Union Electric Company.

CP-10—Docket No. DA-1117-California, Bureau of Land Management.

CP-11—Project No. 2283, Central Maine Power Company.

CP-12—Project No. 1899, Pennsylvania Electric Company.

CP-13—Project No. 2106, Pacific Gas and Electric Company.

CP-14—Project No. 943, Public Utility District No. 1 of Chelan County, Washington.

CP-15—Project No. 2459, West Penn Power Company.

MISCELLANEOUS AGENDA, 7590TH MEETING—MAY 3, 1977; REGULAR MEETING—PART II

CM-1—Mississippi Power & Light Company.

CM-2—1975 Edition of Statistics of Publicly Owned Electric Utilities in the United States.

KENNETH F. PLUMB,
Secretary.

[S-277-77 Filed 4-26-77;3:36 pm]

5

AGENCY HOLDING THE MEETING: Federal Reserve System.

On Wednesday, May 4, 1977, at 10:00 a.m. a meeting of the Board of Governors of the Federal Reserve System will be held at the Board's offices at 20th Street and Constitution Avenue NW., Washington, D.C., to consider the following items of official Board business:

1. The Board's building renovation project.
2. A proposed office furniture design for the Renovation Program. This matter was originally considered at a meeting on April 15, 1977.
3. Possible amendments to Section 23A of the Federal Reserve Act to be submitted to the House and Senate Banking Committees.
4. Proposed purchase of computer mainframe components for Birmingham, Jacksonville, and Nashville Federal Reserve Bank Branches.
5. Any agenda items carried forward from a previously announced closed meeting.

This meeting will be closed to public observation because the items fall under exemptions contained in the Government in the Sunshine Act (5 U.S.C. 552b (c)). Information with regard to this meeting may be obtained from Mr. Joseph R. Coyne, Assistant to the Board, at 202-452-3204.

Board of Governors of the Federal Reserve System.

Dated: April 26, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[S-286-77 Filed 4-27-77;8:45 am]

6

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: 9:30 a.m., May 11, 1977.

PLACE: Hearing room, 701 E Street NW., Washington, D.C. 20436.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions open to the public:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Cast-iron cookware (Inv. TA-201-21)—votes and approval of report.
5. Petitions and complaints:
   (a) Golf balls (Docket No. 443);
   (b) Machine tools (Docket No. 444).
6. Further consideration of the report on Balance of Payments.
7. Congressional contacts—see letter dated April 12, 1977, from Senator Ribicoff and memorandum dated April 19, 1977, from Commissioner Bedell.
8. Items left over from previous agenda.
9. Reorganization.

Portions closed to the public:

Reorganization (portions respecting the selection of personnel).

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202-523-0161.

[S-281-77 Filed 4-26-77;4:09 pm]

7

AGENCY HOLDING THE MEETING: Interstate Commerce Commission.

NOTICE OF REGULAR MEETING

(Ex Parte 333)

The Interstate Commerce Commission will hold a partially open and a partially closed regular meeting on Tuesday, May 3, 1977, at 9:30 a.m., at the Commission's offices located at the northwest corner of 12th Street and Constitution Avenue NW., Washington, D.C. (The room number will be posted in the main foyer on the morning of such meeting.)

The open portion of the meeting will consider the following agenda:

1. Trans-Alaska Pipeline System.

The closed portion will include two agenda items. Voting to close item 1 were Chairman O'Neal, Vice Chairman Clapp and Commissioners Murphy, Brown, Stafford, Hardin, Gresham and Christian. Voting against closing item 1 was Commissioner MacFarland. Those voting to close item 1 did so because the matter to be considered was deemed to be within the scope of 5 U.S.C. 552b(c) (9) and (10). Item 2 was closed by unanimous vote of the same numbers because the matter was deemed to be within the scope of 5 U.S.C. 552b(c) (5), (7), (9) and (10).

The agenda items to be considered at closed session are:

1. Matters directly related to the conduct of the anticipated proceeding involving tariffs for the Trans-Alaska Pipeline System; and
2. Matters concerning the Bureau of Investigations and Enforcement's implementation of the Commission's revised compliance program.

The Commission's General Counsel has issued his certificate to the effect that item 1 above may be closed within the meaning of 5 U.S.C. 552b(c) (9) and (10). John A. Grady, Director, Bureau of Accounts, Deputy Director Janice M. Rosenak, Section of Rates, Office of Proceedings, and J. Richard Berman, Chief, Section of Audit, Bureau of Accounts, will be in attendance.

The Commission's General Counsel has also issued his certificate to the effect that item 2 above may be closed within the meaning of 5 U.S.C. 552b(c) (5), (7), (9) and (10). Mr. Shannon, Director, Bureau of Investigations and Enforcement, will be in attendance.

Requests for further information should be directed to Edgar B. Hamilton, Jr., the Commission's Acting Public Information Office, whose telephone number is 202-275-7252.

ROBERT L. OSWALD,
Secretary.

[S-280-77 Filed 4-26-77;4:09 pm]

8

AGENCY HOLDING MEETING: United States Parole Commission—National Commissioners (the three Commissioners presently maintaining offices at Washington, D.C. Headquarters).

TIME AND DATE: Thursday, May 5, 1977; 9:30 a.m.

PLACE: Room 338 Federal Home Loan Bank Board Building, 320 First Street, NW., Washington, D.C. 20537.

STATUS: Closed—Pursuant to 5 U.S.C. 552b(c) (10) and 28 C.F.R. 16.205(b) (1).

MATTERS TO BE CONSIDERED: Referrals from regional directors of approximately 20 cases in which inmates of Federal Prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE INFORMATION:

Lee H. Chait, Analyst 202-724-3094.

[S-274-77 Filed 4-26-77;2:36 pm]

9

AGENCY HOLDING THE MEETING: Postal Rate Commission.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: Wednesday, April 27, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 1 p.m., April 25, 1977.

STATUS: Closed.

CHANGES IN THE MEETING: Meeting time is changed to 9:30 a.m., Tuesday, April 26, 1977.

CONTACT PERSON FOR MORE INFORMATION:

Ned Callan, Information Officer, Postal Rate Commission, Room 500, 2000 L Street NW., Washington, D.C. 20268, telephone 202-254-5614.

[S-279-77 Filed 4-26-77;4:00 pm]

10

AGENCY HOLDING THE MEETING: President's Council on Environmental Quality.

TIME AND DATE: (1) May 16-17, 1977, Anchorage Westward Hotel, Anchorage, Alaska, 9 a.m.

(2) May 23-24, 1977, Auditorium, General Services Administration Building, 18th and F Sts., NW., Washington, D.C., 9 a.m.

STATUS: Open.

MATTERS TO BE CONSIDERED: Environmental Impacts of Alaska Natural Gas Transportation System Alternatives (See FEDERAL REGISTER notice, April 1, 1977).

CONTACT PERSON FOR MORE INFORMATION:

Bernice Steinhardt, 202-382-7061.

[S-278-77 Filed 4-26-77;3:36 pm]

11

AGENCY HOLDING THE MEETING: Securities and Exchange Commission.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of May 3, 1977 in Room 825, 500 North Capitol Street, Washington, D.C. All meetings will begin at 10 a.m. unless otherwise stated:

Closed meetings will be held on Tuesday, May 3, 1977, Wednesday, May 4, 1977, and Thursday, May 5, 1977.

The Commissioners, their legal assistants, the Secretary of the Commission and recording secretaries will attend the meetings. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission or his designee, has certified, that in his opinion, the items to be considered at the closed meetings may be so considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b (c) (4) (8) (9)A and (10) and 17 C.F.R. 200.402 (a) (4) (8) (9) (i) and (10).

Chairman Williams, Commissioners Loomis, Evans and Pollack voted to hold the aforesaid meetings in closed session.

The subject matter of the closed meeting scheduled for Tuesday, May 3, 1977 will be:

1. Formal Orders of Investigation.
2. Settlement of injunctive actions.
3. Institution of Administrative Proceedings.
4. Settlement of Administrative Proceedings.
5. Other litigation matters.
6. Referral of investigative files to Federal, State or Self Regulatory authorities.
7. Freedom of Information Act appeals.
8. Application for re-entry to the securities industry by disqualified person.

The subject matter of the closed meeting scheduled for Wednesday, May 4, 1977 will be:

1. Institution of injunctive actions.
2. Institution of Administrative Proceedings.
3. Simultaneous institution and settlement of injunctive actions and/or administrative proceedings.
4. Other litigation matters.
5. Freedom of Information Act appeals.
6. Rules involving enforcement and Commission litigation.
7. Opinions regarding options trading proposals.

The subject matter of the closed meeting scheduled for Thursday, May 5, 1977 will be Alternative Courses of Action with Respect to Off-Board Trading Restrictions of National Securities Exchanges.

Open Meeting, Thursday, May 5, 1977 at 2:30 p.m. 1. Request for approval of application of Willard G. Berge asking that he be permitted to be employed as a registered representative of a registered broker-dealer, in a non-supervisory, non-proprietory capacity, with adequate supervision.

2. Request for approval of the application of John P. Devine, asking that he be permitted to exercise certain supervisory responsibilities in connection with his employment.

3. Recommendation that comments be conveyed to the House Committee on Government Operations on H.R. 3222, a bill to amend the Defense Production Act of 1950, inter alia, to prohibit any government contracting officer during his employment from accepting any compensation from any government contractor; to bar, for two years following government employment, receipt of compensation from any contractor who received and funds under and procurement contract handled by the officer; prohibiting, during employment, stock ownership or other financial holding in any contractor affected by action taken by the contracting officer; and barring the granting of any prohibited compensation to the contracting officer.

4. Recommendation that comments be conveyed to the House Committee on Interstate and Foreign Commerce on H.R. 3518, a bill to establish bipartisan board with fifteen members, to submit to the President lists of nominees to regulatory agencies, including the Securities and Exchange Commission. It would prohibit persons from being appointed who, in the preceding three years have had any substantial connection with the industry regulated. The bill would also prohibit reappointments and would bar a former agency member from representing any person before the agency or accepting any employment in the regulated industry for two years.

5. Recommendation that the Commission authorize transmission to the House Judiciary Committee of a letter of comment on H.R. 495, a bill to impose Congressional oversight over, and potential review, of any administrative rule, the violation of which subjects the person in violation to a criminal penalty.

6. Recommendation that staff member Ted Freedman of the Denver Regional Office be authorized to submit a written statement and testify, if requested, in proceedings of the Colorado Bar Admissions Committee.

7. Recommendation that the Commission waive copying fees for recent Freedom of Information Act requests and responses, requested by Professor Koch in connection with a planned article on the Freedom of Information Act.

8. Recommendation that the Commission affirm the action of the duty officer denying the Freedom of Information Act Appeal of W. B. Shellhorn.

9. Recommendation that the Commission affirm in part the FOIA Officer's denial of Mr. Norman F. Dacey's request for access to certain interagency memoranda (5 U.S.C. 552(b)(5)), but grant Mr. Dacey access to several portions of the memoranda which contain factual information.

10. Application of Axe-Houghton Income Fund, Inc. and others for order exempting applicants from certain provisions of Section 22(d) of the Investment Company Act of 1940.

11. Application of Nomura Capital Fund of Japan, Inc. for exemption respecting proposed purchases of common stock in certain public offerings in Japan.

12. Recommendation that the Commission authorize a letter to the National Association of Securities Dealers, Inc. regarding the association's report on its inspection of contractual plan sponsors.

13. Recommendation that the Commission send a letter of response to Congressman Harley O. Staggers relating to H.R. 2105, legislation to amend the Investment Advisers Act of 1940.

14. Recommendation that the Commission declare effective the joint industry plan governing the consolidated transaction reporting system.

Dated: April 26, 1977.

GEORGE A. FITZSIMMONS,
Secretary.

[S-287-77 Filed 4-27-77;11:45 am]

Federal Register

FRIDAY, APRIL 29, 1977

PART II

FEDERAL ENERGY ADMINISTRATION

■

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Intent to Issue Prohibition Orders to Certain Powerplants

FEDERAL ENERGY ADMINISTRATION

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Intention To Issue Prohibition Orders to Certain Powerplants

The Federal Energy Administration (FEA) hereby gives notice of its intention to issue Prohibition Orders, pursuant to the authorities granted it by section 2 (a) and (b) of the Energy Supply and Environmental Coordination Act of 1974, as amended (ESECA), and Chapter 10, Code of Federal Regulations (10 CFR), Parts 303 and 305 to the following powerplants:

Docket No.	Owner	Generating station	Unit No.	Location
OFU-075	New England Electric System/New England Power Co.	Brayton Point	1	Somerset, Mass.
OFU-076	do	do	2	Do.
OFU-077	do	do	3	Do.
OFU-078	do	Salem Harbor	1	Salem, Mass.
OFU-079	do	do	2	Do.
OFU-080	do	do	3	Do.
OFU-084	Eastern Utilities Associates/Montaup Electric Co.	Somerset	8	Somerset, Mass.
OFU-085	Northeast Utilities/Holyoke Water Power Co.	Mount Tom	1	Holyoke, Mass.
OFU-092	Northeast Utilities/Hartford Electric Light Co.	Middletown	1	Middletown, Conn.
OFU-093	do	do	2	Do.
OFU-094	do	do	3	Do.
OFU-095	Northeast Utilities/Connecticut Light & Power Co.	Norwalk Harbor	1	Norwalk, Conn.
OFU-096	do	do	2	Do.
OFU-099	United Illuminating Co	Bridgeport Harbor	1	Bridgeport, Conn.
OFU-100	do	do	2	Do.
OFU-101	do	do	3	Do.

FEA hereby also gives notice of the opportunity for oral and written presentation of data, views, and arguments by interested persons regarding these proposed Prohibition Orders.

The proposed orders would prohibit the above-named powerplants from burning natural gas or petroleum products as their primary energy source.

Prior to issuance of a Prohibition Order to a powerplant, section 2(a) of ESECA and 10 CFR 303.36(b) and 305.3 (b) require that FEA find that the powerplant had the capability and necessary plant equipment to burn coal as of June 22, 1974. A Prohibition Order may not be issued unless FEA can find that the prohibition of the utilization of natural gas or petroleum products as a primary energy source is practicable and consistent with the purposes of ESECA, that coal and coal transportation facilities will be available during the period the Prohibition Order will be in effect, and that the prohibition will not impair the reliability of service in the area served by the powerplant. FEA's proposed findings, as well as its proposed conclusions and rationale with respect to these findings, for each powerplant are set out in the Appendix to this notice. These findings, conclusions and rationale may be amended as a result of comments received by FEA pursuant to this notice and other information available to FEA. The findings, conclusions and rationale will be included, with any amendments, for each Prohibition Order that is issued.

Upon completion of the proceedings described in this notice, FEA may determine to issue Prohibition Orders to some or all of the above-named powerplants. These Prohibition Orders will not become effective, however, until (1) either (a) the Administrator of the Environmental Protection Agency (EPA) notifies the FEA, in accordance with Section 119(d)(1)(B) of the Clean Air Act, that the powerplant is able to burn coal and to comply with all applicable air pollution control requirements without a compliance date extension under Section 119 (c) of such Act, or (b) if such notification is not given by EPA, the date that the Administrator of EPA certifies, pursuant to Section 119(d)(1)(B) of the Clean Air Act, is the earliest date that the powerplant will be able to comply with all applicable air pollution control requirements of Section 119 of that Act, and (2) FEA has considered the environmental impact of the order, pursuant to 10 CFR 208.3(a)(4) and 305.9, and has served the affected powerplant with a Notice of Effectiveness, as provided in 10 CFR 303.10(b), 303.37(b) and 305.7. The date the Prohibition Order will be effective will be stated in the Notice of Effectiveness.

10 CFR 305.9 requires that, prior to issuance of a Notice of Effectiveness to a powerplant, FEA shall perform an analysis of the environmental impact of the issuance of such Notice of Effectiveness. That analysis shall result in either (1) issuance of a declaration that the Prohibition Order will not, if made effective by issuance of a Notice of Effectiveness, be likely to have a significant impact on the quality of the human environment, or (2) the preparation by FEA of an environmental impact statement covering significant site-specific impacts that are likely to result from the Prohibition Order and that have not been adequately addressed in the Final Environmental Statement (FES 75-1, dated April 25, 1975) or in other official documents made publicly available. If FEA prepares an environmental impact statement covering significant site-specific impacts resulting from a Prohibition Order, the statement shall be prepared and published for comment in accordance with Section 102(2)(C) of the National Environmental Policy Act of 1969 prior to issuance of a Notice of Effectiveness. Interested persons may request a public hearing pursuant to 10 CFR 303.173 to comment on the contents of a draft environmental impact statement. With respect to comments regarding any impact on air quality that might result from a proposed Prohibition Order, however, it should be recognized that ESECA has assigned to EPA the primary responsibility for analyzing the effect of any such order on the Nation's air quality and for determining the applicable air pollution control requirements that apply to the powerplant that has been issued an order. It is expected that, in almost every case, a powerplant to which a Prohibition Order is issued will be eligible to apply to EPA for a compliance date extension. In connection with that application, EPA must also provide an opportunity for written comment and oral presentation of data, views, and arguments by interested persons. Enclosed with the Notice of Effectiveness may be a compliance reporting schedule to insure that the powerplant will be able to comply with the prohibition of the burning of natural gas or petroleum products as a primary energy source on the effective date specified in the Notice of Effectiveness.

Public comment on the proposals to issue Prohibition Orders to the powerplants listed above is invited in the form of written and oral presentation of data, views, and arguments. Comments should relate to individual docket numbers and should make clear to which docket number the individual comment is addressed.

Comments should address (1) the adequacy and validity of each of the proposed findings and the conclusions and rationale in support of these findings, (2) the environmental impact of the issuance of a Prohibition Order, including any site-specific environmental impacts, and (3) any other aspects or impacts of the proposed Prohibition Order believed to be relevant.

Pursuant to 10 CFR 303.173 (c) and (d), FEA hereby announces that a public hearing to receive oral presentation of data, views, and arguments of interested persons in the proposed Prohibition Orders will be held beginning at 9:00 a.m. on May 10-12, 1977, at the Park Plaza Hotel, Room 436, Park Square, Boston, Massachusetts 02142. Any person who has an interest in the subject of the hearing or who is a representative of a group or class of persons which has an interest in the subject of the hearing may make a written request, or a verbal request if confirmed in writing, for an opportunity to make an oral presentation. That request should be directed to Richard Meister, FEA Region 1, 150 Causeway Street, Boston, Massachusetts 02114, 617-223-3701. The request should be received before 4:30 p.m., Tuesday, May 3, 1977. The request should describe the person's interest in the issue(s) involved; if appropriate, it should state why the person is an appropriate representative of the group or class of persons which has such an interest; it

should give a concise summary of the proposed oral presentation and a phone number where the person may be contacted through May 9, 1977. Speakers will be contacted by an FEA representative before 4:30 p.m., Thursday, May 5, 1977, and should submit ten (10) copies of their oral presentation if possible, unless such presentation is less than five (5) pages, in which case only one copy is required, to Robert Mitchell, Regional Administrator, Federal Energy Administration, 150 Causeway Street, Room 700, Boston, Massachusetts 02114, before 4:30 p.m., Monday, May 9, 1977.

Detailed technical data, views, and arguments should be contained in a written submission in support of the oral presentation. The oral presentation itself should be a summary of those written comments.

While FEA will endeavor to provide adequate opportunity to all who desire to speak, FEA reserves the right to limit the number of persons to be heard at the hearing, to schedule their respective presentations and to establish the procedures governing the conduct of the hearing. The length of time allocated to each presentation may be limited on the basis of the number of persons requesting to be heard. The FEA will prepare an agenda that shall provide, to the extent possible, for the presentation of all relevant data, views, and arguments.

An FEA official will be designated to preside at the hearing which will not be a judicial or evidentiary hearing. During oral presentations only those conducting the hearing may ask questions. There will be no cross-examination. At the conclusion of all initial oral presentations, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit written questions to the presiding officer to be asked of any person making an oral presentation. The presiding officer will determine whether to ask the questions, having first determined whether the question is relevant, and whether adequate time may be afforded for an answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and it, together with any written comments submitted in the course of the hearing, will be retained by the FEA and made available for inspection and copying at the public reading room located in Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, and the FEA Regional Office, Library, 7th Floor, 150 Causeway Street, Boston, Massachusetts 02114, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. Anyone may purchase a copy of the transcript from the reporter.

Interested persons are invited to submit written comments consisting of data, views, and arguments with respect to these proposed Prohibition Orders to Executive Communication, Box MC, Federal Energy Administration, Federal Building, Room 3309, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Comments and other documents submitted to FEA Executive Communications should be identified on the outside of the envelope in which they are transmitted and on the document itself with the designation "Proposed Prohibition Order for the _____ Powerplant." Fifteen copies should be submitted.

All written comments received by 4:30 p.m., Monday, May 30, 1977, all oral presentations, and all other relevant information submitted to or available to FEA will be considered by FEA prior to issuance of a Prohibition Order.

Any information or data considered to be confidential by the person furnishing it must be so identified and submitted in writing, one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it in accordance with that determination.

Copies of the regulations implementing Section 2 (a) and (b) of ESCEA (10 CFR Parts 303 and 305) are available from the following FEA Regional Offices:

REGION, ADDRESS, AND PHONE

I—Robert Mitchell, Regional Administrator, 150 Causeway Street, Room 700, Boston, Massachusetts 02113, 617-223-3701.

II—Alfred Kleinfeld, Regional Administrator, 26 Federal Plaza, Room 3206, New York, New York 10007, 212-264-1021.

III—J. A. LaSala, Regional Administrator, 1421 Cherry Street, Room 1001, Philadelphia, Pennsylvania 19102, 215-597-3390.

IV—Donald Allen, Regional Administrator, 1655 Peachtree Street NE.—8th Floor, Atlanta, Georgia 30309, 404-526-2837.

V—N. Allen Anderson, Regional Administrator, Federal Office Building, 175 West Jackson Blvd., Room A-333, Chicago, Illinois 60604, 312-353-0540.

VI—Delbert Fowler, Regional Administrator, Post Office Box 35228, 2626 West Mockingbird Lane, Dallas, Texas 75235, 214-749-7345.

VII—Neil Adams, Regional Administrator, 1150 Grand Avenue, Kansas City, Missouri 64106, 816-374-2061.

VIII—Dudley Faver, Regional Administrator, Post Office Box 26247, Belmar Branch, 1075 South Yukon Street, Lakewood, Colorado 80226, 303-234-2420.

IX—William Arntz, Regional Administrator, 111 Pine Street, San Francisco, California 94111, 415-556-7216.

X—Jack B. Robertson, Regional Administrator, 1992 Federal Building, 915 Second Avenue, Seattle, Washington 98174, 206-442-7280.

Any questions regarding this notice should be directed to the FEA National Office as follows: Federal Energy Administration, Code OCU (Prohibition Order: _____ Powerplant), Washington, D.C. 20461, 202-566-7941.

(Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 791 et seq.), as amended by Pub. L. 94-163; Federal Energy Administration Act of 1974 (15 U.S.C. 761 et seq.), as amended by Pub. L. 94-385; E.O. 11790 (39 FR 23185).)

Issued in Washington, D.C., April 25, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

APPENDIX

PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A PROHIBITION ORDER

ESECA and the FEA regulations require FEA to make certain findings before issuing a Prohibition Order to a powerplant. FEA's proposed findings are set out below with respect to the powerplants named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Generating station	Unit No.	Location
OFU-075 OFU-076 OFU-077	New England Electric System/New England Power Co.	Brayton Point	1 2 3	Somerset, Mass.

These findings, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to Issue a Prohibition Order.

New England Electric Power Company, a wholly owned subsidiary of New England Electric System shall be referred to as the "utility" and as "NEPCO".

I. *Capability and necessary plant equipment to burn coal.* FEA proposes to find that on June 22, 1974, Powerplants Number 1, 2 and 3 at Brayton Point Generating Station (Brayton Point 1, 2 and 3) had the capability and necessary plant equipment to burn coal. This proposed finding is based on the facts and interpretations stated below:

A. New England Electric System, in information filed with FEA dated April 11, 1975, indicated that each powerplant had in place on June 22, 1974, a boiler that was capable of burning coal. The boilers had been designed and constructed or modified to burn coal as their primary energy source, notwithstanding the fact that on June 22, 1974, the powerplant may not have been burning coal as its primary energy source.

B. Based on information New England Electric System filed with FEA dated April 11, 1975, and other information available to FEA, the following plant equipment or facilities at Brayton Point 1, 2 and 3 would have to be acquired or refurbished in order for these powerplants to burn coal as their primary energy source:

1. Coal handling equipment.
2. Pulverizers, burners and boilers.
3. Ash handling equipment.

C. FEA proposes to find that on June 22, 1974, Brayton Point 1, 2 and 3 had all other

significant plant equipment and facilities associated with the burning of coal.

D. Within the meaning of ESECA and the regulations promulgated pursuant thereto, the equipment and facilities listed in paragraph B, above, do not individually or in combination constitute a lack of capability and necessary plant equipment to burn coal as of June 22, 1974.

II. *The burning of coal in lieu of natural gas or petroleum products is practicable and consistent with the purposes of ESECA.* FEA proposes to find that the burning of coal at Brayton Point 1, 2 and 3 in lieu of petroleum products or natural gas is practicable and consistent with the purposes of ESECA. This finding is based upon the presumption that Brayton Point 1, 2 and 3 will be operated at a 72 percent capacity factor (this represents a weighted average of each powerplant's projected capacity factor), have a remaining useful life of 26 years (as of the date of this NOI), are expected to have at least 20 years remaining useful life after conversion of the powerplants, and on the facts and interpretations stated below:

A. *The burning of coal is practicable.*—1. *Costs associated with burning coal.*

a. *Capital investment costs.* The total initial capital investment costs, exclusive of financing costs, that would result from the acquisition and refurbishment of equipment and facilities associated with the burning of coal at Brayton Point 1, 2 and 3 are estimated to be approximately $76,275,000, which assumes that electrostatic precipitators will be required at a cost of $44,144,000 to comply with the air pollution control requirements of the Clean Air Act. This estimate is based on a PEDCo-Environmental Specialists, Inc., report entitled Evaluation of The Coal Conversion Potential For The Brayton Point Plant, March 29, 1977 (hereafter "PEDCo Report".)

b. *Annual operating and maintenance costs.* The increase in operating and maintenance costs, exclusive of fuel costs, that would result from the burning of coal is estimated to be approximately $12,365,000 per year including $8,870,000 for operation and maintenance of air pollution control equipment. This estimate is based on the PEDCo. Report.

c. *Fuel costs.* (i) Based on information supplied by Platt's Oilgram Price Service, January 11, 1977, the price of petroleum products available to Brayton Point 1, 2 and 3 is approximately $2.16 per million BTU's for oil. This represents $13.39 per barrel of oil, assuming 6.2 million BTU's per barrel.

(ii) Based on information supplied by NUS Corporation and the Center for Energy Policy, Inc., the price of coal available to Brayton Point 1, 2 and 3 is approximately $1.37 per million BTU's. This represents $35.07 per ton of coal, assuming 25.6 million BTU's per ton.

(iii) FEA estimates that the burning of coal by these powerplants will result in the reduction of approximately $0.79 per million BTU's, or $52,361,000 per year in fuel costs. This estimate is based on fuel consumption presuming Brayton Point 1, 2 and 3 are operated at a weighted average 72 percent capacity factor and with an average heat rate of 9,045 BTU's per kilowatt hour.

d. *Total annual costs associated with conversion.* As a result of the conversion of Brayton Point 1, 2 and 3, there will be an estimated total annual increase in costs incurred, exclusive of fuel costs, of approximately $29,040,000.

2. *Reasonableness of costs of conversion.* The foregoing analysis of the costs of conversion provides the basis for deciding whether the conversion of Brayton Point 1, 2 and 3 is reasonable. Financial impacts of the conversion will be felt by the utility and by the consumer.

As a result of conversion, the utility will incur additional annual capital investment costs, including financing costs, of approximately $16,675,000 (this represents amortized cost over the 20 years remaining useful life of these powerplants after conversion, and it is based on a fixed charge rate of $21.95 of the total initial capital investment of $76,275,000) and additional annual operating and maintenance costs, exclusive of fuel costs, of approximately $12,365,000 (these figures are derived from the figures in paragraphs A.1. a., and b.), but will experience an annual fuel cost savings of approximately $52,361,000. (See paragraph A.1.c.) Considering the fuel cost savings, the total annual cost of operating Brayton Point 1, 2 and 3 should be reduced by $23,321,000.

Since all increased costs of conversion will be offset by the decrease in fuel costs, it is estimated that there will be an overall net decrease in the cost of producing electricity at Brayton Point 1, 2 and 3. The costs to the utility resulting from a Prohibition Order ultimately will be recovered in rates.

The use of coal at Brayton Point 1, 2 and 3 will result in an estimated annual equivalent savings of 10,690,000 barrels of oil that otherwise would be used in providing steam for electric power generation.

FEA proposes to find that, since the increased annual capital investment costs and operating and maintenance costs at the powerplants are offset by the current fuel cost differential between oil and coal burning at these powerplants, and potential future increases in the fuel cost differential in favor of coal, the additional costs associated with burning coal are reasonable.

3. *Financial capabilities of New England Electric System.*—a. *Recovery of capital investment.* FEA proposes to find that compliance with a Prohibition Order to Brayton Point 1, 2 and 3 would be economically feasible. FEA's analysis took into consideration $116,272,000 additional capital investment costs required for New England Electric System to comply with this NOI and all other NOI's which are currently under consideration, as well as additional capital investment costs related to all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of Section 2 (a) and (c) of ESECA to New England Electric System powerplants. FEA related these additional capital investment costs to New England Electric System's estimate of its 1977–79 construction budget of $769 million, the total capitalization of New England Electric System of $1.4 billion, and the 20 years remaining useful life after conversion of Brayton Point 1, 2 and 3.

FEA does not consider the effect of this added capital investment cost to represent an unreasonable burden given the financing relationship which exists between New England Electric System and its subsidiaries, and their combined financial capabilities to assume such costs.

b. *Total annual costs associated with conversion.* The total estimated annual increase in costs (amortized increased capital investment costs and other costs, exclusive of fuel costs) associated with the burning of coal as opposed to oil attributable to compliance with this NOI and all other NOI's which are currently under consideration would be $42,540,000. This also represents the total estimated annual incremental increase in revenue requirements of the subsidiaries of New England Electric Systems. (FEA also took into consideration revenue requirements of the subsidiaries of New England Electric Systems resulting from compliance with all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of Section 2 (a) and (c) of ESECA to New England Electric Systems powerplants.) This estimate of $42,540,000 in revenue requirements is based on an investment oriented analysis described in an Ultrasystems Inc. report entitled "Computer Methodology For Coal Conversion Cost Reasonableness Determination," August 1976, (hereafter "Ultrasystems Computer Model"). The estimate includes an incremental rate of return on retained earnings which are invested.

(For comparison with the Ultrasystems Computer Model results, FEA performed a financial analysis based on a Price Waterhouse and Co. report entitled "Identification Of Possible Financial Effects Of Converting Certain Electric Generating Facilities To The Use Of Coal," October 1976. This analysis estimated the total annual incremental increase in revenue requirements to be $40,129,000, which assumed a predicted effect on New England Systems' financial statement and represents revenue required to offset any potential loss in New England Electric Systems' net earnings per share as reported for Fiscal Year ending 1975.)

The total estimated annual increase in costs of $42,540,000 associated with conversion ultimately will be recovered in rates. However, due to the potential offsetting aggregate value of fuel cost savings of approximately $62,383,000 attributable to compliance with this NOI and all other NOI's currently under consideration, the net annual revenue requirements of the affected subsidiaries of New England Electric Systems should decrease by approximately $19,843,000.

4. *Consumer impact.* New England Power Company, a wholly-owned subsidiary of New England Electric System, is the owner and operator of the Brayton Point Generating Station and the relevant entity for considering the consumer impact of compliance with a Prohibition Order to Brayton Point 1, 2 and 3.

The potential initial impact of a Prohibition Order to Brayton Point 1, 2 and 3, is a net decrease in revenues required from NEPCO consumers of approximately $0.0016 per kilowatt hour of electricity sold by NEPCO. This estimate is based on FEA's analysis of the Ultrasystems Computer Model.

The actual amount of the decrease will depend on the actual amount of the investment necessary to comply with a Prohibition Order, the methods which New England Electric System selects to finance the increased costs associated with burning coal as a primary energy source at Brayton Point 1, 2 and 3, the extent to which the cost decrease is spread among NEPCO customers, the regulations or policies of the regulatory agencies with jurisdiction over NEPCO regarding inclusion of such cost decreases in consumer rates, the actual amount of the fuel cost differential, and other factors.

B. *Consistency with the purposes of ESECA.* Because the issuance of a Prohibition Order to Brayton Point 1, 2 and 3 will discourage the use of natural gas or petroleum products and encourage the increased use of coal, FEA proposes to conclude that this action would be consistent with the purpose of ESECA to provide a means to assist in meeting the essential needs of the United States for fuels.

On the basis of the environmental analysis which FEA is required to conduct prior to issuance of a Notice of Effectiveness of a Prohibition Order, as well as the necessity for these powerplants to comply with the Clean Air Act and other applicable environmental protection requirements, FEA pro-

poses to conclude that a Prohibition Order to Brayton Point 1, 2 and 3 would be consistent with the purpose of ESECA to provide for a means to assist in meeting the essential needs of the United States for fuels in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment.

III. *Coal and coal transportation facilities will be available to these powerplants during the period until December 31, 1984.*

A. *Coal availability.*—1. *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the foreseeable future. U.S. Department of the Interior, Bureau of Mines data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974, Bureau of Mines (May 1975) (hereafter "BOM Survey")). Within these recoverable reserves approximately 200 billion tons contain 1% or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies, referenced herein, which together provide the best current evidence as to coal availability for the period ending December 31, 1984.

2. *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnages of uncommitted planned national coal production (derived from responses to a survey of coal companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total national coal planned production for 1985 already meets over 99 percent of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

a. *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	*Production potential (million tons)*
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's "Coal Mine Expansion Study" (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, "Availability of Potential Coal Supply Through 1985 by Quality Characteristics," August 1976 (hereafter "Availability Study"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	*Production (million tons)*
1977	48.4
1978	122.2
1979	237.1
1980	287.3
1981	344.0
1982	363.9
1983	390.1
1984	469.5
1985	544.9

b. *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) of ESECA, is as follows (FEA 1976 National Energy Outlook):

Year:	Demand (million tons)
1977	698
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

c. *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA is as follows (Coal Availability and Demand: Round I and II Coal Conversion Candidates, August 1976 (hereafter "Coal Conversion Study")):

Year:	*Demand (million tons)*
1977	4.5
1978	9.1
1979	12.0
1980	17.0
1981	19.2
1982	26.8
1983	26.8
1984	26.8
1985	26.8

3. *Characteristic coal, production and demand.* FEA's "Availability Study" identifies coal of specific quality charactertistics available for use at these power plants. The survey is based on data from 31 mining companies that supplied useful information on 96 mining units. Responses from these companies identified planned production of coal which is not now committed to a specific buyer. For those companies which did not respond to the survey, FEA estimated their uncommitted planned production based on their 1974 production.

a. *Characteristic coal requirements for these powerplants.* FEA's "Coal Conversion Study" has determined that pulverized-coal dry bottom boilers, of the type used at Brayton Point 1, 2 and 3, will be able to burn coal of the following characteristics and comply with all applicable air pollution control requirements:

	Units 1 and 2	Unit 3
Btu's per pound	12,100 minimum	12,500 minimum.
Moisture	15 percent maximum	15 percent maximum.
Ash	20 percent maximum	20 percent maximum.
Volatile	15 percent minimum	15 percent minimum.
Ash softening (temperature)	2,200 (°F) minimum	2,200 (°F) minimum.
Sulfur	0.8 percent (approximate)	0.8 percent (approximate).

b. *Characteristic coal demand from these powerplants.* The potential demand for coal, of the type described above, which would result from this NOI is estimated to be as follows:

Year:	*Demand (thousand tons)*
1982 and thereafter	2,589

c. *National planned production, characteristic coal.* The FEA "Coal Conversion Study" has determined that coal of the type described in paragraph A.3.a., above, is uncommitted to a specific buyer and will be potentially available to Brayton Point 1, 2 and 3 in a nationwide market as follows:

Year:	*Production (thousand tons)*
1977	8,072
1978	14,799
1979	27,186
1980	30,120
1981	35,075
1982	36,966
1983	39,440
1984	46,768

d. *National ESECA prohibition order demand for coal, regardless of characteristics.* The national planned production of characteristic coal, as stated in paragraph A.3.c., above, exceeds potential demand for coal regardless of charactertistic expected from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outsanding Prohibition Orders issued to date under Section 2(a) of ESECA. National ESECA Prohibition Order demand as previously stated in paragraph A.2.c., above is:

Year:	*Demand (thousand tons)*
1977	4,500
1978	9,100
1979	12,000
1980	17,000
1981	19,200
1982	26,800
1983	26,800
1984	26,800

e. *Regional planned production, characteristic coal.* Coal with the characteristics described in paragraph A.3.a., above, is uncommitted and will be potentially available to Brayton Point 1, 2 and 3 (in a probable regional supply/demand relationship related to the location of these powerplants) from Bureau of Mines Districts 1 through 8, and 13 as follows:

Year:	*Production (thousand tons)*
1977	7,727
1978	13,920
1979	25,369
1980	28,022
1981	32,547
1982	34,294
1983	36,578
1984	43,250

f. *Regional ESECA prohibition order demand for coal, regardless of characteristic.* The expected regional production of characteristic coal, as stated in paragraph A.3.e., above, exceeds the potential demand for coal regardless of characteristic from Bureau of Mines Districts 1 through 8 and 13 expected to result from this NOI, from all other No-

tices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. This potential regional demand is estimated in FEA's "Coal Conversion Study" as follows:

Year:	Demand (thousand tons)
1977	2,369
1978	4,449
1979	5,811
1980	10,351
1981	11,905
1982	19,503
1983	19,503
1984	19,503

g. *Regional ESECA prohibition order demand for coal by sulfur characteristic.* The potential regional demand for coal from BOM Districts 1 and 8 through 13 with a 0.61–1.0 percent sulfur content (which includes the 0.8 percent maximum sulfur content described in paragraph A.3.a. above) resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA is estimated in FEA's "Coal Conversion Study" as follows:

Year:	Demand (thousand tons) percent sulfur 0.61 to 1.0
1977	1,247
1978	2,767
1979	3,854
1980	7,100
1981	8,172
1982	12,331
1983	12,331
1984	12,331

The regional planned production of coal as stated in paragraph A.3.e., above, with the characteristics described in paragraph A.3.a., above, far exceeds the potential ESECA regional demand for coal by sulfur characteristic.

4. *State or local laws.* FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

5. *Conclusion.* FEA's "Availability Study" has identified nationally and in Bureau of Mines Districts 1 through 8 and 13 uncommitted coal production that meets the requirements of Brayton Point 1, 2 and 3 as described in paragraph A.3.a. above. FEA proposes to find that this uncommitted coal exists in amounts sufficient in any year to meet the estimated additional demand for coal, both nationally and from these Districts, resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA.

Coal for these powerplants will probably be bought from producers according to regional supply/demand relationships related to the powerplant's location from Bureau of Mines Districts 1 through 8 and 13. FEA observes, however, that these powerplants could purchase coal in other markets as such production becomes available. (The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond, School of Engineering, University of Pennsylvania, November 7, 1975.)

B. *Coal transportation.*—1. *Location of powerplants and coal supply.* Based on an FEA study, "Utility Analysis of Coal Transportation Availability," November 1976, (hereafter "Transportation Availability Study"), coal for Brayton Point 1, 2 and 3 would probably come from Bureau of Mines (BOM) District 8 for both the primary and alternate source of supply. While this supply area is the nearest available potential source able to supply complying coal to these powerplants, complying coal can be transferred by rail from other identified sources within the United States. The analysis of transportation availability is based on the most likely route as well as an alternate route. These routes were chosen to demonstrate transportation availability.

2. *Route of coal shipmen.* A primary route for coal delivery for Brayton Point 1, 2 and 3 would originate on the Norfolk & Western (N&W) railroad which can carry the coal to Norfolk, Virginia. Ocean barges towed by Express Marine or Red Star Towing and Transportation could transport the coal from N&W's Lambert's Point Piers 5 or 6 to the plant. The total rail distance is approximately 400 miles, with a sea leg of about 500 miles.

One alternate route from BOM District 8 would involve originating coal on the N&W to Hagerstown, Maryland, and taking it from there through New York and Providence, Rhode Island, to Brayton Point on Consolidated Railroad Corporation (Con-Rail).

The primary route from the alternate source of supply also would be to originate coal from BOM District 8 on the N&W to Norfolk and barge the coal via the ocean to the plant.

3. *Originating trunk carrier.* The N&W, the expected originating carrier of coal for Brayton Point 1, 2 and 3 has approximately 54,000 hopper cars with an estimated average capacity of 85 tons. Using an average number of deliveries of 20 per year per 85-ton car, the N&W may need as many as 1500 additional cars to handle the increased demand from Brayton Point 1, 2 and 3. This estimate assumes that the railroad would neither have excess originating capacity nor use cars from other carriers in the originating vicinity.

Only about 2 percent of the hopper fleet is in heavy bad order and retirement rates through 1985 are expected to average approximately 1,200 cars/year. The N&W indicated that it is willing to acquire any needed capacity involved in shipment to Brayton Point 1, 2 and 3 and that it would modify its expansion plans with demand conditions. The railroad also indicated that its carrying capacity could be expanded as quickly as the powerplants prepare to burn coal.

FEA's "Transportation Availability Study" concluded that for all potential Prohibition Order candidates studied, there would be no major constraints in transporting coal. The study examined existing rail transportation car capacity, water transportation capacity, including unloading docks, where applicable, and took into account projections made by all carriers to meet the anticipated demand for all types of transportation facilities assuming all powerplants studied were to receive orders under section 2(a) of ESECA.

The N&W indicated that transportation facilities at those mine sites within BOM District 8 served by the N&W are in satisfactory operating condition and that loading facilities could handle the required coal volumes.

FEA has not found nor has it been informed of any apparent constraints to carrying coal for any alternate or intermediate carriers should they be used.

4. *Destination carrier and powerplant facilities.* Coal can be barged to Brayton Point 1, 2 and 3 from the N&W Lambert's Point piers in Norfolk, Virginia by Red Star or by Express Marine. Coal would be shipped in ocean-going barges, which can be accommodated by the docking facilities at these powerplants. According to Express Marine, such barges (23,000 ton ocean going) are not presently available, but could be borrowed from the Gulf of Mexico area or constructed given a 2 to 3 year lead time and a long term barging commitment.

New England Electric Systems indicated that coal unloading facility improvements and refurbishments are necessary.

It is expected that these repairs can be accomplished prior to the expected date for coal burning. There are no other obstacles to delivery of coal to Brayton Point 1, 2 and 3.

5. *Conclusion.* Coal transportation facilities will be available for the period a Prohibition Order is expected to be in effect since no significant constraints to coal delivery over the primary route to Brayton Point 1, 2 and 3 presently exist, and alternate routes are available.

IV. *The prohibition of the burning of natural gas or petroleum products as their primary energy source will not impair the reliability of service in the area served by the affected powerplants.* Based on an analysis of the information submitted to FEA by the Federal Power Commission, and after consultation with the Federal Power Commission, FEA proposes to find that the issuance of a Prohibition Order to Brayton Point 1, 2 and 3 will not impair the reliability of service in the area served by these powerplants. This proposed finding is based on the facts and interpretations stated below:

A. *Description of the dispatching system.* 1. The Brayton Point Station is owned by NEPCO, which is owned by New England Electric System, which is a member of the New England Power Exchange (NEPEX), which is within the geographical area of the New England Subregion of the Northeast Power Coordinating Council (NPCC) regional electric reliability council.

2. The term "dispatching system" as used in the proposed finding means NEPEX.

3. The gross capacity as of September 1976, of all dispatching system powerplants was 20,841 MW. (See line 1, attachment 1.)

4. Proposed changes up to the period in which Brayton Point 1, 2 and 3 may implement a Prohibition Order will result in the gross capacities indicated on line 3 of attachment 1 because of the following changes in the dispatching system listed in Table 1:

TABLE 1

Powerplant designation	Fuel	Type of change	Capacity change (megawatt)	Effective date
Potter 2	Oil	Add	+95	January 1977.
Wyman 4	Oil	Add	+600	December 1978.
Seabrook 1	Nuclear	Add	+1,150	June 1981.
Stony Brook 1	Oil	Add	+270	November 1981.
Millstone Point 3	Nuclear	Add	+1,150	May 1982.
Pilgrim 2	do	Add	+1,180	October 1982.
Stony Brook 2	Oil	Add	+120	November 1982.

Totals:	Added
Mar. 1 to Apr. 30, 1982	+2,11[illegible]
July 1 to Aug. 31, 1982	+3,205
Sept. 1 to Oct. 31, 1982	+4,415
Nov. 1 to Dec. 31, 1982	+4,565

NOTE.—See line 2, attachment 1.

5. The proposed changes in Table 1, above, are based on the best information available to FEA and the Federal Power Commission (FPC Form 12E-2 dattd October 25, 1976) at the time this NOI is issued. FEA has taken into consideration the possibility that the proposed changes may not be completed by the indicated effective date, but has determined that in such event, with minor modifications to the projected schedule of changes contained in Table 1, as well as the New England Power Exchange Conversion Schedule (attachment 2 to this NOI), gross capacity in the dispatching system would not be significantly affected during the period required for conversion of Brayton Point 1, 2 and 3. The New England Power Exchange Conversion Schedule is FEA's estimate of the outage times for all the powerplants in NEPEX that are currently beginning considered for Prohibition Orders. The schedule assumes outages for conversion at those times that are optimally suited, in terms of forecast peak load periods, to maintain reliability of service.

B. *Forecast peak loads for the dispatching system.* 1. Forecasts of peak loads for the dispatching system during the period in which Brayton 1, 2 and 3 would implement a Prohibition Order are as indicated on line 8 of attachment 1.

2. The forecast peak loads have been compared with loads in previous similar periods. The annual peak load growth rate for these forecasts is 5.5 percent.

C. *Maximum projected outages for the dispatching system.* 1. Scheduled outages for normal maintenance, including other powerplants implementing Prohibition Orders and nuclear plant refueling within the dispatching system during the periods in which Brayton Point 1, 2 and 3 may be implementing a Prohibition Order, may result in some loss of capacity which is expected to be as indicated on line 4 of attachment 1.

2. A projected outage of 2 months for each powerplant is estimated to be required to make modifications, installations, or other physical adjustments required by a Prohibition Order should it become effective. The powerplants may be less than fully dependable during the period of on-line testing and adjustment following such modifications. This period is not expected to exceed 30 days. To take advantage of the maximum reserve capacity, these projected outages are most likely to occur during the year 1982. The potential loss of capacity from an outage of Brayton Point 1, 2 and 3 would be approximately 261 MW for 1 or 2 and 640 MW for 3 (line 7, attachment 1). The potential loss of capacity from a combined outage of Brayton Point 1, 2 and 3 would be approximately 1,162 MW. This represents the maximum potential loss due to outages at these powerplants, but it is expected that Brayton Point 1, 2 and 3 will be implementing a Prohibition Order at different times. This maximum potential loss of 1,162 MW is included in the total outages indicated on line 6 of attachment 1. (The assumed conversion period specified on attachments 1 and 2 is shown for the purpose of illustration only.)

3. Maximum projected outages within the dispatching system include normal scheduled maintenance for all powerplants (line 4 of attachment 1) and outages due to conversion (line 5 of attachment 1) for those powerplants to be implementing Prohibition Orders, if the attached New England Power Exchange Conversion Schedule is followed. Maximum projected outages are expected to be as indicated on line 6 of attachment 1, thereby reducing the gross capacity and resulting in a net dependable capacity for the dispatching system.

D. *Net dependable capacity for the dispatching system.* 1. Based on the foregoing information, the net dependable capacity of the dispatching system at the expected time of implementation of a Prohibition Order would be as indicated on line 9 of attachment 1.

2. Comparing these net dependable capacities to the forecast peak loads shown on line 8, attachment 1 indicates that the reserve capacities shown on line 10 of attachment 1 would exist for the dispatching system.

3. Comparison of these reserve capacities to the forecast peak loads shown on line 8 of attachment 1 results in reserve margins as indicated on line 11 of attachment 1 (as contrasted with reserve margins as indicated on line 12 of attachment 1 if no units were removed from service due to Prohibition Orders).

4. The Federal Power Commission considers these to be marginally acceptable reserve margins taking into consideration the geographical location of Brayton Point 1, 2 and 3.

5. At the completion of the conversion there will be a net 5.14 MW derating of Brayton Point 1, 2 and 3 as a result of using coal as their primary energy source.

6. Existing transmission system interconnections may transfer an additional 1,925 MW into the dispatching system. This capacity may provide an additional resource of electric power during the implementation period and will enhance the reliability of service.

E. *Conclusion.* If dispatching system conditions, including any scheduled outage by Brayton Point 1, 2 and 3, are as presently forecast during the time required to implement a Prohibition Order by Brayton Point 1, 2 and 3, there will be no impairment of reliability of service within the meaning of ESECA in the area served by NEPCO or in the dispatching system as a result of the Order.

Attachment 1

New England power exchange reliability data; Brayton point

		Assumed conversion periods (megawatt capacity)			
		1982, Mar. 1-Apr. 29	1982, July 1-Aug. 31	1982, Sept. 1-Oct. 31	1982, Nov. 1-Dec. 31
1	Gross capacity of NEPEX as of Sept. 1, 1976	20,841	20,841	20,841	20,84
2	Added capacity	2,115	3,265	4,445	4,56
3	Gross capacity	22,956	24,106	25,286	25,406
4	Scheduled outages for maintenance	2,101	687	3,603	1,310
5	Projected outages due to prohibition orders	915	925	1,595	853
6	Maximum projected outages due to maintenance and prohibition orders (lines 4 and 5)	3,016	1,612	5,201	2,113
7	Unit outage	261	261	640	640
8	Peak load	15,634	18,533	17,162	20,152
9	Net dependable capacity	19,919	22,424	20,085	23,293
10	Reserve capacity	4,285	3,961	2,923	3,141
11	Reserve margin percent (maintenance and prohibition orders)	27.14	21.37	17.03	15.56
12	Reserve margin percent (maintenance only)	32.97	26.25	25.24	19.33

Attachment 2

New England power exchange conversion schedule

NEPEX member	Station	Unit	Assumed conversion dates
Northeast utilities	Mount Tom	1	March to April 1982.
Do	Middletown	1	March to April 1982.
Do	do	2	May to June 1982.
Do	do	3	July to September 1982.
Do	Norwalk Harbor	1	March to August 1982.
Do	do	2	September to February 1983.
The United Illuminating Co.	Bridgeport Harbor	1	March to April 1982.
Do	do	2	July to August 1982.
Do	do	3	September to October 1982.
Eastern Utilities Associates	Somerset	8	March to April 1982.
New England Electric System	Brayton Point	1	March to April 1982.
Do	do	2	July to August 1982.
Do	do	3	October to November 1982.
Do	Salem Harbor	1	March to April 1982.
Do	do	2	July to August 1982.
Do	do	3	September to October 1982.

APPENDIX

PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A PROHIBITION ORDER

ESECA and the FEA regulations require FEA to make certain findings before issuing a Prohibition Order to a powerplant. FEA's proposed findings are set out below with respect to the powerplant named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Generating station	Unit No.	Location
OFU-084	Eastern Utilities Associates/Montaup Electric Co.	Somerset	8	Somerset, Mass.

These findings, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to Issue a Prohibition Order.

Montaup Electric Company, a wholly owned subsidiary of Eastern Utilities Associates, shall be referred to as the "utility" and as "Montaup."

I. *Capability and necessary plant equipment to burn coal.* FEA proposes to find that on June 22, 1974, Powerplant Number 8 at Somerset Generating Station (Somerset 8) had the capability and necessary plant equipment to burn coal. This proposed finding is based on the facts and interpretations stated below:

A. Montaup, in information filed with FEA dated April 10, 1975, indicated that the powerplant had in place on June 22, 1974, a boiler that was capable of burning coal. The boiler had been designed and constructed or modified to burn coal as its primary energy source, notwithstanding the fact that on June 22, 1974, the powerplant may not have been burning coal as its primary energy source.

B. Based on information Montaup filed with FEA dated April 10, 1975, and other information available to FEA, the following plant equipment or facilities at Somerset 8 would have to be acquired or refurbished in order for this powerplant to burn coal as its primary energy source:

1. Yard work.
2. Chimney and ductwork.
3. Waste treatment system.

C. FEA proposes to find that on June 22, 1974, Somerset 8 had all other significant plant equipment and facilities associated with the burning of coal.

D. Within the meaning of ESECA and the regulations promulgated pursuant thereto, the equipment and facilities listed in paragraph B, above, do not individually or in combination constitute a lack of capability and necessary plant equipment to burn coal as of June 22, 1974.

II. *The burning of coal in lieu of natural gas or petroleum products is practicable and consistent with the purposes of ESECA.* FEA proposes to find that the burning of coal at Somerset 8 in lieu of petroleum products or natural gas is practicable and consistent with the purposes of ESECA. This finding is based upon the presumption that Somerset 8 will be operated at a 42 percent capacity factor, has a remaining useful life of 18 years (as of the date of this NOI), is expected to have at least 13 years remaining useful life after conversion of the powerplant, and on the facts and interpretations stated below:

A. *The burning of coal is practicable.*— 1. *Costs associated with burning coal.* a. *Capital investment costs.* The total initial capital investment costs, exclusive of financing costs, that would result from the acquisition and refurbishment of equipment and facilities associated with the burning of coal at Somerset 8 are estimated to be approximately $6,993,000 which assumes that an electrostatic precipitator will be required at a cost of $5,914,000 to comply with the air pollution control requirements of the Clean Air Act. This estimate is based on a PEDCo-Environmental Specialists, Inc. report entitled "Evaluation Of The Coal Conversion Potential For The Somerset Plant," March 23, 1977 (hereafter "PEDCo. Report").

b. *Annual operating and maintenance costs.* The increase in operating and maintenance costs, exclusive of fuel costs, that would result from the burning of coal is estimated to be approximately $1,969,000 per year including $1,226,000 for operation and maintenance of air pollution control equipment. This estimate is based on the PTDCo. Report.

c. *Fuel costs.* (i) Based on information supplied by Montaup, the price of petroleum products available to Somerset 8 is approximately $2.18 per million BTU's for oil. This represents $13.49 per barrel of oil, assuming 6.19 million BTU's per barrel.

(ii) Based on information supplied by NUS Corporation, the price of coal available to Somerset 8 is approximately $1.37 per million BTU's. This represents $35.07 per ton of coal, assuming 25.6 million BTU's per ton.

(iii) FEA estimates that the burning of coal by this powerplant will result in the reduction of approximately $0.81 per million BTU's or $3,918,000 per year in fuel costs. This estimate is based on fuel consumption presuming Somerset 8 is operated at a 42 percent capacity factor and with an average heat rate of 10,700 BTU's per kilowatt hour.

d. *Total annual costs associated with conversion.* As a result of the conversion of Somerset 8, there will be an estimated total annual increase in costs incurred, exclusive of fuel costs, of approximately $3,647,000.

2. *Reasonableness of costs of conversion.* The foregoing analysis of the costs of conversion provides the basis for deciding whether the conversion of Somerset 8 is reasonable. Financial impacts of the conversion will be felt by the utility and by the consumer.

As a result of conversion, the utility will incur additional annual capital investment costs, including financing costs, of approximately $1,678,000 (this represents an amortized cost over the 13 years remaining useful life of the powerplant after conversion, and is based on a fixed charge rate of 24.0% of the total initial capital investment of $6,993,000) and additional annual operating and maintenance costs, exclusive of fuel costs, of approximately $1,969,000 (these figures are derived from the figures in paragraph A.1. a. and b.), but will experience an annual fuel cost savings of approximately $3,918,000. (See paragraph A.1.c.) Considering the fuel cost savings, the total annual cost of operating Somerset 8 should be reduced by $271,000.

Since all increased costs of conversion will be offset by the decrease in fuel costs, it is estimated that there will be an overall net decrease in the cost of producing electricity at Somerset 8. The costs to the utility resulting from a Prohibition Order ultimately will be recovered in rates.

The use of coal at Somerset 8 will result in an estimated annual equivalent savings of 782,000 barrels of oil that otherwise would be used in providing steam for electric power generation.

FEA proposes to find that, since the increased annual capital investment costs and operating and maintenance costs at the powerplant are offset by the current fuel cost differential between oil and coal burning at this powerplant, and potential future increases in the fuel cost differential in favor of coal, the additional costs associated with burning coal are reasonable.

3. *Financial capabilities of Eastern Utilities Associates.*—a. *Recovery of capital investment.* FEA proposes to find that compliance with a Prohibition Order to Somerset 8 would be economically feasible. FEA's analysis took into consideration the $6,993,000 additional capital investment required for Eastern Utilities Associates to comply with this NOI and all other NOI's which are currently under consideration, as well as additional capital investment costs related to all other notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of Section 2 (a) and (c) of ESECA to Eastern Utilities Associates powerplants. FEA related these additional capital investment costs to the utility's estimate of its 1977–79 construction budget of $61.9 million, the total capitalization of Eastern Utilities Associates of $165 million, and the 13 years remaining useful life after conversion of Somerset 8.

FEA does not consider the effect of this added capital investment cost to represent an unreasonable burden given the financing relationship which exists between Eastern Utilities Associates and its subsidiaries, and their combined financial capabilities to assume such costs.

b. *Total annual costs associated with conversion.* The total estimated annual increase in costs (amortized increased capital investment costs and other costs, exclusive of fuel costs) associated with the burning of coal as opposed to oil attributable to compliance with this NOI and all other NOI's which are currently under consideration would be $3,647,000. This also represents the total estimated annual incremental increase in revenue requirements of the subsidiary (Montaup) of Eastern Utilities Associates. (FEA also took into consideration revenue requirements of the subsidiaries of Eastern Utilities Associates resulting from compliance with all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of Section 2 (a) and (c) of ESECA to Eastern Utilities Associates powerplants.) This estimate of $3,647,000 in revenue requirements is based on an investment oriented analysis described in an Ultrasystems Inc. report entitled Computer Methodology For Coal Conversion Cost Reasonableness Determination, August 1976, (hereafter "Ultrasystems Computer Model"). The estimate includes an incremental rate of return on retained earnings which are invested.

(For comparison with the Ultrasystems Computer Model results, FEA performed a financial analysis based on a Price Waterhouse and Co. report entitled Identification Of Possible Financial Effects Of Converting Certain Electric Generating Facilities To The Use Of Coal, October 1976. This analysis estimated the total annual incremental increase in revenue requirements to be $3,682,000, which assumed a predicted effect on Eastern Utilities Associates' financial statement and represents revenues required to offset any potential loss in Eastern Utilities Associates' net earnings per share as reported for Fiscal Year ending 1975.)

The total estimated annual increase in costs of $3,647,000 associated with conversion ultimately will be recovered in rates. However, due to the potential offsetting value of fuel cost savings of approximately $3,918,000 attributable to compliance with this NOI and all other NOI's currently under consideration, the net annual revenue requirements of the affected subsidiary of Eastern Utilities Associates (Montaup) should decrease by approximately $271,000.

4. *Consumer Impact.* Montaup, a wholly-owned subsidiary of Eastern Utilities Associates, is the owner and operator of the Somerset Generating Station and the relevant entity for considering the consumer impact of compliance with a Prohibition Order to Somerset 8.

The potential initial impact of a Prohibition Order to Somerset 8 is a net decrease in revenues required from Montaup consumers of approximately $0.000075 per kilowatt hour of electricity sold by Montaup. This estimate is based on FEA's analysis of the Ultrasystems Computer Model. The actual amount of the decrease will depend on the actual amount of the investment necessary to comply with a Prohibition Order, the methods which Eastern Utilities Associates selects to finance the increased costs associated with burning coal as a primary energy

source at Somerset 8, the extent to which the cost decrease is spread among Montaup customers, the regulations or policies of the regulatory agencies with jurisdiction over Montaup regarding inclusion of such cost decreases in consumer rates, the actual amount of the fuel cost differential, and other factors.

B. *Consistency with the purposes of ESECA.* Because the issuance of a Prohibition Order to Somerset 8 will discourage the use of natural gas or petroleum products and encourage the increased use of coal, FEA proposes to conclude that this action would be consistent with the purpose of ESECA to provide a means to assist in meeting the essential needs of the United States for fuels.

On the basis of the environmental analysis which FEA is required to conduct prior to issuance of a Notice of Effectiveness of a Prohibition Order, as well as the necessity for this powerplant to comply with the Clean Air Act and other applicable environmental protection requirements, FEA proposes to conclude that a Prohibition Order to Somerset 8 would be consistent with the purpose of ESECA to provide for a means to assist in meeting the essential needs of the United States for fuels in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment.

III. *Coal and coal transportation will be available to this powerplant during the period until December 31, 1984.*

A. *Coal availability.*—1. *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the foreseeable future. U.S. Department of the Interior, Bureau of Mines data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974, Bureau of Mines (May 1975) (hereafter "BOM Survey")). Within these recoverable reserves approximately 200 billion tons contain 1 percent or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies, referenced herein, which together provide the best current evidence as to coal availability for the period ending December 31, 1984.

2. *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnages of uncommitted planned national coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985, already meets 99% of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

a. *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	*Production potential (million tons)*
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	969.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's Coal Mine Expansion Study (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, Availability of Potential Coal Supply Through 1985 by Quality Characteristics, August 1976, (hereafter "Availability Study"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	*(million tons) Production*
1977	48.4
1978	122.2
1979	237.1
1980	287.3
1981	344.0
1982	363.9
1983	390.1
1984	469.5
1985	544.9

b. *National demand exclusive of ESECA of prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) of ESECA, is as follows (*FEA 1976 National Energy Outlook*):

Year:	*(million tons) Demand*
1977	698
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	935
1985	1,040

c. *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA is as follows (Coal Availability and Demand: Round I and II Coal Conversion Candidates, August 1976, (hereafter "Coal Conversion Study")):

Year:	*Demand (million tons)*
1977	4.5
1978	9.1
1979	12.0
1980	17.0
1981	19.2
1982	26.8
1983	26.8
1984	26.8
1985	26.8

3. *Characteristic coal, production and demand.* FEA's "Availability Study" identifies coal of specific quality characteristics available for use at Somerset 8. The survey is based on data from 31 mining companies that supplied useful information on 96 mining units. Responses from these companies identified planned production of coal which is not now committed to a specific buyer. For these companies which did not respond to the survey, FEA estimated their uncommitted planned production based on their 1974 production.

a. *Characteristic coal requirements for this powerplant.* FEA's "Coal Conversion Study" has determined that a pulverized-coal dry bottom boiler, of the type used at Somerset 8, will be able to burn coal of the following characteristics and comply with all applicable air pollution control requirements:

BTU's/lb.	[1] 12,500
Moisture (percent)	[2] 15
Ash (percent)	[2] 20
Volatile (percent)	[1] 15
Ash softening (temp.) (°F)	[1] 2,200
Sulfur (approx.) (percent)	[2] 0.8

[1] Minimum.
[2] Maximum.

b. *Characteristic coal demand from this powerplant.* The potential demand for coal, of the type described above, which would result from this NOI is established to be as follows:

Year:	*Demand (thousand tons)*
1982 and thereafter	189

c. *National planned production, characteristic coal.* The FEA "Coal Conversion Study" has determined that coal of the type described in paragraph A.3.a., above, is uncommitted to a specific buyer and will be potentially available to Somerset 8 in a nationwide market as follows:

Year:	*Production (thousand tons)*
1977	8,072
1978	14,799
1979	27,186
1980	30,120
1981	35,075
1982	36,966
1983	39,440
1984	46,768

d. *National ESECA prohibition order demand for coal, regardless of characteristics.* The national planned production of characteristic coal, as stated in paragraph A.3.c., above, exceeds potential demand for coal regardless of characteristic expected from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under Section 2(a) of ESECA. National ESECA Prohibition Order demand as previously stated in paragraph A.2.c., above, is:

Year:	*Demand (thousand tons)*
1977	4,500
1978	9,100
1979	12,000
1980	17,000
1981	19,200
1982	26,800
1983	26,800
1984	26,800

e. *Regional planned production, characteristic coal.* Coal with the characteristics described in paragraph A.3.a., above, is uncommitted and will be potentially available to Somerset 8 (in a probable regional supply/demand relationship related to the location of this powerplant) from Bureau of Mines Districts 1 through 8 and 13 as follows:

Year:	*Production (thousand tons)*
1977	7,727
1978	13,920
1979	25,369
1980	28,022
1981	32,547
1982	34,294
1983	36,578
1984	43,250

f. *Regional ESECA prohibition order demand for coal, regardless of characteristic.* The expected regional production of characteristic coal, as stated in paragraph A.3.e., above, exceeds the potential demand for coal regardless of characteristic from Bureau of Mines Districts 1 through 8 and 13 expected to result from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. This potential regional demand is estimated in FEA's "Coal Conversion Study" as follows:

Year:	*Demand (thousand tons)*
1977	2,369
1978	4,449
1979	5,811
1980	10,351
1981	11,905
1982	19,503
1983	19,503
1984	19,503

g. *Regional ESECA prohibition order demand for coal by sulfur characteristic.* The potential regional demand within BOM Districts 1 through 8 and 13 for coal with a 0.61–1.0% sulfur content (which includes the 0.8% maximum sulfur content described in paragraph A.3.a., above) resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA is estimated in FEA's "Coal Conversion Study" as follows:

Year:	*Demand (thousand tons) percent sulfur 0.61 to 1.0*
1977	1,247
1978	2,767
1979	3,854
1980	7,100
1981	8,172
1982	12,331
1983	12,331
1984	12,331

The regional planned production of coal stated in paragraph A.3.e., above, with the characteristics described in paragraph A.3.a., above, far exceeds the potential ESECA regional demand for coal by sulfur characteristic.

4. *State or local laws.* FEA has found no State or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

5. *Conclusion.* FEA's "Availability Study" has identified nationally and in Bureau of Mines Districts 1 through 8 and 13 uncommitted coal production that meets the requirements of Somerset 8 as described in paragraph A.3.a. above. FEA proposes to find that this uncommitted coal exists in amounts sufficient in any year to meet the estimated additional demand for coal, both nationally and from these Districts, resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA.

Coal for Somerset 8 will probably be bought from producers according to regional supply/demand relationships related to the powerplant's location from Bureau of Mines Districts 1 through 8 and 13. FEA observes, however, that the powerplant could purchase coal in other markets as such production becomes available. (The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond, School of Engineering, University of Pennsylvania, November 7, 1975.)

B. *Coal Transportation.*—1. *Location of powerplant and coal supply.* Based on an FEA study, Utility Analysis of Coal Transportation Availability, November 1976, (hereafter "Transportation Availability Study") coal for Somerset 8 would probably come from Bureau of Mines (BOM) District 8 as both the primary and alternate source of supply. While this supply area is the nearest available potential source able to supply complying coal to the powerplant, complying coal can be transferred by rail from other identified sources within the United States. The analysis of transportation availability is based on the most likely route as well as two alternate routes. These routes were chosen to demonstrate transportation availability.

2. *Routes of coal shipment.* A primary route for coal delivery for Somerset 8 would originate on the Norfolk & Western (NW) Railroad which can carry the coal to Norfolk, Virginia. Ocean barges towed by Express Marine on Red Star Towing and Transportation could transport the coal from N&W Lambert's Point Piers 5 or 6 to the powerplant. The total rail distance is approximately 400 miles, with a sea leg of about 500 miles.

One alternate route from BOM District 8 would involve originating coal on the N&W to Hagerstown, Maryland, and taking it on Conrail through New York City and Providence, Rhode Island, to Somerset, Massachusetts.

Another alternate route from the alternate supply area would originate coal from BOM District 8 (West Virginia) to Norfolk, Virginia, on N&W and transport the coal by ocean barge to the plant.

3. *Originating trunk carrier.* The N&W, the expected originating carrier of coal for Somerset 8 has approximately 54,000 hopper cars with an estimated average capacity of 85 tons. Using an average number of deliveries of 20 per year per 85-ton car, the N&W may need as many as 110 additional cars to handle the increased demand from Somerset 8. This estimate assumes that the railroad would neither have excess originating capacity nor obtain cars from other carriers in the originating vicinity.

Only about 2 percent of the hopper fleet is in heavy bad order and retirement rates through 1985 are expected to average approximately 1,200 cars/year.

The N&W indicated that it is willing to acquire any needed capacity involved in shipment to Somerset 8 and that it would modify its expansion plans with demand conditions. The railroad also indicated that its carrying capacity could be expanded as quickly as the utility prepares to burn coal.

FEA's "Transportation Availability Study" concluded that for all potential Prohibition Order candidates studied there would be no major constraints in transporting coal. The study examined existing rail transportation car capacity, water transportation capacity, including unloading docks, where applicable, and took into account projections made by all carriers to meet the anticipated demand for all types of transportation facilities assuming all powerplants studied were to receive orders under Section 2(a) of ESECA.

The N&W indicated that transportation facilities at those mine sites within BOM District 8 served by the N&W are in satisfactory operating condition and that loading facilities could handle the required coal volumes.

FEA has not found nor has it been informed of any apparent constraints to carrying coal for any alternate or intermediate carriers should they be used.

4. *Destination carrier and powerplant facilities.* Coal for Somerset 8 would be brought by ocean-going barge from the N&W Lambert's Point piers in Norfolk, Virginia. Express Marine and Red Star Towing and Transportation have expressed willingness to transport the coal to the powerplant. Existing barge capacity would be available from the Gulf of Mexico area; however, new barges may have to be built. Given sufficient lead time (2 to 3 years) and a long-term coal shipping commitment, the barge companies would be willing to have the necessary equipment constructed.

The 26-foot depth of the channel at the powerplant is sufficient to allow delivery by ocean-going barges. Somerset 8 has two coal unloading towers which are in good condition and, when taken together, are capable of unloading 500 tons of coal per hour.

5. *Conclusion.* Coal transportation facilities will be available for the period a Prohibition Order is expected to be in effect since no significant constraints to coal delivery over the primary route to Somerset 8 presently exist, and alternate routes are available.

IV. *The prohibition of the burning of natural gas or petroleum products as its primary energy source will not impair the reliability of service in the area served by the affected powerplant.* Based on an analysis of the information submitted to FEA by the Federal Power Commission, and after consultation with the Federal Power Commission, FEA proposes to find that the issuance of a Prohibition Order to Somerset 8 will not impair the reliability of service in the area served by the powerplant. This proposed finding is based on the facts and interpretations stated below:

A. *Description of the dispatching system.* 1. The Somerset Generating Station is owned by Montaup, which is owned by Eastern Utilities Associates, which is a member of the New England Power Exchange (NEPEX), which is within the geographical area of the New England Subregion of the Northeast Power Coordinating Council regional electric reliability council.

2. The term "dispatching system" as used in the proposed findings means NEPEX.

3. The gross capacity as of September 1976, of all dispatching system powerplants was 20,841 MW. (See line 1, attachment 1.)

4. Proposed changes up to the period in which Somerset 8 may implement a Prohibition Order will result in the gross capacity indicated on line 3 of attachment 1 because of the following changes in the dispatching system listed in Table 1:

TABLE 1

Powerplant designation	Fuel	Type of change	Capacity change (megawatt)	Effective date
Potter 2	Oil	Add	+95	January 1977.
Wyman 4	Oil	Add	+600	December 1978.
Seabrook 1	Nuclear	Add	+1,150	June 1981.
Stony Brook 1	Oil	Add	+270	November 1981.
Total: Mar. 1 to Apr. 30 period			*Added* +2,115	

NOTE.—See line 2, attachment 1.

5. The proposed changes in Table 1, above, are based on the best information available to FEA and the Federal Power Commission (FPC Form 12E-2 dated October 25, 1976) at the time this NOI is issued. FEA has taken into consideration the possibility that the proposed changes may not be completed by the indicated effective date, but has determined that in such event, with minor modifications to the projected schedule of changes contained in Table 1, as well as the New England Power Exchange Conversion Schedule (attachment 2 to this NOI), gross capacity in the dispatching system would not be significantly affected during the period required for conversion of Somerset 8. The New England Power Exchange Conversion Schedule is FEA's estimate of the outage times for all the powerplants in NEPEX that are currently being considered for Prohibition Orders. The schedule assumes outages for conversion at those times that are optimally suited, in terms of forecast peak load periods, to maintain reliability of service.

B. *Forecast peak loads for the dispatching system.* 1. Forecasts of peak loads for the dispatching system during the period in which Somerset 8 would implement the Prohibition Order are as indicated on line 8 of attachment 1.

2. The forecast peak loads have been compared with loads in previous similar periods. The annual peak load growth rate for these forecasts is 5.5 percent.

C. *Maximum projected outages for the dispatching system.* 1. Scheduled outages for normal maintenance, including other powerplants implementing Prohibition Orders and nuclear plant refueling within the dispatching system during the periods in which Somerset 8 may be implementing a Prohibition Order, may result in some loss of capacity which is expected to be as indicated on line 4 of attachment 1.

2. A projected outage of 2 months for the powerplant is estimated to be required to make modifications, installations, or other physical adjustments required by a Prohibition Order should it become effective. The powerplant may be less than fully dependable during the period of on-line testing and adjustment following such modifications. This period is not expected to exceed 30 days. To take advantage of the maximum reserve capacity, this projected outage is most likely to occur during the year 1982. The potential loss of capacity from an outage of Somerset 8 would be approximately 122 MW, (line 7, attachment 1), which is included in the total outages indicated on line 6 in attachment 1. (This assumed conversion period specified on attachments 1 and 2 is shown for the purpose of illustration only.)

3. Maximum projected outages within the dispatching system, include normal scheduled maintenance for all powerplants (line 4 of attachment 1) and outages due to conversion (line 5 of attachment 1) for those powerplants to be implementing Prohibition Orders, if the attached New England Power Exchange Conversion Schedule is followed. Maximum projected outages are expected to be as indicated on line 6 of attachment 1, thereby reducing the gross capacity and resulting in a net dependable capacity for the dispatching system.

D. *Net dependable capacity for the dispatching system.* 1. Based on the foregoing information, the net dependable capacity of the dispatching system at the expected time of implementation of a Prohibition Order would be as indicated on line 9 of attachment 1.

2. Comparison of this net dependable capacity to the forecast peak load shown on line 8, attachment 1 indicates that the reserve capacity shown on line 10 of attachment 1 would exist for the dispatching system.

3. Comparison of this reserve capacity to the forecast peak load shown on line 8 of attachment 1 results in a reserve margin as indicated on line 11 of attachment 1 (as contrasted with a reserve margin as indicated on line 12 of attachment 1 if no units were removed from service due to Prohibition Orders).

4. The Federal Power Commission considers this to be an acceptable reserve margin taking into consideration the geographical location of Somerset 8.

5. At the completion of the conversion there will be a net 0.6 MW derating of Somerset 8 as a result of using coal as its primary energy source.

6. Existing transmission system interconnections may transfer an additional 1,925 MW into the dispatching system. This capacity may provide an additional resource of electric power during the implementation period and will enhance the reliability of service.

E. *Conclusion.* If dispatching system conditions, including any scheduled outage by Somerset 8 are as presently forecast during the time required to implement a Prohibition Order by Somerset 8, there will be no impairment of reliability of service within the meaning of ESECA in the area served by Montaup or in the dispatching system as a result of the Order.

Attachment 1

New England power exchange reliability data—Somerset

	Assumed conversion period Mar. 1–Apr. 29, 1982	Megawatt capacity
1	Gross capacity of NEPEX as of Sept. 1, 1976	20,841
2	Added capacity	2,115
3	Gross capacity	22,956
4	Scheduled outages for maintenance	2,101
5	Projected outages due to prohibition orders	915
6	Maximum projected outages due to maintenance and prohibition orders (line 4 and line 5)	3,016
7	Unit outage	122
8	Peak load	15,684
9	Net dependable capacity	19,940
10	Reserve capacity	4,256
11	Reserve margin percent (maintenance and prohibition orders)	27.14
12	Reserve margin percent (maintenance only)	32.97

Attachment 2

New England power exchange conversion schedule

NEPEX member	Station	Unit	Assumed conversion dates
Northeast Utilities	Mt. Tom	1	March to April 1982
Do	Middletown	1	March to April 1982
Do	do	2	May to June 1982
Do	do	3	July to September 1982
Do	Norwalk Harbor	1	March to August 1982
Do	do	2	September to February 1983
The United Illuminating Co.	Bridgeport Harbor	1	March to April 1982
Do	do	2	July to August 1982
Do	do	3	September to October 1982
Eastern Utilities Associates	Somerset	8	March to April 1982
New England Electric System	Brayton Point	1	March to April 1982
Do	do	2	July to August 1982
Do	do	3	October to November 1982
Do	Salem Harbor	1	March to April 1982
Do	do	2	July to August 1982
Do	do	3	September to October 1982

APPENDIX

PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A PROHIBITION ORDER

ESECA and the FEA regulations require FEA to make certain findings before issuing a Prohibition Order to a powerplant. FEA's proposed findings are set out below with respect to the powerplants named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Generating station	Unit No.	Location
OFU-078 OFU-079 OFU-080	New England Electric System/New England Power Co.	Salem Harbor	1 2 3	Salem, Mass.

These findings, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to Issue a Prohibition Order.

New England Power Company, a wholly-owned subsidiary of New England Electric System shall be referred to as the "utility" and as "NEPCO".

I. *Capability and necessary plant equipment to burn coal.* FEA proposes to find that on June 22, 1974, Powerplants Number 1, Number 2 and Number 3 at Salem Harbor Generating Station (Salem Harbor 1, 2 and 3) had the capability and necessary plant equipment to burn coal. This proposed finding is based on the facts and interpretations stated below:

A. New England Electric System, in information filed with FEA dated April 11, 1975, indicated that each powerplant had in place on June 22, 1974, a boiler that was capable of burning coal. The boilers had been designed and constructed or modified to burn coal as their primary energy source, notwithstanding the fact that on June 22, 1974, the powerplant may not have been burning coal as its primary energy source.

B. Based on information New England Electric filed with FEA dated April 11, 1975, and other information available to FEA, the following plant equipment or facilities at Salem Harbor 1, 2 and 3 would have to be acquired or refurbished in order for these powerplants to burn coal as their primary energy source:

1. Coal handling equipment.
2. Pulverizers, burners and boilers.
3. Ash handling equipment.

C. FEA proposes to find that on June 22, 1974, Salem Harbor 1, 2 and 3 had all other significant plant equipment and facilities associated with the burning of coal.

D. Within the meaning of ESECA and the regulations promulgated pursuant thereto, the equipment and facilities listed in paragraph B, above, do not individually or in combination constitute a lack of capability and necessary plant equipment to burn coal as of June 22, 1974.

II. *The burning of coal in lieu of natural gas or petroleum products is practicable and consistent with the purposes of ESECA.* FEA proposes to find that the burning of coal at Salem Harbor 1, 2 and 3 in lieu of petroleum products or natural gas is practicable and consistent with the purposes of ESECA. This finding is based upon the presumption that Salem Harbor 1, 2 and 3 will be operated at a 49 percent capacity factor (this represents a weighted average of each powerplant's projected capacity factor), have a remaining useful life of 20 years (as of the date of this NOI), are expected to have at least 15 years remaining useful life after conversion of the powerplants, and on the facts and interpretations stated below:

A. *The burning of coal is practicable*—1. *Costs associated with burning coal.* a. *Capital investment costs.* The total initial capital investment costs, exclusive of financing costs, that would result from the acquisition and refurbishment of equipment and facilities associated with the burning of coal at Salem Harbor 1, 2, and 3 are estimated to be approximately $39,997,000 which assumes that electrostatic precipitators will be required at a cost of $19,813,000 to comply with the air pollution control requirements of the Clean Air Act. This estimate is based on a PEDCo-Environmental Specialists, Inc., report entitled Evaluation Of The Coal Conversion Potential Of The Salem Harbor Generating Station, March 28, 1977 (hereafter "PEDCo. Report").

b. *Annual operating and maintenance costs.* The increase in operating and maintenance costs exclusive of fuel costs, that would result from the burning of coal is estimated to be approximately $3,813,000 per year including $3,301,000 for operation and maintenance of air pollution control equipment. This estimate is based on the PEDCo. Report.

c. *Fuel costs.* (i) Based on information supplied in Platts Oilgram Price Service, dated January 11, 1977, the price of petroleum products available to Salem Harbor 1, 2 and 3 is approximately $2.16 per million Btu's for oil. This represents $13.41 per barrel of oil, assuming 6.2 million Btu's per barrel.

(ii) Based on information supplied by NUS Corporation and Center for Energy Policy Inc. the price of coal available to Salem Harbor 1, 2 and 3 is approximately $1.37 per million Btu's. This represents $35.07 per ton of coal, assuming 25.6 million Btu's per ton.

(iii) FEA estimates that the burning of coal by these powerplants will result in the reduction of approximately $0.79 per million Btu's, or $10,022,000 per year in fuel costs. This estimate is based on fuel consumption presuming Salem Harbor 1, 2 and 3 are operated at a weighted average 49 percent capacity factor and with an average heat rate of 9,790 Btu's per kilowatt hour.

d. *Total annual costs associated with conversion.* As a result of the conversion of Salem Harbor 1, 2 and 3, there will be an estimated total annual increase in costs incurred, exclusive of fuel costs, of approximately $13,500,000.

2. *Reasonableness of costs of conversion.* The foregoing analysis of the costs of conversion provides the basis for deciding whether the conversion of Salem Harbor 1, 2 and 3 is reasonable. Financial impacts of the conversion will be felt by the utility and by the consumer.

As a result of conversion, the utility will incur additional annual capital investment costs, including financing costs, of approximately $9,687,000 (this represents an amortized cost over the 15 years remaining useful life of these powerplants after conversion, and is based on a fixed charge rate of 24.2% of the total initial capital investment of $39,997,000) and additional annual operating and maintenance costs, exclusive of fuel costs, of approximately $3,813,000 (these figures are derived from the figures in paragraphs A.1. a., and b.), but will experience an annual fuel cost savings of approximately $10,022,000. (See paragraph A.1.c) The estimated net annual increase in cost of producing electricity at Salem Harbor 1, 2 and 3 after conversion will be $3,478,000.

Increased costs for conversion will be mitigated by the decrease in fuel costs. The net result, however, will be an increase in the cost of producing electricity at Salem Harbor 1, 2 and 3. The costs to the utility resulting from the Prohibition Order ultimately will be recovered in rates.

The use of coal at Salem Harbor 1, 2 and 3 will result in an estimated annual equivalent savings of 2,046,000 barrels of oil that otherwise would be used in providing steam for electric power generation. The cost of conversion per barrel of oil saved is estimated to be $1.70.

Although conversion to the burning of coal would be expected to increase the cost of producing electricity at Salem Harbor 1, 2 and 3, FEA proposes to find that such increased cost, per barrel of oil saved, is not unreasonable. This determination is based on consideration of the substantial savings of oil that will result from this conversion. The determination that the costs of converting are not unreasonable is further supported by consideration of such costs in relation to the expected 15 years remaining useful life of the powerplants after conversion, the size and resources of New England Electric System as examined in the following analysis of financial capability, the nature of the expected operations of these powerplants, and potential future increases in the fuel cost differential in favor of coal.

3. *Financial capabilities of New England Electric System.*—a. *Recovery of capital investment.* FEA proposes to find that compliance with a Prohibition Order to Salem Harbor 1, 2 and 3 would be economically feasible. FEA's analysis took into consideration the $116,272,000 additional capital investment costs required for New England Electric System to comply with this NOI and all other NOI's which are currently under consideration, as well as additional capital investment costs related to all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of Section 2 (a) and (c) of ESECA to New England Electric System powerplants. FEA related these additional capital-investment costs to New England Electric System's estimate of its 1977-79 construction budget of $769 million, the total capitalization of New England Electric System of $1.4 billion, and the 15 years remaining useful life after conversion of Salem Harbor 1, 2 and 3.

FEA does not consider the effect of this added capital investment cost to represent an unreasonable burden given the financial relationship which exists between New England Electric System and its subsidiaries, and their combined financial capabilities to assume such costs.

b. *Total annual costs associated with conversion.* The total estimated annual increase in costs (amortized increased capital investment costs and other costs, exclusive of fuel costs) associated with the burning of coal as opposed to oil attributable to compliance with this NOI and all other NOI's which are currently under consideration would be $42,540,000. This also represents the total estimated annual incremental increase in revenue requirements of the subsidiaries of New England Electric Systems. (FEA also took into consideration revenue requirements of the subsidiaries of New England Electric Systems resulting from compliance with all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of Section 2 (a) and (c) of ESECA to New England Electric Systems powerplants.) This estimate of $42,540,000 in revenue requirements is based on an investment oriented analysis described in an Ultrasystems Inc. report entitled Computer Methodology For Coal Conversion Cost Reasonableness Determination, August 1976, (hereafter "Ultrasystems Computer Model"). The estimate includes an incremental rate of return on retained earnings which are invested.

(For comparison with the Ultrasystems Computer Model results, FEA performed a financial analysis based on a Price Waterhouse and Co. report entitled Identification of Possible Financial Effects of Converting Certain Electric Generating Facilities To The Use of Coal, October 1976. This analysis estimated the total annual incremental increase in revenue requirements to be $40,129,000 which assumed a predicted effect on New England Electric System's financial statement and represents revenues required to offset any potential loss in New England Electric System's net earnings per share as reported for Fiscal Year ending 1975.)

The total estimated annual increase in costs of $42,540,000 associated with conversion ultimately will be recovered in rates. However, due to the potential offsetting aggregate value of fuel cost savings of approximately $62,383,000 attributable to compliance with this NOI and all other NOI's currently under consideration, the net annual revenue requirements of the affected subsidiaries of New England Electric Systems should decrease by approximately $19,843,000.

4. *Consumer impact.* NEPCO, a wholly-owned subsidiary of New England Electric System is the owner and operator of the Salem Harbor Generating Station and the relevant entity for considering the consumer impact of compliance with a Prohibition Order to Salem Harbor 1, 2 and 3.

The potential initial impact of a Prohibition Order to Salem Harbor 1, 2 and 3 is a net increase in revenues required from NEPCO consumers of approximately $0.00005 per kilowatt hour of electricity sold by NEPCO. This estimate is based on FEA's analysis of the Ultrasystems Computer Model.

The actual amount of the increase will depend on the actual amount of the investment necessary to comply with a Prohibition Order, the methods which New England Electric System selects to finance the increased costs associated with burning coal as a primary energy source at Salem Harbor 1, 2 and 3, the extent to which the cost increase is spread among NEPCO customers, the regulations or policies of the regulatory agencies with jurisdiction over NEPCO regarding inclusion of such cost increases in consumer rates, the actual amount of the fuel cost differential, and other factors.

B. *Consistency with the purposes of ESECA.* Because the issuance of a Prohibition Order to Salem Harbor 1, 2 and 3 will discourage the use of natural gas or petroleum products and encourage the increased use of coal, FEA proposes to conclude that this action would be consistent with the purpose of ESECA to provide a means to assist in meeting the

essential needs of the United States for fuels.

On the basis of the environmental analysis which FEA is required to conduct prior to issuance of a Notice of Effectiveness of a Prohibition Order, as well as the necessity for these powerplants to comply with the Clean Air Act and other applicable environmental protection requirements, FEA proposes to conclude that a Prohibition Order to Salem Harbor 1, 2 and 3 would be consistent with the purpose of ESECA to provide for a means to assist in meeting the essential needs of the United States for fuels in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment.

III. *Coal and coal transportation facilities will be available to these powerplants during the period until December 31, 1984.*

A. *Coal availability.*—1. *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the foreseeable future. U.S. Department of the Interior, Bureau of Mines data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverabe (Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974, Bureau of Mines (May 1975) (hereafter "BOM Survey")). Within these recoverable reserves approximately 200 billion tons contain 1% or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies, referenced herein, which together provide the best current evidence as to coal availability for the period ending December 31, 1984.

2. *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnages of uncommitted planned national coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets 99% of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

a. *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	*Production potential (million tons)*
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's Coal Mine Expansion Study (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980.

The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, Availability of Potential Coal Supply Through 1985 by Quality Characteristics, August 1976, (hereafter "Availability Study") indicates current plans for nationwide production of uncommitted coal as follows:

Year:	*Production (million tons)*
1977	48.4
1978	122.2
1979	237.1
1980	287.3
1981	344.0
1982	363.9
1983	390.1
1984	469.5
1985	544.9

b. *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) of ESECA, is as follows (FEA 1976 National Energy Outlook):

Year:	*Demand (million tons)*
1977	698
1978	739
1979	764
1980	793
1981	842
1982	887
1983	935
1984	985
1985	1,040

c. *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA is as follows (Coal Availability and Demand: Round I and II Coal Conversion Candidates, August 1976, (hereafter "Coal Conversion Study")):

Year:	*Demand (million tons)*
1977	4.5
1978	9.1
1979	12.0
1980	17.0
1981	19.2
1982	26.8
1983	26.8
1984	26.8

3. *Characteristic coal, production and demand.* FEA's "Availability Study" identifies coal of specific quality characteristics available for use at Salem Harbor 1, 2 and 3. The survey is based on data from 31 mining companies that supplied useful information on 96 mining units. Responses from these companies identified planned production of coal which is not now committed to a specific buyer. For those companies which did not respond to the survey, FEA estimated their uncommitted planned production based on their 1974 production.

a. *Characteristic coal requirements for these powerplants.* FEA's "Coal Conversion Study" has determined that pulverized-coal dry bottom boilers of the type used at Salem Harbor 1, 2 and 3 will be able to burn coal of the following characteristics and comply with all applicable air pollution control requirements:

BTU's/lb.	[1] 12,500
Moisture (percent)	[2] 15
Ash (percent)	[2] 20
Volatile (percent)	[1] 15
Ash softening temp. (°F)	[1] 2,200
Sulfur (approx) (percent)	[2] 0.8

[1] Minimum.
[2] Maximum.

b. *Characteristic coal demand from these powerplants.* The potential demand for coal, of the type described above, which would result from this NOI is estimated to be as follows:

Year:	*Demand (thousand tons)*
1982 and thereafter	496

c. *National planned production, characteristic coal.* The FEA "Coal Conversion Study" has determined that coal of the type described in paragraph A.3.a., above, is uncommitted to a specific buyer and will be potentially available to Salem Harbor 1, 2 and 3 in a nationwide market as follows:

Year:	*Production (thousand tons)*
1977	8,072
1978	14,793
1979	27,186
1980	30,120
1981	35,075
1982	36,966
1983	39,440
1984	46,768

d. *National ESECA prohibition order demand for coal, regardless of characteristics.* The national planned production of characteristic coal, as stated in paragraph A.3.c., above, exceeds potential demand for coal regardless of characteristic expected from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under Section 2(a) of ESECA. National ESECA Prohibition Order demand as previously stated in paragraph A.2.c., above, is:

Year:	*Demand (thousand tons)*
1977	4,500
1978	9,100
1979	12,000
1980	17,000
1981	19,200
1982	26,800
1983	26,800
1984	26,800

e. *Regional planned production, characteristic coal.* Coal with the characteristics described in paragraph A.3.a., above, is uncommitted and will be potentially available to Salem Harbor 1, 2 and 3 (in a probable regional supply/demand relationship related to the location of these powerplants) from Bureau of Mines Districts 1 through 8 and 13 as follows:

Year:	*Production (thousand tons)*
1977	7,727
1978	13,920
1979	25,369
1980	28,022
1981	32,547
1982	34,294
1983	36,578
1984	43,250

f. *Regional ESECA prohibition order demand for coal, regardless of characteristic.* The expected regional production of characteristic coal, as stated in paragraph A.3.e., above, exceeds the potential demand for coal regardless of characteristic from Bureau of Mines District 1 through 8 and 13 expected to result from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. This potential regional demand is estimated in FEA's "Coal Conversion Study" as follows:

Year:	*Demand (thousand tons)*
1977	2,369
1978	4,449
1979	5,811
1980	10,351
1981	11,905

Year:	Demand (thousand tons)
1982	19,503
1983	19,503
1984	19,503

g. *Regional ESECA prohibition order demand for coal sulfur characteristic.* The potential regional demand within BOM Districts 1 through 8 and 13 for coal with a 0.61–1.0 percent sulphur content (which includes the 0.8 percent maximum sulfur content described in paragraph A.3.a., above) resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA is estimated in FEA's "Coal Conversion Study" as follows:

Year:	Demand (thousand tons) Percent sulfur 0.61 to 1.0
1977	1,237
1978	2,767
1979	3,854
1980	7,100
1981	8,172
1982	12,331
1983	12,331
1984	12,331

The regional planned production of coal stated in paragraph A.3.e., above, with the characteristics described in paragraph A.3.a., above, far exceeds the potential ESECA regional demand for coal by sulfur characteristics.

4. *State or local laws.* FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

5. *Conclusion.* FEA's "Availability Study" has identified nationally and in Bureau of Mines Districts 1 through 8 and 13 uncommitted coal production that meets the requirements of Salem Harbor 1, 2 and 3 as described in paragraph A.3.a., above. FEA proposes to find that this uncommitted coal exists in amounts sufficient in any year to meet the estimated additional demand for coal, both nationally and from these Districts, resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA.

Coal for Salem Harbor 1, 2 and 3 will probably be bought from producers according to regional supply/demand relationships related to the powerplants' locations from Bureau of Mines Districts 1 through 8 and 13. FEA observes, however, that these powerplants could purchase coal in other markets as such production becomes available. (The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond, School of Engineering, University of Pennsylvania, November 7, 1975.)

B. *Coal transportation.*—1. *Location of powerplants and coal supply.* Based on an FEA study, Utility Analysis of Coal Transportation Availability, November 1976 (hereafter "Transportation Availability Study"), coal for Salem Harbor 1, 2 and 3 would probably come from Bureau of Mines (BOM) District 8 as the primary source of supply and from District 13 as the alternate source of supply. While these supply areas are the nearest available potential sources able to supply complying coal to these powerplants, complying coal can be transferred by rail from other identified, sources within the United States. The analysis of transportation availability is based on the most likely route as well as two alternate routes. These routes were chosen to demonstrate transportation availability.

2. *Route of coal shipment.* A primary route for coal delivery for Salem Harbor 1, 2 and 3 would originate on the Norfolk & Western (N&W) Railroad to Norfolk, Virginia. Ocean barges towed by Express Marine or Red Star Towing and Transportation could transport the coal from N&W's Lambert's Point Piers 5 or 6 to the plant. The total rail distance is approximately 400 miles, with a marine leg of about 650 miles.

One alternate route from BOM District 8 would involve originating coal on the N&W via Hagerstown, Maryland, taking Conrail through New York City to Boston, Massachusetts, and to Salem Harbor 1, 2 and 3 via the Boston and Maine Corporation Railroad.

Another alternate route from the alternate supply would be to originate coal from BOM District 13 to Bristol, Virginia, via Southern Railway, on to Norfolk, Virginia, via N&W, and then by ocean barge to Salem, Massachusetts.

3. *Originating trunk carrier.* The N&W, the expected originating carrier of coal for Salem Harbor 1, 2 and 3, has approximately 54,000 hopper cars with an estimated average capacity of 85 tons. Using an average number of deliveries of 20 per year per 85-ton car, the N&W may need as many as 290 additional cars to handle the increased demand from Salem Harbor 1, 2 and 3.

This estimate assumes that the railroad would neither have excess originating capacity nor obtain cars from other carriers in the originating vicinity.

Only about 2 percent of the hopper fleet is in heavy bad order and retirement rates through 1985 are expected to average approximately 1,200/year. The N&W indicated that it is willing to acquire any needed capacity involved in shipment to Salem Harbor 1, 2 and 3 and that it would modify its expansion plans with demand conditions. The railroad also indicated that its carrying capacity could be expanded as quickly as the utility prepares to burn coal.

FEA's "Transportation Availability Study" concluded that for all potential Prohibition Order candidates studied, there would be no major constraints in transporting coal. The study examined existing rail transportation car capacity, water transportation capacity, including unloading docks, where applicable, and took into account projections made by all carriers to meet the anticipated demand for all types of transportation facilities assuming all powerplants studied were to receive orders under section 2(a) of ESECA.

The N&W indicated that transportation facilities at those mine sites within BOM District 8 are in satisfactory operating condition and that loading facilities could handle the required coal volumes.

FEA has not found nor has it been informed of any apparent constraints to carrying coal for any alternate or intermediate carriers should they be used.

4. *Destination carrier and powerplant facilities.* Coal for Salem Harbor 1, 2 and 3 would be barged by Express Marine or Red Star Towing and Transportation to the powerplants from the N&W Lambert's Point Piers in Norfolk, Virginia. Ocean-going barges of 23,000 tons would be used. Existing barge capacity would be available from the Gulf of Mexico areas; however, new barges may have to be built. Barge companies are willing to build the necessary equipment, given a 2 to 3 year lead time and a long-term coal shipping commitment.

Salem Harbor 1, 2 and 3 has sufficient docking space to accommodate inland barges. New England Electric System has indicated that the bulkhead and wharf would need improvements and repairing. It is expected that these repairs can be accomplished prior to the effective date for coal burning.

There are no other obstacles to the delivery of coal to Salem Harbor 1, 2 and 3.

5. *Conclusion.* Coal transportation facilities will be available for the period a Prohibition Order is expected to be in effect since no significant constraints to coal delivery over the primary route to Salem Harbor 1, 2 and 3 presently exist and alternate routes are available.

IV. *The prohibition of the burning of natural gas or petroleum products as their primary energy source will not impair the reliability of service in the area served by the affected powerplants.* Based on an analysis of the information submitted to FEA by the Federal Power Commission, and after consultation with the Federal Power Commission, FEA proposes to find that the issuance of a Prohibition Order to Salem Harbor 1, 2 and 3 will not impair the reliability of service in the area served by these powerplants. This proposed finding is based on the facts and interpretations stated below:

A. *Description of the dispatching system.* 1. The Salem Harbor Generating Station is owned by NEPCO, which is owned by New England Electric System, which is a member of the New England Power Exchange (NEPEX), which is within the geographical area of the New England Subregion of the Northeast Power Coordinating Council regional electric reliability council.

2. The term "dispatching system" as used in the proposed finding means NEPEX.

3. The gross capacity as of September 1976, of all dispatching system powerplants was 20,841 MW. (See line 1, attachment 1.)

4. Proposed changes up to the period in which Salem Harbor 1, 2 and 3 may implement a Prohibition Order will result in the gross capacities indicated on line 3 of attachment 1 because of the following changes in the dispatching system listed in Table 1:

TABLE 1

Powerplant designation	Fuel	Type of change	Capacity change (megawatt)	Effective date
Potter 2	Oil	Add	+95	January 1977.
Wyman 4	Oil	Add	+600	December 1978.
Seabrook 1	Nuclear	Add	+1,150	June 1981.
Stony Brook 1	Oil	Add	+270	November 1981.
Millstone Point 3	Nuclear	Add	+1,150	May 1982.
Pilgrim 2	do	Add	+1,180	October 1982.

Totals:	Added
Mar. 1 to Apr. 30, 1982	+2,115
July 1 to Aug. 31, 1982	+3,265
Sept. 1 to Oct. 31, 1982	+4,415

NOTE.—See line 2, attachment 1.

5. The proposed changes in Table 1, above, are based on the best information available to FEA and the Federal Power Commission (FPC Form 12E-2 dated October 25, 1976) at the time this NOI is issued. FEA has taken into consideration the possibility that the proposed changes may not be completed by the indicated effective date, but has determined that in such event, with minor modifications to the projected schedule of changes contained in Table 1, as well as the New England Power Exchange Conversion Schedule (attachment 2 to this NOI), gross capacity in the dispatching system would not be significantly affected during the period required for conversion of Salem Harbor 1, 2 and 3. The New England Power Exchange Conversion Schedule is FEA's estimate of the outage times for all the powerplants in NEPEX that are currently being considered for Prohibition Orders. The schedule assumes outages for conversion at those times that are optimally suited, in terms of forecast peak load periods, to maintain reliability of service.

B. *Forecast peak loads for the dispatching system.* 1. Forecasts of peak loads for the dispatching system during the period in which Salem Harbor 1, 2 and 3 would implement a Prohibition Order are as indicated on line 8 of attachment 1.

2. The forecast peak loads have been compared with loads in previous similar periods. The annual peak load growth rate for these forecasts is 5.5 percent.

C. *Maximum projected outages for the dispatching system.* 1. Scheduled outages, for normal maintenance, including other powerplants implementing Prohibition Orders and nuclear plant refueling within the dispatching system during the periods in which Salem Harbor 1, 2 and 3 may be implementing a Prohibition Order, may result in some loss of capacity which is expected to be as indicated on line 4 of attachment 1.

2. A projected outage of 2 months for each powerplant is estimated to be required to make modifications, installations, or other physical adjustments required by a Prohibition Order should it become effective. The powerplants may be less than fully dependable during the period of on-line testing and adjustment following such modifications. This period is not expected to exceed 30 days. To take advantage of the maximum reserve capacity, these projected outages are most likely to occur during the year 1982. The potential loss of capacity from an outage of either Salem Harbor 1, 2 or 3 would be approximately 82 MW, for 1 or 2, and 156 MW for 3 (line 7 attachment 1) which is included in the total outages indicated on line 6 of attachment 1. It is expected that Salem Harbor 1, 2 and 3 will be implementing a Prohibition Order at different times.

3. Maximum projected outages within the dispatching system include normal scheduled maintenance for all powerplants (line 4 of attachment 1) and outages due to conversion (line 5 of attachment 1) for those powerplants to be implementing Prohibition Orders, if the attached New England Power Exchange Conversion Schedule is followed. Maximum projected outages are expected to be as indicated on line 6 of attachment 1, thereby reducing the gross capacity and resulting in a net dependable capacity for the dispatching system.

D. *Net dependable capacity for the dispatching system.* 1. Based on the foregoing information, the net dependable capacity of the dispatching system at the expected time of implementation of a Prohibition Order would be as indicated on line 9 of attachment 1.

2. Comparing these net dependable capacities to the forecast peak loads shown on line 8, attachment 1 indicates that the reserve capacities shown on line 10 of attachment 1 would exist for the dispatching system.

3. Comparison of these reserve capacities to the forecast peak loads shown on line 8 of attachment 1 results in reserve margins as indicated on line 11 of attachment 1 (as contrasted with reserve margins as indicated on line 12 of attachment 1 if no units were removed from service due to Prohibition Orders).

4. The Federal Power Commission considers these to be acceptable reserve margins taking into consideration the geographical location of Salem Harbor 1, 2 and 3.

5. At the completion of the conversion there will be a net 1.68 NW derating of Salem Harbor 1, 2 and 3 as a result of using coal as their primary energy source.

6. Existing transmission system interconnections may transfer an additional 1,925 MW into the dispatching system. This capacity may provide an additional resource of electric power during the implementation period and will enhance the reliability of service.

E. *Conclusion.* If dispatching system conditions, including any scheduled outage by Salem Harbor 1, 2 and 3, are as presently forecast during the time required to implement a Prohibition Order by Salem Harbor 1, 2 and 3, there will be no impairment of reliability of service within the meaning of ESECA in the area served by NEPCO or in the dispatching system as a result of the Order.

Attachment 1

New England power exchange reliability data—Salem Harbor

		Assumed conversion periods megawatt capacity		
		1982 Mar. 1-Apr. 30	1982, July 1-Aug. 31	1982, Sept. 1-Oct. 31
1	Gross capacity of NEPEX as of Sept. 1, 1976	20,841	20,841	20,841
2	Added capacity	2,115	3,265	4,445
3	Gross capacity	22,956	24,106	25,286
4	Scheduled outages for maintenance	2,101	687	3,603
5	Projected outages due to prohibition orders	965	1,039	1,598
6	Maximum projected outages due to maintenance and and prohibition orders (line 4 plus line 5)	3,066	1,726	5,201
7	Unit outage	82	82	156
8	Peak load	15,684	18,533	17,162
9	Net dependable capacity	19,890	22,380	20,085
10	Reserve capacity	4,206	3,847	2,923
11	Reserve margin percent (maintenance and prohibition orders)	26.82	20.76	17.03
12	Reserve margin percent (maintenance only)	32.97	26.36	26.24

Attachment 2

New England power exchange conversion schedule

NEPEX member	Station	Unit	Assumed conversion dates
Northeast Utilities	Mt. Tom	1	March to April 1982.
Do	West Springfield	2	Do.
Do	do	3	July to August 1982.
Do	Middletown	1	March to April 1982.
Do	do	2	May to June 1982.
Do	do	3	July to September 1982.
Do	Norwalk Harbor	1	March to August 1982.
Do	do	2	September to February 1983.
The United Illuminating Co	Bridgeport Harbor	1	March to April 1982.
Do	do	2	July to August 1982.
Do	do	3	September to October 1982.
Eastern Utilities Associates	Somerset	8	March to April 1982.
New England Electric System	Brayton Point	1	Do.
Do	do	2	July to August 1982.
Do	do	3	October to November 1982.
Do	Salem Harbor	1	March to April 1982.
Do	do	2	July to August 1982.
Do	do	3	September to October 1982.

C. *Maximum projected outages for the dispatching system.* 1. Scheduled outages, for normal maintenance, including other powerplants implementing Prohibition Orders and nuclear plant refueling within the dispatching system during the periods in which Salem Harbor 1, 2 and 3 may be implementing a Prohibition Order, may result in some loss of capacity which is expected to be as indicated on line 4 of attachment 1.

2. A projected outage of 2 months for each powerplant is estimated to be required to make modifications, installations, or other physical adjustments required by a Prohibition Order should it become effective. The powerplants may be less than fully dependable during the period of on-line testing and adjustment following such modifications. This period is not expected to exceed 30 days. To take advantage of the maximum reserve capacity, these projected outages are most likely to occur during the year 1982. The potential loss of capacity from an outage of either Salem Harbor 1, 2 or 3 would be approximately 82 MW, for 1 or 2, and 156 MW for 3 (line 7 attachment 1). The potential loss of capacity from a combined outage of Salem Harbor 1, 2 and 3 would be approximately 320 MW. This represents the maximum potential loss due to outages at these powerplants, but it is expected that Salem Harbor 1, 2 and 3 will be implementing a Prohibition Order at different times. This maximum potential loss of 320 MW is included in the total outages indicated on line 6 of attachment 1. (The assumed conversion period specified on attachment 1 and 2 is shown for purpose of illustration only.)

3. Maximum projected outages within the dispatching system include normal scheduled maintenance for all powerplants (line 4 of attachment 1) and outages due to conversion (line 5 of attachment 1) for those powerplants to be implementing Prohibition Orders, if the attached New England Power Exchange Conversion Schedule is followed.

Maximum projected outages are expected to be as indicated on line 6 of attachment 1, thereby reducing the gross capacity and resulting in a net dependable capacity for the dispatching system.

D. *Net dependable capacity for the dispatching system.* 1. Based on the foregoing information, the net dependable capacity of the dispatching system at the expected time of implementation of a Prohibition Order would be as indicated on line 9 of attachment 1.

2. Comparing these net dependable capacities to the forecast peak loads shown on line 8, attachment 1 indicates that the reserve capacities shown on line 10 of attachment 1 would exist for the dispatching system.

3. Comparison of these reserve capacities to the forecast peak loads shown on line 8 of attachment 1 results in reserve margins as indicated on line 11 of attachment 1 (as contrasted with reserve margins as indicated on line 12 of attachment 1 if no units were removed from service due to Prohibition Orders).

4. The Federal Power Commission considers these to be acceptable reserve margins taking into consideration the geographical location of Salem Harbor 1, 2 and 3.

5. At the completion of the conversion there will be a net 1.68 MW derating of Salem Harbor 1, 2 and 3 as a result of using coal as their primary energy source.

6. Existing transmission system interconnections may transfer an additional 1,925 MW into the dispatching system. This capacity may provide an additional resource of electric power during the implementation period and will enhance the reliability of service.

E. *Conclusion.* If dispatching system conditions, including any scheduled outage by Salem Harbor 1, 2 and 3, are as presently forecast during the time required to implement a Prohibition Order by Salem Harbor 1, 2 and 3, there will be no impairment of reliability of service within the meaning of ESECA in the area served by NEPCO or in the dispatching system as a result of the Order.

Attachment 1

New England power exchange reliability data—Salem Harbor

		Assumed conversion periods (megawatt capacity)		
		1982, Mar. 1–Apr. 30	1982, July 1–Aug. 31	1982, Sept. 1–Oct. 31
1	Gross Capacity of NEPEX as of 9/1/76	20,841	20,841	20,841
2	Added capacity	2,115	3,265	4,445
3	Gross capacity	22,956	24,106	25,286
4	Scheduled outages for maintenance	2,101	687	3,603
5	Projected outages due to prohibition orders	915	925	1,598
6	Maximum projected outages due to maintenance and prohibition orders (line 4 plus line 5)	3,016	1,612	5,201
7	Unit outage	82	82	156
8	Peak load	15,684	18,533	17,162
9	Net dependable capacity	19,940	22,494	20,085
10	Reserve capacity	4,256	3,961	2,923
11	Reserve margin percent (maintenance and prohibition orders)	27.14	21.37	17.03
12	Reserve margin percent (maintenance only)	32.97	26.36	26.34

Attachment 2

New England power exchange conversion schedule

NEPEX member	Station	Unit	Assumed conversion dates
Northeast Utilities	Mt. Tom	1	March to April 1982.
Do	Middleton	1	March to April 1982.
Do	do	2	May to June 1982.
Do	do	3	July to September 1982.
Do	Norwalk Harbor	1	March to August 1982.
Do	do	2	September to February 1983.
The United Illuminating Co	Bridgeport Harbor	1	March to April 1982.
Do	do	2	July to August 1982.
Do	do	3	September to October 1982.
Eastern Utilities Associates	Somerset	8	March to April 1982.
New England Electric System	Brayton Point	1	March to April 1982.
Do	do	2	July to August 1982.
Do	do	3	October to November 1982.
Do	Salem Harbor	1	March to April 1982.
Do	do	2	July to August 1982.
Do	do	3	September to October 1982.

APPENDIX

PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A PROHIBITION ORDER

ESECA and the FEA regulations require FEA to make certain findings before issuing a Prohibition Order to a powerplant. FEA's proposed findings are set out below with respect to the powerplant named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Generating station	Unit No.	Location
OFU-085	Northeast Utilities/Holyoke Water Power Co.	Mount Tom	1	Holyoke, Mass.

These findings, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intension (NOI) to Issue a Prohibition Order.

Holyoke Water Power Co., a wholly-owned subsidiary of Northeast Utilities, shall be referred to as the "utility" and as "HWPCO".

I. *Capability and necessary plant equipment to burn coal.* FEA proposes to find that on June 22, 1974, Powerplant Number 1 at Mt. Tom Generating Station (Mt. Tom 1) had the capability and necessary plant equipment to burn coal. This proposed finding is based on the facts and interpretations stated below:

A. Northeast Utilities in information filed with FEA dated April 11, 1975, indicated that this powerplant had in place on June 22, 1974, a boiler that was capable of burning coal. The boiler had been designed and constructed or modified to burn coal as its primary energy source, notwithstanding the fact that on June 22, 1974, the powerplant may not have been burning coal as its primary energy source.

B. Based on information Northeast Utilities filed with FEA dated April 11, 1975, and other information available to FEA, the following plant equipment or facilities at Mt. Tom 1 would have to be acquired or refurbished in order for this powerplant to burn coal as its primary energy source:

1. Coal handling equipment
2. Pulverizer, burners and boilers
3. Ash handling equipment

C. FEA proposes to find that on June 22, 1974, Mt. Tom 1 had all other significant plant equipment and facilities associated with the burning of coal.

D. Within the meaning of ESECA and the regulations promulgated pursuant thereto, the quipment and facilities listed in paragraph B, above, do not individually or in combination constitute a lack of capability and necessary plant equipment to burn coal as of June 22, 1974.

II. *The burning of coal in lieu of natural gas or petroleum products is practicable and consistent with the purposes of ESECA.* FEA proposes to find that the burning of coal at Mt. Tom 1 in lieu of petroleum products or natural gas is practicable and consistent with the purposes of ESECA. This finding is based upon the presumption that Mt. Tom 1 will be operated at an 81 percent capacity factor, has a remaining useful life of 20 years (as of the date of this NOI), is expected to have at least 15 years remaining useful life after conversion of the powerplants and on the facts and interpretations stated below.

A. *The burning of coal is practicable.*—1. *Costs associated with burning coal.*

a. *Capital investment costs.* The total initial capital investment costs, exclusive of financing costs, that would result from the acquisition and refurbishment of equipment and facilities associated with the burning of coal at Mt. Tom 1 is estimated to be approximately $13,621,000, which assumes that an electrostatic precipitator will be required at a cost of $7,268,000 to comply with the air pollution requirements of the Clean Air Act. This estimate is based on a PEDCo-Environmental Specialists Inc. report entitled Evaluation Of The Coal Conversion Potential For The Mt. Tom Plant, March 17, 1977, (hereafter "PEDCo. Report").

b. *Annual operating and maintenance costs.* The increase in operating and main-

tenance costs, exclusive of fuel costs, that would result from the burning of coal is estimated to be approximately $754,000 per year including $467,000 for operation and maintenance of air pollution control equipment. This estimate is based on the PEDCo. Report.

c. *Fuel costs.* (i) Based on information supplied by Northeast Utilities, the price of petroleum products available to Mt. Tom 1 powerplant is approximately $2.29 per million BTU's for oil. This represents $14.29 per barrel of oil, assuming 6.24 million BTU's per barrel.

(ii) Based on information supplied by NUS Corporation and the Center for Energy Policy, Inc., the price of coal available to the Mt. Tom 1 powerplant is approximately $1.37 per million BTU's. This represents $35.07 per ton of coal, assuming 25.6 million BTU's per ton.

(iii) FEA estimates that the burning of coal by this powerplant will result in the reduction of approximately $0.92 cents per million BTU's, or $9,512,000 per year in fuel costs. This estimate is based on fuel consumption presuming Mt. Tom 1 is operated at an 81 percent capacity factor with an average heat rate of 9,912 per BTU's per kilowatt hour.

d. *Total annual costs associated with conversion.* As a result of the conversion of Mt. Tom 1, there will be an estimated total annual increase in costs incurred, exclusive of fuel costs, of approximately $4,071,000.

2. *Reasonableness of costs of conversion.* The foregoing analysis of the costs of conversion provides the basis for deciding whether the conversion of Mt. Tom 1 is reasonable. Financial impacts of the conversion will be felt by the utility and by the consumer.

As a result of conversion, the utility will incur additional annual capital investment costs, including financing costs, of approximately $3,3317,000 (this represents an amortized cost over the 15 years remaining useful life of this powerplant after conversion, and is based on a fixed charge rate of 24.4% of the total initial capital investment of $13,-621,000) and additional annual operating and maintenance costs, exclusive of fuel costs, of approximately $754,000 (these figures are derived from the figures in paragraphs A.1.a., and b.), but will experience an annual fuel cost savings of approximately $9,512,000. (See paragraph A.1.c.). Considering the fuel cost savings, the total annual cost of operating Mt. Tom 1 should be reduced by $5,441,000.

Since all increased costs of conversion will be offset by the decrease in fuel costs, it is estimated that there will be an overall net decrease in the cost of producing electricity at Mt. Tom 1. The costs to the utility resulting from a Prohibition Order ultimately will be recovered in rates.

The use of coal at Mt. Tom 1 will result in estimated annual equivalent savings of 1,657,000 barrels of oil that otherwise would be used in providing steam for electric power generation.

FEA proposes to find that, since the increased annual capital investment costs and operating and maintenance costs at the powerplant are offset by the current fuel cost differential between oil and coal burning at this powerplant, and potential future increases in the fuel cost differential in favor of coal, the additional costs associated with burning coal are reasonable.

3. *Financial capabilities of Northeast Utilities.*—a. *Recovery of capital investment.* FEA proposes to find that compliance with a Prohibition Order to Mt. Tom 1 would be economically feasible. FEA's analysis took into consideration the $116,975,000 additional capital investment costs required for Northeast Utilities to comply with this NOI and all other NOI's which are currently under consideration, as well as additional capital investment costs related to all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of Section 2(a) and (c) of ESECA to Northeast Utilities powerplants. FEA related these additional capital investment costs to Northeast Utilities' estimate of its 1977–79 construction budget of $565 million, the total capitalization of Northeast Utilities of $2.3 billion, and the 15 years remaining useful life after conversion of Mt. Tom 1.

FEA does not consider the effect of this added capital investment cost to represent an unreasonable burden given the financing relations which exists between Northeast Utilities and its subsidiaries, and their combined financial capabilities to assume such costs.

b. *Total annual costs associated with conversion.* The total estimated annual increase in costs (amortized increased capital investment costs and other costs, exclusive of fuel costs) associated with the burning of coal as opposed to oil attributable to compliance with this NOI and all other NOI's which are currently under consideration would be $55,807,000. This also represents the total estimated annual incremental increase in revenue requirements of the subsidiaries of Northeast Utilities. (FEA also took into consideration revenue requirements of the subsidiaries of Northeast Utilities resulting from compliance with all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of Section 2 (a) and (c) of ESECA to Northeast Utilities powerplants.) This estimate of $55,807,000 in revenue requirements is based on an investment oriented analysis described in an Ultrasystems Inc. report entitled Computer Methodology For Coal Conversion Cost Reasonableness Determination, August 1976, (hereafter "Ultrasystems Computer Model"). The estimate includes an incremental rate of return on retained earnings which are invested.

(For comparison with the Ultrasystems Computer Model results, FEA performed a financial analysis based a Price Waterhouse and Co. report entitled Identification Of Possible Financial Effects Of Converting Certain Electric Generating Facilities To The Use Of Coal, October 1976. This analysis estimated the total annual incremental increase in revenue requirements to be $47,-053,000, which assumed a predicted effect on Northeast Utilities' financial statement and represents revenues required to offset any potential loss in Northeast Utilities' net earnings per share as reported for Fiscal Year ending 1975.)

The total estimated annual increase in costs of $55,807,000 associated with conversion ultimately will be recovered in rates. However, due to the potential offsetting aggregate value of fuel cost savings of approximately $61,900,000 attributable to compliance with this NOI and all other NOI's currently under consideration, the net annual revenue requirements of the affected subsidiaries of Northeast Utilities should decrease by approximately $6,097,000.

4. *Consumer impact.* The HWPCO, a wholly-owned subsidiary of Northeast Utilities, is the owner and operator of the Mt. Tom generating station and the relevant entity for considering the consumer impact of compliance with a Prohibition Order to Mt. Tom 1.

The potential initial impact of a Prohibition Order to Mt. Tom 1 is a net decrease in revenues required from HWPCO consumers of approximately $0.00381 per kilowatt hour of electricity sold by HWPCO.

This estimate is based on FEA's analysis of the Ultrasystems Computer Model. The actual amount of the decrease will depend on the actual amount of the investment necessary to comply with a Prohibition Order, the methods which Northeast Utilities selects to finance the increased costs associated with burning coal as a primary energy source at Mt. Tom 1, the extent to which the cost decrease is spread among HWPCO customers, the regulations or policies of the regulatory agencies with jurisdiction over HWPCO regarding inclusion of such cost decreases in consumer rates, the actual amount of the fuel cost differential, and other factors.

B. *Consistency with the purposes of ESECA.* Because the issuance of a Prohibition Order to Mt. Tom 1 will discourage the use of natural gas or petroleum products and encourage the increased use of coal, FEA proposes to conclude that this action would be consistent with the purpose of ESECA to provide a means to assist in meeting the essential needs of the United States for fuels.

On the basis of the environmental analysis which FEA is required to conduct prior to issuance of a Notice of Effectiveness of a Prohibition Order, as well as the necessity for this powerplant to comply with the Clean Air Act and other applicable environmental protection requirements, FEA proposes to conclude that a Prohibition Order to Mt. Tom 1 would be consistent with the purpose of ESECA to provide for a means to assist in meeting the essential needs of the United States for fuels in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment.

III. *Coal and coal transportation facilities will be available to this powerplant during the period until December 31, 1984.*—A. *Coal availability.*

1. *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the foreseeable future. U.S. Department of the Interior, Bureau of Mines data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable, (Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974, Bureau of Mines (May 1975) [hereafter "BOM Survey"]). Within these recoverable reserves approximately 200 billion tons contain 1 percent or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies, referenced herein, which together provide the best current evidence as to coal availability for the period ending December 31, 1984.

2. *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnage of uncommitted planned national coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets 99 percent of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

a. *National coal production.* It is conservatively estimated that it will be practicable

to produce coal nationally in at least the following quantities:

Year:	Production potential (million tons)
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's Coal Mine Expansion Study (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to understimate actual production potential.

An FEA study, Availability of Potential Coal Supply Through 1985 by Quality Characteristics, August 1976 (hereafter (Availability Study"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	Production (Million tons)
1977	48.4
1978	122.2
1979	237.1
1980	287.3
1981	344.0
1982	363.9
1983	390.1
1984	469.5
1985	544.9

b. *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) of ESECA, is as follows (FEA 1976 National Energy Outlook):

Year:	Demand (Million tons)
1977	698
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

c. *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA is as follows (Coal Availability and Demand: Round I and II Coal Conversion Candidates, August 1976, [hereafter "Coal Conversion Study"]):

Year:	Demand (million tons)
1977	4.5
1978	9.1
1979	12.0
1980	17.0
1981	19.2
1982	26.8
1983	26.8
1984	26.8

3. *Characteristic coal, production and demand.* FEA's "Availability Study" identifies coal of specific quality characteristics available for use at this Mt. Tom 1. The survey is based on data from 31 mining companies that supplied useful information on 96 mining units. Responses from these companies identified planned production of coal which is not now committeed to a specific buyer. For those companies which did not respond to the survey, FEA estimated their uncommitted planned production based on their 1974 production.

a. *Characteristic coal requirements for this powerplant.* FEA's "Coal Conversion Study" has determined that a pulverized-coal dry bottom boiler of the type used at Mt. Tom 1, will be able to burn coal of the following characteristics and comply with all applicable air pollution control requirements:

BTU's/lb	[1] 12,100
Moisture (percent)	[2] 15
Ash (percent)	[2] 20
Volatile (percent)	[1] 15
Ash softening (temp.) (°F)	[1] 2,200
Sulfur (approx.) (percent)	[2] 0.8

[1] Minimum.
[2] Maximum.

b. *Characteristic coal demand from this powerplant.* The potential demand for coal, of the type described above, which would result from this NOI is estimated to be as follows:

Year:	Demand (thousand tons)
1982 and thereafter	404

c. *National planned production, characteristic coal.* The FEA "Coal Conversion Study" has determined that coal of the type described in paragraph A.3.a., above, is uncommitted to a specific buyer and will be potentially available to Mt. Tom 1 in a nationwide market as follows:

Year:	Production (thousand tons)
1977	8,289
1978	15,806
1979	30,825
1980	36,478
1981	44,688
1982	47,439
1983	51,500
1984	59,679

d. *National ESECA prohibition order demand for coal, regardless of characteristics.* The national planned production of characteristic coal, as stated in paragraph A.3.c., above, exceeds potential demand for coal regardless of characteristic expected from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under Section 2(a) of ESECA. National ESECA prohibition Order demand as previously stated in paragraph A.2.c., above, is:

Year:	Demand (thousand tons)
1977	4,500
1978	9,100
1979	12,000
1980	17,000
1981	19,200
1982	26,800
1983	26,800
1984	26,800

e. *Regional planned production, characteristic coal.* Coal with the characteristics described in paragraph A.3.a., above, is uncommitted and will be potentially available to Mt. Tom 1 (in a probable regional supply/demand relationship related to the location of this powerplant) from Bureau Mines Districts 1 through 8 and 13 as follows:

Year:	Production (thousand tons)
1977	7,917
1978	14,859
1980	32,217
1981	38,463
1982	41,059
1983	44,915
1984	52,387

f. *Regional ESECA prohibition order demand for coal, regardless of characteristic.* The expected regional production of characteristic coal, as stated in paragraph A.3.e., above, exceeds the potential demand for coal regardless of characteristic from Bureau of Mines District 1 through 8 and 13 expected to result from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA.

This potential regional demand is estimated in FEA's "Coal Conversion Study" as follows:

Year:	Demand (thousand tons)
1977	2,369
1978	4,449
1979	5,811
1980	10,351
1981	11,905
1982	19,503
1983	19,503
1984	19,503

g. *Regional ESECA prohibition order demand for coal by sulfur characteristic.* The potential regional demand within BOM Districts 1 through 8 and 13 for coal with a 0.61–1.0% sulfur content (which includes the 0.8% maximum sulfur content described in paragraph A.3.a., above) resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA is estimated in FEA's "Coal Conversion Study" as follows:

Year:	Demand (thousand tons) percent sulfur 0.61 to 1.0
1977	1,247
1978	2,767
1979	3,854
1980	7,100
1981	8,173
1982	12,331
1983	12,331
1984	12,331

The regional planned production of coal stated in paragraph A.3.e., above, with the characteristics described in paragraph A.3.e., above, far exceeds this potential ESECA regional demand for coal by sulfur characteristic.

4. *State or local laws.* FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

5. *Conclusion.* FEA's "Availability Study" has identified nationally and in Bureau of Mines Districts 1 through 8 and 13, uncommitted coal production that meets the requirements of Mt. Tom 1 as described in paragraph A.3.a. above. FEA proposes to find that this uncommitted coal exists in amounts sufficient in any year to meet the estimated additional demand for coal, both nationally and from these Districts, resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA.

Coal for Mt. Tom 1 will probably be bought from producers according to regional supply/demand relationships related to the powerplant's location from Bureau of Mines Districts 1 through 8 and 13. FEA observes, however, that the powerplant could purchase coal in other markets as such production becomes available. (The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond, School of Engi-

neering, University of Pennsylvania, November 7, 1975.)

B. *Coal Transportation.* 1. *Location of plant and coal supply.* Based on an FEA study, Utility Analysis of Coal Transportation Availability, November 1976, (hereafter "Transportation Availability Study"), coal for Mt. Tom 1 would probably come from Bureau of Mines (BOM) District 8 as both the primary and alternate source of supply. While this supply area is the nearest available potential source able to supply complying coal to this powerplant, complying coal can be transferred by rail from other identified sources within the United States. The analysis of transportation availability is based on the most likely route as well as two alternate routes. These routes were chosen to demonstrate transportation availability.

2. *Route of coal shipment.* A primary route for coal delivery for Mt. Tom 1 would originate in BOM District 8 on the Norfolk & Western (N&W) railroad via Hagerstown, Maryland, taking Consolidated Railroad Corporation (Conrail) to Binghamton, New York, the Delaware & Hudson (D&H) railroad to Albany, New York, Conrail to Springfield, Massachusetts, and the Boston and Maine (B&M) to Holyoke, Massachusetts. The total rail distance is approximately 850 miles.

One alternate route from BOM District 8 would involve originating coal on the N&W to Kenova, West Virginia, taking the Chessie System Inc. (Chesapeake & Ohio) to Charlottesville, Virginia, the Southern Railroad to Washington, D.C., the Chessie System Inc. (Baltimore & Ohio) to Baltimore, Maryland, Conrail to Springfield, Massachusetts via New York City, Pautucket and Framingham and the Boston and Maine (B&M) to Holyoke, Massachusetts.

Another alternate supply area within BOM District 8 would use the primary route described above.

3. *Originating trunk carrier.* The N&W, the expected originating carrier of coal for Mt. Tom 1, has approximately 54,000 hopper cars with an estimated average capacity of 85 tons. Using an average number of deliveries of 20 per year per 85-ton car, the N&W may need as many as 240 additional cars to handle the increased demand from Mt. Tom 1. This estimate assumes that the railroad would neither have excess originating capacity nor obtain cars from other carriers in the originating vicinity.

Only about 2 percent of the hopper fleet is in heavy bad order and retirement rates through 1985 are expected to average approximately 1,200 cars/year. The N&W indicated that it is willing to acquire any needed capacity involved in shipment to Mt. Tom 1 and that it would modify its expansion plans given demand conditions. The railroad also indicated that its carrying capacity could be expanded as quickly as the utilities prepare to burn coal.

FEA's "Transportation Availability Study" concluded that for all potential Prohibition Order candidates studied, there would be no major constraints in transporting coal. The study examined existing rail transportation car capacity, water transportation capacity, including unloading docks, where applicable, and took into account projections made by all carriers to meet the anticipated demand for all types of transportation facilities assuming all powerplants studied were to receive orders under section 2(a) of ESECA.

The N&W indicated that transportation facilities at mine sites within BOM District 8 served by the N&W are in satisfactory operating condition and that loading facilities could handle the required coal volumes.

FEA has not found nor has it been informed of any apparent constraints to carrying coal for any alternate or intermediate carriers should they be used.

4. *Destination carrier and powerplant facilities.* The primary and alternate destination carrier for Mt. Tom 1 is the Boston and Maine (B&M) Corporation. This company's jurisdiction includes tracks to Mt. Tom 1. The powerplant burned coal received via the B&M as recently as 1974, and this rail carrier indicated that the tracks and coal unloading facilities are in place and adequate to handle the anticipated demand.

The utility has indicated that track and switcher overhaul is necessary. Also required would be reconditioning of coal car unloading and thawing facilities and furnishing an operator control cab inside the car shakeout structure. It is expected that these repairs can be accomplished prior to the effective date for coal burning.

There are no other obstacles to the delivery of coal to Mt. Tom 1.

5. *Conclusion.* Coal transportation facilities will be available for the period a Prohibition Order is expected to be in effect since no significant constraints to coal delivery over the primary route to Mt. Tom 1 presently exist, and alternate routes are available.

IV. *The prohibition of the burning of natural gas or petroleum products as its primary energy source will not impair the reliability of service in the area served by the affected powerplant.* Based on an analysis of the information submitted to FEA by the Federal Power Commission, and after consultation with the Federal Power Commission, FEA proposes to find that the issuance of a Prohition Order to Mt. Tom 1 will not impair the reliability of service in the area served by the powerplant. This proposed finding is based on the facts and interpretations stated below:

A. *Description of the dispatching system.* 1. The Mt. Tom Generating Station is owned by HWPCO, which is owned by Northeast Utilities, which is a member of the New England Power Exchange (NEPEX), which is within the geographical area of the New England Subregion of the Northeast Power Coordinating Council regional electric reliability council.

2. The term "dispatching system" as used in the proposed finding means NEPEX.

3. The gross capacity as of September 1976, of all dispatching system powerplants was 20,841 MW. (See line 1, attachment 1.)

4. Proposed changes up to the period in which Mt. Tom 1 may implement a Prohibition Order will result in the gross capacity indicated on line 3 of attachment 1 because of the following changes in the dispatching system listed in Table 1:

TABLE 1

Powerplant designation	Fuel	Type of change	Capacity change (megawatt)	Effective date
Potter 2	Oil	Add	+95	January 1977.
Wyman 4	Oil	Add	+600	December 1978.
Seabrook 1	Nuclear	Add	+1,150	June 1981.
Stony Brook 1	Oil	Add	+270	November 1981.
Totals: Mar. 1 to Apr. 30, 1982			*Added* +2,115	

NOTE.—See line 2, attachment 1.

5. The proposed changes in Table 1, above, are based on the best information available to FEA and the Federal Power Commission (FPC Form 12E-2 dated October 25, 1976) at the time this NOI is issued. FEA has taken into consideration the possibility that the proposed changes may not be completed by the indicated effective date, but has determined that in such event, with minor modifications to the projected schedule of changes contained in Table 1, as well as the New England Power Exchange Conversion Schedule (attachment 2 to this NOI), gross capacity in the dispatching system would not be significantly affected during the period required for conversion of Mt. Tom 1. The New England Power Exchange Conversion Schedule is FEA's estimate of the outage times for all the powerplants in NEPEX that are currently being considered for Prohibition Orders. The schedule assumes outages for conversion at those times that are optimally suited, in terms of forecast peak load periods, to maintain reliability of service.

B. *Forecast peak loads for the dispatching system.* 1. Forecasts of peak loads for the dispatching system during the period in which Mt. Tom 1 would implement a Prohibition Order is as indicated on line 8 of attachment 1.

2. The forecast peak loads have been compared with loads in previous similar periods. The annual peak load growth rate for these forecasts is 5.5 percent.

C. *Maximum projected outages for the dispatching system.* 1. Scheduled outages for normal maintenance, including other powerplants implementing Prohibition Orders and nuclear plant refueling within dispatching system during the period in which Mt. Tom 1 may be implementing a Prohibition Order, may result in some loss of capacity which is expected to be as indicated on line 4 of attachment 1.

2. A projected outage of 2 months for each powerplant is estimated to be required to make modifications, installations, or other physical adjustments required by a Prohibition Order should it become effective. The powerplant may be less than fully dependable during the period of on-line testing and adjustment following such modifications. This period is not expected to exceed 30 days. To take advantage of the maximum reserve capacity, this projected outage is most likely to occur during the year 1982. The potential loss of capacity from an outage of Mt. Tom 1 would be approximately 136 MW, (line 7 of attachment 1), which is included in the total outages indicated on line 6 of attachment 1. (The assumed conversion period specified on attachments 1 and 2 is shown for the purpose of illustration only.)

3. Maximum projected outages within the dispatching system, include normal scheduled maintenance for all powerplants (line 4 of attachment 1) and outages due to conversion (line 5 of attachment 1) for those powerplants to be implementing Prohibition Orders if the attached New England Power Exchange Conversion Schedule is followed. Maximum projected outages are expected to be as indicated on line 6 of attachment 1, thereby reducing the gross capacity and resulting in a net dependable capacity for the dispatching system.

D. *Net dependable capacity for the dispatching system.* 1. Based on the foregoing information, the net dependable capacity of the dispatching system at the expected time of implementation of a Prohibition Order would be as indicated on line 9 of attachment 1.

2. Comparison of the net dependable capacity to the forecast peak load shown on line 8, attachment 1 indicates that the reserve capacity shown on line 10 of attachment 1 would exist for the dispatching system.

3. Comparison of this reserve capacity to the forecast peak load shown on line 8 of attachment 1 results in a reserve margin as indicated on line 11 of attachment 1 (as contrasted with a reserve margin as indicated on line 12 of attachment 1 if no units were removed from service due to Prohibition Orders).

4. The Federal Power Commission considers these to be acceptable reserve margins taking into consideration the geographical location of Mt. Tom 1.

5. At the completion of the conversion there will be a net 1.0 MW derating of Mt. Tom 1 as a result of using coal as its primary energy source.

6. Existing transmission system interconnections may transfer an additional 1,925 MW into the dispatching system. This capacity may provide an additional resource of electric power during the implementation period and will enhance the reliability of service.

E. *Conclusion.* If dispatching system conditions, including any scheduled outage by Mt. Tom 1, are as presently forecast during the time required to implement a Prohibition Order by Mt. Tom 1 there will be no impairment of reliability of service within the meaning of ESECA in the area served by HWPCO or in the dispatching system as a result of the Order.

Attachment 1

New England power exchange reliability data Mt. Tom

	Assumed conversion periods, Mar. 1–Apr. 30, 1982	Megawatt capacity
1	Gross capacity of NEPEX as of Sept. 1, 1976	20,841
2	Added capacity	2,115
3	Gross capacity	22,956
4	Schedule outage for maintenance	2,101
5	Projected outages due to prohibition orders	915
6	Maximum projected outages due to maintenance and prohibition orders) (line 4 and 5)	3,016
7	Unit outage	136
8	Peak load	15,684
9	Net dependable capacity	19,940
10	Reserve capacity	4,256
11	Reserve margin percent (maintenance and prohibition orders)	27.14
12	Reserve margin percent (maintenance only)	32.97

Attachment 2

New England power exchange conversion schedule

NEPEX member	Station	Unit	Assumed conversion dates
Northeast Utilities	Mt. Tom	1	March to April 1982.
Do	Middletown	1	March to April 1982.
Do	do	2	May to June 1982.
Do	do	3	July to September 1982.
Do	Norwalk Harbor	1	March to August 1982.
Do	do	2	September to February 1983.
The United Illuminating Company	Bridgeport Harbor	1	March to April 1982.
Do	do	2	July to August 1982.
Do	do	3	September to October 1982.
Eastern Utilities Associates	Somerset	8	March to April 1982.
New England Electric System	Brayton Point	1	March to April 1982.
Do	do	2	July to August 1982.
Do	do	3	October to November 1982.
Do	Salem Harbor	1	March to April 1982.
Do	do	2	July to August 1982.
Do	do	3	September to October 1982.

APPENDIX

PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A PROHIBITION ORDER

ESECA and the FEA regulations require FEA to make certain findings before issuing a Prohibition Order to a powerplant. FEA's proposed findings are set out below with respect to the powerplants named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Generating station	Unit No.	Location
OFU-092	Northeast Utilities/Hartford Electric Light Co.	Middletown	1	Middletown, Conn.
OFU-093			2	
OFU-094			3	

These findings, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to Issue a Prohibition Order.

Hartford Electric Light Co., a wholly-owned subsidiary of Northeast Utilities, shall be referred to as the "utility" and as "HELCO".

I. *Capability and necessary plant equipment to burn coal.* FEA proposes to find that on June 22, 1974, Powerplants Number 1, Number 2, and Number 3 at Middletown Generating Station (Middletown 1, 2 and 3) had the capability and necessary plant equipment to burn coal. This proposed finding is based on the facts and interpretations stated below:

A. Northeast Utilities in information filed with FEA dated April 11, 1975, indicated that each powerplant had in place on June 22, 1974, a boiler that was capable of burning coal. The boilers had been designed and constructed or modified to burn coal as their primary energy source, notwithstanding the fact that on June 22, 1974, the powerplant may not have been burning coal as its primary energy source.

B. Based on information Northeast Utilities filed with FEA dated April 11, 1975, and other information available to FEA, the following plant equipment or facilities at Middletown 1, 2 and 3 would have to be acquired or refurbished in order for these powerplants to burn coal as their primary energy source:

1. Coal handling equipment
2. Pulverizers, burners and boilers
3. Ash handling equipment

C. FEA proposes to find that on June 22, 1974, Middletown 1, 2 and 3 had all other significant plant equipment and facilities associated with the burning of coal.

D. Within the meaning of ESECA and the regulations promulgated pursuant thereto, the equipment and facilities listed in paragraph B, above, do not individually or in combination constitute a lack of capability and necessary plant equipment to burn coal as of June 22, 1974.

II. *The burning of coal in lieu of natural gas or petroleum products is practicable and consistent with the purposes of ESECA.* FEA proposes to find that the burning of coal at Middletown 1, 2 and 3 in lieu of petroleum products or natural gas is practicable and consistent with the purposes of ESECA. This finding is based upon the presumption that Middletown 1, 2 and 3 will be operated at a 71 percent capacity factor (this represents a weighted average of each powerplant's projected capacity factor), have a remaining useful life of 20 years (as of the date of this NOI), are expected to have at least 15 years remaining useful life after conversion of the powerplants, and on the facts and interpretations stated below:

A. *The burning of coal is practicable.*—1. *Costs assocated with burning coal.* a. *Capital investment costs.* The total initial capital investment costs, exclusive of financing costs, that would result from the acquisition and refurbishment of equipment and facilities associated with the burning of coal at Middletown 1, 2 and 3 are estimated to be approximately $63,498,000, which assumes that flue gas desulfurization equipment and electrostatic precipitators will be required at a cost of $47,000,000 to comply with the air pollution control requirements of the Clean Air Act. This estimate is based on a PEDCo-Environmental Specialists, Inc. report entitled Evaluation Of The Coal Conversion Potential For The Middletown Generating station, March 1977 (hereafter "PEDCo. Report").

b. *Annual operating and maintenance costs.* The increase in operating and maintenance costs, exclusive of fuel costs, that would result from the burning of coal is estimated to be approximately $14,436,000 per year including $13,905,000 for operation and maintenance of air pollution control equipment. This estimate is based on the PEDCo. Report.

c. *Fuel costs.* (i) Based on information supplied by Northeast Utilities, the price of petroleum products available to Middletown 1, 2 and 3 is approximately $2.34 per million BTU's for oil. This represents $14.32 per barrel of oil, assuming 6.1 million BTU's per barrel.

(ii) Based on information supplied by the Federal Power Commission and Consolidated Railroad Corporation the price of coal available to Middletown 1, 2 and 3 is approximately $1.31 per million BTU's. This represents $32.01 per ton of coal, assuming 24.4 million BTU's per ton.

(iii) FEA estimates that the burning of coal by these powerplants will result in the reduction of approximately $1.03 per million BTU's, or $29,579,000 per year in fuel costs. This estimate is based on fuel consumption presuming Middletown 1, 2 and 3 are operated at a weighted average 71 percent capacity factor and with an average heat rate of 11,091 BTU's per kilowatt hour.

d. *Total annual costs associated with conversion.* As a result of the conversion of Middletown 1, 2 and 3, there will be an estimated total annual increase in costs incurred, exclusive of fuel costs, of approximately $30,144,000.

2. *Reasonableness of costs of conversion.* The foregoing analysis of the costs of conversion provides the basis for deciding whether the conversion of Middletown 1, 2 and 3 is reasonable. Financial impacts of the conversion will be felt by the utility and by the consumer.

As a result of conversion, the utility will incur additional annual capital investment costs, including financing costs, of approximately $15,708,000 (this represents an amortized cost over the 15 years remaining useful life of these powerplants after conversion, and is based on a fixed charge rate of 24.7% of the total initial capital investment of $63,498,000) and additional annual operating and maintenance costs, exclusive of fuel costs, of approximately $14,436,000 (these figures are derived from the figures in paragraphs A.1.a., and b.), but will experience an annual fuel cost savings of approximately $29,579,000. (See paragraphs A.1.c.) The estimated net annual increase in cost of producing electricity at Middletown 1, 2 and 3 after conversion will be $566,000.

Increased costs for conversion will be mitigated by the decrease in fuel costs. The net result, however, will be an increase in the cost of producing electricity at Middletown 1, 2 and 3. The costs to the utility resulting from a Prohibition Order ultimately will be recovered in rates.

The use of coal at Middletown 1, 2 and 3 will result in an estimated annual equivalent savings of 4,693,000 barrels of oil that otherwise would be used in providing steam for electric power generation. The cost of conversion per barrel of oil saved is estimated to be $0.12.

Although conversion to the burning of coal would be expected to increase the cost of producing electricity at Middletown 1, 2 and 3, FEA proposes to find that such increased cost, per barrel of oil saved, is not unreasonable. This determination is based on consideration of the substantial savings of oil that will result from this conversion. The determination that the costs of converting are not unreasonable is further supported by consideration of such costs in relation to the expected 15 years remaining useful life of the powerplants after conversion, the size and resources of Northeast Utilities as examined in the following analysis of financial capability, the nature of the expected operations of these powerplants, and potential future increases in the fuel cost differential in favor of coal.

3. *Financial capabilities of Northeast Utilities.*—a. *Recovery of capital investment.* FEA proposes find that compliance with a Prohibition Order to Middletown 1, 2 and 3 would be economically feasible. FEA's analysis took into consideration the $116,975,000 additional capital investment required for Northeast Utilities to comply with this NOI and all other NOI's which are currently under consideration, as well as additional capital investment costs related to all other Notices of Intention, to date, if any, to issue Prohibihibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of Section 2 (a) and (c) of ESECA to Northeast Utilities powerplants. FEA related these additional capital investment costs to Northeast Utilities' estimate of its 1977–79 construction budget of $565 million, the total capitalization of Northeast Utilities of $2.3 billion, and the 15 years remaining useful life after conversion of Middletown 1, 2 and 3.

FEA does not consider the effect of this added capital investment cost to represent an unreasonable burden given the financing relationship which exists between Northeast Utilities and its subsidiaries, and their combined financial capabilities to assume such costs.

b. *Total annual costs associated with conversion.* The total estimated annual increase in costs (amortized increased capital investment costs and other costs, exclusive of fuel costs) associated with the burning of coal as opposed to oil attributable to compliance with this NOI and all other NOI's which are currently under consideration would be $55,807,000. This also represents the total estimated annual incremental increase in revenue requirements of the subsidiaries of Northeast Utilities. (FEA also took into consideration revenue requirements of the subsidiaries of Northeast Utilities resulting from compliance with all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of Section 2 (a) and (c) of ESECA to Northeast Utilities powerplants.) This estimate of $55,807,000 in revenue requirements is based on an investment oriented analysis described in an Ultrasystems Inc. report entitled Computer Methodology For Coal Conversion Cost Reasonableness Determination, August 1976, (hereafter "Ultrasystems Computer Model"). The estimate includes an incremental rate of return on retained earnings which are invested.

(For comparison with the Ultrasystems Computer Model results, FEA performed a financial analysis based on a Price Waterhouse and Co. report entitled Identification Of Possible Financial Effects Of Converting Certain Electric Generating Facilities To The Use Of Coal, October 1976. This analysis estimated the total annual incremental increase in revenue requirements to be $47,053,000, which assumed a predicted effect on Northeast Utilities' financial statement and represents revenues required to offset any potential loss in Northeast Utilities' net earnings per share as reported for Fiscal Year ending 1975.)

The total estimated annual increase in costs of $55,807,000 associated with conversion ultimately will be recovered in rates. However, due to the potential offsetting aggregate value of fuel cost savings of approximately $61,900,000 attributable to compliance with this NOI and all other NOI's currently under consideration, the net annual revenue requirements of the affected subsidiaries of Northeast Utilities should decrease by approximately $6,097,000.

4. *Consumer impact.* The HELCO, a wholly-owned subidiary of Northeast Utilities, is the owner and operator of the Middletown Generating Station and the relevant entity for considering the consumer impact of compliance with a Prohibition Order to Middletown 1, 2 and 3.

The potential initial impact of a Prohibition Order to Middletown 1, 2 and 3 is a net increase in revenues required from HELCO consumers of approximately $0.00011 per kilowatt hour of electricity sold by HELCO. This estimate is based on FEA's analysis of the Ultrasystems Computer Model.

The actual amount of the increase will depend on the actual amount of the investment necessary to comply with a Prohibition Order, the methods which Northeast Utilities selects to finance the increased costs associated with burning coal as a primary energy source at Middletown 1, 2 and 3, the extent to which the cost increase is spread among HELCO customers the regulations or policies of the regulatory agencies with jurisdiction over HELCO regarding inclusion of such cost increases in consumer rates, the actual amount of the fuel cost differential, and other factors.

B. *Consistency with the purposes of ESECA.* Because the issuance of a Prohibition Order to Middletown 1, 2 and 3 will discourage the use of natural gas or petroleum products and encourage the increased use of coal, FEA proposes to conclude that this action would be consistent with the purpose of ESECA to provide a means to assist in meeting the essential needs of the United States for fuels.

On the basis of the environmental analysis which FEA is required to conduct prior to issuance of a Notice of Effectiveness of a Prohibition Order, as well as the necessity for these powerplants to comply with the Clean Air Act and other applicable environmental protection requirements, FEA proposes to conclude that a Prohibition Order to Middletown 1, 2 and 3 would be consistent with the purpose of ESECA to provide for a means to assist in meeting the essential needs of the United States for fuels in a manner which is consistent, to the fullest extent practicable with existing national commitments to protect and improve the environment.

III. *Coal and coal transportation facilities will be available to these powerplants during the period until December 31, 1984.*

A. *Coal availability.*—1. *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the foreseeable future. U.S. Department of the Interior, Bureau of Mines data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974, Bureau of Mines (May 1975) [hereafter "BOM Survey"]). Within these recoverable reserves approximately 200 billion tons contain 1% or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies, referenced herein, which together provide the best current evidence as to coal availability for the period ending December 31, 1984.

2. *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnages of uncommitted planned national coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets 99% of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

a. *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	*Potential production (million tons)*
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's Coal Mine Expansion Study (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, Availability of Potential Coal Supply Through 1985 by Quality Characteristics, August 1976, (hereafter "Availability Study"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	Production (million tons)
1977	48.4
1978	122.2
1979	237.1
1980	287.3
1981	344.0
1982	363.9
1983	390.1
1984	469.5
1985	544.9

b. *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) of ESECA, is as follows (FEA 1976 National Energy Outlook):

Year:	Demand (million tons)
1977	698
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

c. *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of section 2(a) of ESECA is as follows (Coal Availability and Demand: Round I and II Coal Conversion Candidates, August 1976, (hereafter "Coal Conversion Study")):

Year:	Demand (million tons)
1977	4.5
1978	9.1
1979	12.0
1980	17.0
1981	19.2
1982	26.8
1983	26.8
1984	26.8

3. *Characteristic coal, production and demand.* FEA's "Availability Study" identifies coal of specific quality characteristics available for use at Middletown 1, 2 and 3. The survey is based on data from 31 mining companies that supplied useful information on 96 mining units. Responses from these companies identified planned production of coal which is not now committed to a specific buyer. For those companies which did not respond to the survey, FEA estimated their uncommitted planned production based on their 1974 production.

a. *Characteristic coal requirements for these powerplants.* FEA's "Coal Conversion Study" has determined that pulverized-coal, wet bottom and cyclone boilers of the type used at Middletown 1, 2 and 3 will be able to burn coal of the following characteristics and comply with all applicable air pollution control requirements:

	Units 1 and 2	Unit 3
Btu's per pound	11,500 minimum	12,000 minimum.
Moisture	15 pct maximum	15 pct maximum.
Ash	20 pct maximum	18 pct maximum.
Volatile	15 pct minimum	15 pct minimum.
Ash softening temperature	2,300 (° F) maximum	2,300 (° F) maximum.
Sulfur	2.7 pct maximum (approximate)	2.7 pct maximum (approximate).

b. *Characteristic coal demand from these powerplants.* The potential demand for coal, of the type described above, which would result from this NOI is estimated to be as follows:

Year:	Demand (thousand tons)
1982 and thereafter	1,175

c. *National planned production, characteristic coal.* The FEA "Coal Conversion Study" has determined that coal of the type described in paragraph A.3.a., above, is uncommitted to a specific buyer and will be potentially available to Middletown 1, 2 and 3 in a nationwide market as follows:

Year:	Production (thousand tons)
1977	17,595
1978	44,749
1979	97,431
1980	113,720
1981	137,139
1982	144,492
1983	154,118
1984	187,596

d. *National ESECA prohibition order demand for coal, regardless of characteristics.* The national planned production of characteristic coal, as stated in paragraph A.3.c., above, exceeds potential demand for coal regardless of characteristic expected from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under Section 2(a) of ESECA. National ESECA Prohibition Order demand as previously stated in paragraph A.2.c., above, is:

Year:	Demand (thousand tons)
1977	4,500
1978	9,100
1979	12,000
1980	17,000
1981	19,200
1982	26,800
1983	26,800
1984	26,800

e. *Regional planned production, characteristic coal.* Coal with the characteristics described in paragraph A.3.a., above, is uncommitted and will be potentially available to Middletown 1, 2 and 3 (in a probable regional supply/demand relationship related to the location of these powerplants) from Bureau of Mines Districts 1 through 8 and 13 as follows:

Year:	Production (thousand tons)
1977	13,627
1978	34,656
1979	75,580
1980	87,625
1981	104,620
1982	110,318
1983	117,770
1984	143,696

f. *Regional ESECA prohibition order demand for coal, regardless of characteristic.* The expected regional production of characteristic coal, as stated in paragraph A.3.e., above, exceeds the potential demand for coal regardless of characteristic from Bureau of Mines District 1 through 8 and 13 expected to result from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. This potential regional demand is estimated in FEA's "Coal Conversion Study" as follows:

Years:	Demand (thousand tons)
1977	2,369
1978	4,449
1979	5,811
1980	10,351
1981	11,905
1982	19,503
1983	19,503
1984	19,503

g. *Regional ESECA prohibition order demand for coal by sulfur characteristic.* The potential regional demand for coal from BOM Districts 1 through 8 and 13 with a 2.21–2.71% sulfur content (which includes the 2.7% maximum sulfur content described in paragraph A.3.a., above) resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2 (a) of ESECA is estimated in FEA's "Coal Conversion Study" as follows:

Years:	Demand (thousand tons) percent sulfur 2.21 to 2.71
1977	0
1978	0
1979	26
1980	78
1981	78
1982	3,421
1983	3,421
1984	3,421

The regional planned production of coal stated in paragraph A.3.e., above, with the characteristics described in paragraph A.3.a., above, far exceeds the potential ESECA regional demand for coal by sulfur characteristic.

4. *State or local laws.* FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

5. *Conclusion.* FEA's "Availability Study" has identified nationally and in Bureau of Mines Districts 1 through 8 and 13 uncommitted coal production that meets the requirements of Middletown 1, 2 and 3 as described in paragraph A.3.a., above. FEA proposes to find that this uncommitted coal exists in amounts sufficient in any year to meet the estimated additional demand for coal, both nationally and from these Districts, resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA.

Coal for Middletown 1, 2 and 3 will probably be bought from producers according to regional supply/demand relationships related to the powerplants' locations from Bureau of Mines Districts 1 through 8 and 13. FEA observes, however, that these powerplants could purchase coal in other markets as such production becomes available. (The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond, School of Engineering, University of Pennsylvania November 7 1975.)

B. Coal transportation—1. Location of powerplants and coal supply. Based on an FEA study, Utility Analysis of Coal Transportation Availability, November 1976, (hereafter "Transportation Availability Study") coal for Middletown 1, 2 and 3 would probably come from Bureau of Mines (BOM)

District 3 as both the primary and alternate source of supply. While this supply area is the nearest available potential source able to supply complying coal to these powerplants, complying coal can be transferred by rail from other identified sources within the United States. The analysis of transportation availability is based on the most likely route as well as two alternate routes. These routes were chosen to demonstrate transportation availability.

2. *Route of coal shipment.* A primary route for coal delivery for Middletown 1, 2 and 3 would originate on the Chessie System, Inc. (Baltimore & Ohio) to Baltimore, MD., then take Consolidated Railroad Corporation (Conrail) to Middletown, Connecticut, via New York City, and New Haven, Connecticut. The total rail distance is approximately 600 miles.

One alternate route from BOM District 3 would involve originating on the Chessie (B&O) to Morgantown, West Virginia, and taking Conrail to Middletown, 1, 2 and 3 via Allentown, Pennsylvania, Newark, New Jersey and New Haven, Connecticut.

Another alternate route from an alternate supply source would be to originate coal from BOM District 3 to Hagerstown, Maryland, and take Conrail to Middletown 1, 2 and 3 via Harrisburg, Pennsylvania, New York City and New Haven, Connecticut.

3. *Originating trunk carrier.* The Chessie (B&O), the expected originating carrier of coal for Middletown 1, 2 and 3, has approximately 21,000 hopper cars with an estimated average capacity of 75 tons. Using an average number of deliveries of 20 per year per 75-ton car, the B&O may need as many as 780 additional cars to handle the increased demand from Middletown 1, 2 and 3. This estimate assumes that the railroad would neither have excess originating capacity nor obtain cars from other carriers in the originating vicinity.

The B&O indicated that it is willing to acquire any needed capacity involved in shipment to Middletown 1, 2 and 3, and that it would modify its expansion plans with demand conditions. The railroad also indicated that its carrying capacity could be expanded as quickly as the utilities prepare to burn coal.

FEA's "Transportation Availability Study" concluded that for all potential Prohibition Order candidates studied, there would be no major constraints in transporting coal. This study examined existing rail transportation car capacity, water transportation capacity, including unloading docks, where applicable, and took into account projections made by all carriers to meet the anticipated demand for all types of transportation facilities assuming all powerplants studied were to receive orders under section 2(a) of ESECA.

The Chessie (B&O) indicated that transportation facilities at those mine sites within BOM District 3 served by the Chessie (B&O) are in satisfactory operating condition and that loading facilities could handle the required coal volumes.

FEA has not found nor has it been informed of any apparent constraints to carrying coal for any alternate or intermediate carriers should they be used.

4. *Destination carrier and powerplant facilities.* Conrail is the destination carrier for Middletown 1, 2 and 3. Conrail's 9,000 foot railroad spur into these powerplants requires considerable repair before it can reliably be used to supply coal. While the powerplants were burning coal as a result of the oil embargo, several hopper cars delivering coal to the powerplants derailed and fell into the Connecticut River.

The Poughkeepsie Bridge, which would ordinarily be used for rail shipment of coal to these powerplants is in serious disrepair and there are no plans for its reconstruction. Therefore, coal would have to be routed around the bridge. This does not present a major obstacle. The Middletown Generating Station is equpped with a shaker-type unloader which is adequate to handle the projected coal shipments. It may need some minor repair before it can be used, since it has not been in routine use for several years. The utility also anticipates the need to recondition coal car unloading and thawing facilities, including an operator control cab inside the car shakeout structure. The company will also have to do some repair work on its locomotives, and replace some units. It is expected that these repairs can be accomplished prior to the effective date for coal burning.

There are no other obstacles to the delivery of coal to Middletown 1, 2, and 3.

5. *Conclusion.* Coal transportation facilities will be available for the period a Prohibition Order is expected to be in effect since no major constraints to coal delivery over the primary route to Middletown 1, 2 and 3 presently exist, and alternate routes are available.

IV. *The prohibition of the burning of natural gas or petroleum products as their primary energy source will not impair the reliability of service in the area served by the affected powerplants.* Based on an analysis of the information submitted to FEA by the Federal Power Commission, and after consultation with the Federal Power Commission, FEA proposes to find that the issuance of a Prohibition Order to Middletown 1, 2 and 3 will not impair the reliability of service in the area served by these powerplants. This proposed finding is based on the facts and interpretations stated below:

A. *Description of the dispatching system.* 1. The Middletown Station is owned by HELCO, which is owned by Northeast Utilities, which is a member of the New England Power Exchange (NEPEX), which is within the geographical area of the New England Subregion of the Northeast Power Coordinating Council regional electric reliability council.

2. The term "dispatching system" as used in the proposed finding means NEPEX.

3. The gross capacity as of September 1976, of all dispatching system powerplants was 29,841 MW. (See line 1, attachment 1.)

4. Proposed changes up to the period in which Middletown 1, 2 and 3 would implement a Prohibition Order will result in the gross capacities indicated on line 3 of attachment 1 because of the following changes in the dispatching system listed in Table 1:

TABLE 1

Powerplant designation	Fuel	Type of change	Capacity change (megawatt)	Effective date
Potter 2	Oil	Add	+85	January 1977.
Wyman 4	Oil	Add	+600	December 1978.
Seabrook 1	Nuclear	Add	+1,150	June 1981.
Stony Brook 1	Oil	Add	+270	November 1981.
Millstone Point 3	Nuclear	Add	+1,150	May 1982.
Pilgrim 2	do	Add	+1,180	October 1982.

Totals:	*Added*
Mar. 1 to Apr. 30, 1982	+2,115
May 1 to June 30, 1982	+3,265
July 1 to Aug. 31, 1982	+3,265
Sept. 1 to Oct. 31, 1982	+4,445

NOTE.—See line 2, attachment 1.

5. The proposed changes in Table 1, above, are based on the best information available to FEA and the Federal Power Commission (FPC Form 12E-2 dated October 25, 1976) at the time this NOI is issued. FEA has taken into consideration the possibility that the proposed changes may not be completed by the indicated effective date, but has determined that in such event, with minor modifications to the projected schedule of changes contained in Table 1, as well as the New England Power Exchange Conversion Schedule (attachment 2 to this NOI), gross capacity in the dispatching system would not be significantly affected during the period required for conversion of Middletown 1, 2, and 3. The New England Power Exchange Conversion Schedule is FEA's estimate of the outage times for all the powerplants in NEPEX that are currently being considered for Prohibition Orders. The schedule assumes outages for conversion at those times that are optimally suited, in terms of forecast peak load periods, to maintain reliability of service.

B. *Forecast peak loads for the dispatching system.* 1. Forecasts of peak loads for the dispatching system during the period in which Middletown 1, 2, and 3 would implement a Prohibition Order are as indicated on line 8 of attachment 1.

2. The forecast peak loads have been compared with loads in previous similar periods. The annual peak load growth rate for these forecasts is 5.5 percent.

C. *Maximum projected outages for the dispatching system.* 1. Scheduled outages for normal maintenance, including other powerplants implementing Prohibition Orders and nuclear plant refueling within the dispatching system during the periods in which Middletown 1, 2 and 3 may be implementing a Prohibition Order, may result in some loss of capacity which is expected to be as indicated on line 4 of attachment 1.

2. A projected outage of 2 months each for Middletown 1 and 2, and 3 months for Middletown 3 is estimated to be required to make modifications, installations, or other physical adjustments required by a Prohibition Order should it become effective. The powerplants may be less than fully dependable during the period of on-line testing and adjustment following such modifications. This period is not expected to exceed 30 days. To take advantage of the maximum reserve capacity, these projected outages are most likely to occur during the year 1982. The potential loss of capacity from an outage of Middletown 1, 2 or 3 would be approximately 69 MW, 114 MW and 239 MW (line 7, attachment 1) respectively. The potential loss of capacity from a combined outage of Middletown 1, 2 and 3 would be approximately 422 MW. This represents the maximum potential loss due to outages at these powerplants, but it is expected that Middletown 1, 2 and 3 will be implementing a Prohibition Order at different times. This maximum potential loss of 422 MW is included in the total outages indicated on line 6 of attachment 1. (The assumed conversion period specified on attachments 1 and 2 is shown for the purpose of illustration only.)

3. Maximum projected outages within the dispatching system, include normal sched-

uled maintenance for all powerplants (line 4 of attachment 1) and outages due to conversion (line 5 of attachment 1) for those powerplants to be implementing Prohibition Orders, if the attached New England Power Exchange Conversion Schedule is followed. Maximum projected outages are expected to be as indicated on line 6 of attachment 1, thereby reducing the gross capacity and resulting in a net dependable capacity for the dispatching system.

D. *Net dependable capacity for the dispatching system.* 1. Based on the foregoing information, the net dependable capacity of the dispatching system at the expected time of implementation of a Prohibition Order would be as indicated on line 9 of attachment 1.

2. Comparing these net dependable capacities to the forecast peak loads shown on line 8, attachment 1 indicates that the reserve capacities shown on line 10 of attachment 1 would exist for the dispatching system.

3. Comparison of these reserve capacities to the forecast peak loads shown on line 8 of attachment 1 results in reserve margins as indicated on line 11 of attachment 1 (as contrasted with reserve margins as indicated on line 12 of attachment 1 if no units were removed from service due to Prohibition Orders).

4. The Federal Power Commission considers these to be marginally acceptable reserve margins taking into consideration the geographical location of Middletown 1, 2 and 3.

5. At the completion of the conversion there will be a net 12 MW derating of Middletown 1, 2, and 3 as a result of using coal as their primary energy source.

6. Existing transmission system interconnections may transfer an additional 1,925 MW into the dispatching system. This capacity may provide an additional resource of electric power during the implementation period and will enhance the reliability of service.

E. *Conclusion.* If dispatching system conditions, including any scheduled outage by Middletown 1, 2 and 3, are as presently forecast during the time required to implement a Prohibition Order by Middletown 1, 2 and 3, there will be no impairment of reliability of service within the meaning of ESECA in the area served by HELCO or in the dispatching system as a result of the Order.

ATTACHMENT 1

New England power exchange reliability data—Middletown

		Assumed conversion periods (megawatt capacity)			
		1982, Mar. 1–Apr. 30	1982, May 1–June 30	1982, July 1–Aug. 31	1982, Sept. 1–Sept. 30
1	Gross capacity of NEPEX as of Sept. 1, 1976	20,841	20,841	20,841	20,841
2	Added capacity	2,115	3,265	3,265	4,445
3	Gross capacity	22,956	24,106	24,106	25,286
4	Scheduled outages for maintenance	2,101	2,348	687	3,603
5	Projected outages due to prohibition orders	915	277	925	1,598
6	Maximum projected outages due to maintenance and prohibition orders (4 plus 5)	3,016	2,625	1,612	5,201
7	Unit outage	69	114	239	239
8	Peak load	15,684	18,533	18,533	17,162
9	Net dependable capacity	19,940	21,481	22,494	20,085
10	Reserve capacity	4,256	2,948	3,961	2,923
11	Reserve margin percent (maintenance and prohibition orders)	27.14	15.91	21.37	17.03
12	Reserve margin percent (maintenance only)	32.97	17.40	26.36	26.34

Attachment 2

New England power exchange conversion schedule

NEPEX member	Station	Unit	Assumed conversion dates
Northeast Utilities	Mt. Tom	1	March to April 1982.
Do	Middletown	1	March to April 1982.
Do	do	2	May to June 1982.
Do	do	3	July to September 1982.
Do	Norwalk Harbor	1	March to August 1982.
Do	do	2	September to February 1983.
The United Illuminating Co	Bridgeport Harbor	1	March to April 1982.
Do	do	2	July to August 1982.
Do	do	3	September to October 1982.
Eastern Utilities Associates	Somerset	8	March to April 1982.
New England Electric System	Brayton Point	1	March to April 1982.
Do	do	2	July to August 1982.
Do	do	3	October to November 1982.
Do	Salem Harbor	1	March to April 1982.
Do	do	2	July to August 1982.
Do	do	3	September to October 1982.

APPENDIX

PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A PROHIBITION ORDER

ESECA and the FEA regulations require FEA to make certain findings before issuing a Prohibition Order to a powerplant. FEA's proposed findings are set out below with respect to the powerplants named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Generating station	Unit No.	Location
OFU-095 OFU-096	Northeast Utilities/Connecticut Light & Power Co.	Norwalk Harbor	1 2	Norwalk, Conn.

These findings, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to Issue a Prohibition Order.

Connecticut Light and Power Co., a wholly-owned subsidiary of Northeast Utilities, shall be referred to as the "utility" and as "CL&P".

I. *Capability and necessary plant equipment to burn coal.* FEA proposes to find that on June 22, 1974, Powerplants Number 1 and Number 2 at Norwalk Harbor Generating Station (Norwalk Harbor 1 and 2) had the capability and necessary plant equipment to burn coal. This proposed finding is based on the facts and interpretations stated below:

A. Northeast Utilities, in information filed with FEA dated April 11, 1975, indicated that each powerplant had in place on June 22, 1974, a boiler that was capable of burning coal. The boilers had been designed and constructed or modified to burn coal as their primary energy source, notwithstanding the fact that on June 22, 1974, the powerplant may not have been burning coal as its primary energy source.

B. Based on information Northeast Utilities filed with FEA dated April 11, 1975, and other information available to FEA, the following plant equipment or facilities at Norwalk Harbor 1 and 2 would have to be acquired or refurbished in order for these powerplants to burn coal as their primary energy source:

1. Coal handing equipment
2. Pulverizer, burners and boilers
3. Ash handling equipment

C. FEA proposes to find that on June 22, 1974, Norwalk Harbor 1 and 2 had all other significant plant equipment and facilities associated with the burning of coal.

D. Within the meaning of ESECA and the regulations promulgated pursuant thereto, the equipment and facilities listed in Paragraph B, above, do not individually or in combination constitute a lack of capability and necessary plant equipment to burn coal as of June 22, 1974.

II. *The burning of coal in lieu of natural gas or petroleum products is practicable and consistent with the purposes of ESECA.* FEA proposes to find that the burning of coal at Norwalk Harbor 1 and 2 in lieu of petroleum products or natural gas is practicable and consistent with the purposes of ESECA. This finding is based upon the presumption that Norwalk Harbor 1 and 2 will be operated at a 77 percent capacity factor (this represents a weighted average of each powerplant's projected capacity factor), have a remaining useful life of 20 years (as of the date of this NOI), are expected to have at least 15 years remaining useful life after conversion of the powerplants, and on the facts and interpretations stated below:

A. *The burning of coal is practicable.*—1. *Costs associated with burning coal.*

a. *Capital investment costs.* The total initial capital investment costs, exclusive of financing costs, that would result from the acquisition and refurbishment of equipment and facilities associated with the burning of coal at Norwalk Harbor 1 and 2 are estimated to be approximately $39,856,000 which assumes that flue gas desulfurization equipment and electrostatic precipitators will be required at a cost of $30,335,000 to comply with the air pollution control requirements of the Clean Air Act. This estimate is based on a PEDCo-Environmental Specialists, Inc. report entitled Evaluation Of The Coal Conversion Potential For The Norwalk Harbor Plant, March 22, 1977 (hereafter "PEDCo. Report").

b. *Annual operating and maintenance costs.* The increase in operating and maintenance costs, exclusive of fuel costs, that would result from the burning of coal is estimated to be approximately $11,934,000 per year including $11,381,000 for operation and maintenance of air pollution control equipment. This estimate is based on the PEDCo. Report.

c. *Fuel costs.* (i) Based on information supplied by Northeast Utilities, the price of petroleum products available to Norwalk Harbor 1 and 2 is approximately $2.35 per million BTU's for oil. This represents $14.36 per barrel of oil, assuming 6.1 million BTU's per barrel.

(ii) Based on information supplied by the Federal Power Commission and Consolidated Railroad Corp., the price of coal available to Norwalk Harbor 1 and 2 is approximately $1.32 per million BTU's. This represents $30.85 per ton of coal, assuming 24.4 million BTU's per ton.

(iii) FEA estimates that the burning coal by these powerplants will result in the reduction of approximately $1.04 per million BTU's, or $22,814,000 per year in fuel costs. This estimate is based on fuel consumption presuming Norwalk Harbor 1 and 2 are operated at a weighted average 77 percent capacity factor and with an average heat rate of 10,100 BTU's per kilowatt hours.

d. *Total annual costs associated with conversion.* As a result of the conversion of Norwalk Harbor 1 and 2, there will be an estimated total annual increase in costs incurred, exclusive of fuel costs, of approximately $21,592,000.

2. *Reasonableness of costs of conversion.* The foregoing analysis of the costs of conversion provides the basis for deciding whether the conversion of Norwalk Harbor 1 and 2 is reasonable. Financial impacts of the conversion will be felt by the utility and by the consumer.

As a result of conversion, the utility will incur additional annual capital investment costs, including financing costs, of approximately $9,658,000 (this represents an amortized cost over the 15 years remaining useful life of these powerplants after conversion, and is based on a fixed charge rate of 24.2% of the total initial capital investment of $39,856,000) and annual operating and maintenance costs, exclusive of fuel costs, of approximately $11,934,000 (these figures are derived from the figures in paragraphs A.1.a., and b.), but will experience an annual fuel cost savings of approximately $22,814,000. (See paragraph A.1.c.). Considering the fuel cost savings, the total annual cost of operating Norwalk Harbor 1 and 2 should be reduced by $1,222,000.

Since all increased costs of conversion will be offset by the decrease in fuel costs, it is estimated that there will be an overall net decrease in the cost of producing electricity at Norwalk Harbor 1 and 2. The costs to the utility resulting from a Prohibition Order ultimately will be recovered in rates.

The use of coal at Norwalk Harbor 1 and 2 will result in an estimated annual equivalent savings of 3,590,000 barrels of oil that otherwise would be used in providing steam for electric power generation.

FEA proposes to find that, since the increased annual capital investment costs and operating and maintenance costs at the powerplants are offset by the current fuel cost differential between oil and coal burning at these powerplants, and potential future increases in the fuel cost differential in favor of coal, the additional costs associated with burning coal are reasonable.

3. *Financial capabilities of Northeast Utilities.*—a. *Recovery of capital investment.* FEA proposes to find that compliance with a Prohibition Order to Norwalk Harbor 1 and 2 would be economically feasible. FEA's analysis took into consideration the $116,975,000 additional capital investment costs required for Northeast Utilities to comply with this NOI and all other NOI's which are currently under consideration, as well as additional capital investment costs related to all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of Section 2 (a) and (c) of ESECA to Northeast Utilities powerplants. FEA related these additional capital investment costs to Northeast Utilities' estimate of its 1977–79 construction budget of $565 million, the total capitalization of Northeast Utilities of $2.3 billion, and the 15 years remaining useful life after conversion of Norwalk Harbor 1 and 2.

FEA does not consider the effect of this added capital investment cost to represent an unreasonable burden given the financing relationship which exists between Northeast Utilities and its subsidiaries, and their combined financial capabilities to assume such costs.

b. *Total annual costs associated with conversion.* The total estimated annual increase in costs (amortized increased capital investment costs and other costs, exclusive of fuel costs) associated with the burning of coal as opposed to oil attributable to compliance with this NOI and all other NOI's which are currently under consideration would be $55,807,000. This also represents the total estimated annual incremental increase in revenue requirements of the subsidiaries of Northeast Utilities. (FEA also took into consideration revenue requirements of the subsidiaries of Northeast Utilities resulting from compliance with all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of Section 2 (a) and (c) of ESECA to Northeast Utilities powerplants.) This estimate of $55,807,000 in revenue requirements is based on an investment oriented analysis described in an Ultrasystems Inc. report entitled Computer Methodology For Coal Conversion Costs Reasonableness Determination, August 1976, (hereafter "Ultrasystems Computer Model"). The estimate includes an incremental rate of return on retained earnings which are invested.

(For comparison with the Ultrasystems Computer Model results, FEA performed a financial analysis based on a Price Waterhouse and Co. report entitled Indentification Of Possible Financial Effects Of Converting Certain Electric Generating Facilities To The Use Of Coal, October 1976. This analysis estimated the total annual incremental increase in revenue requirements to be $47,053,000, which assumed a predicted effect on Northeast Utilities' financial statement and represents revenues required to offset any potential loss in Northeast Utilities' net earnings per share as reported for Fiscal Year ending 1976.)

The total estimated annual increase in costs of $55,807,000 associated with conversion ultimately will be recovered in rates. However, due to the potential offsetting aggregate value of fuel cost savings of approximately $61,900,000 attributable to compliance with this NOI and all other NOI's currently under consideration, the net annual revenue requirements of the affected subsidiaries of Northeast Utilities should decrease by approximately $6,097,000.

4. *Consumer impact.* The CL&P, a wholly-owned subsidy of Northeast Utilities, is the owner and operator of the Norwalk Harbor Generating Station and the relevant entity for considering the consumer impact of compliance with a Prohibition Order to Norwalk Harbor 1 and 2.

The potential initial impact of a Prohibition Order to Norwalk Harbor 1 and 2 is a net decrease in revenues required from CL&P consumers of approximately $0.00013 per kilowatt hour of electricity sold by CL&P. This estimate is based on FEA's analysis of the Ultrasystems Computer Model. The actual amount of the decrease will depend on the actual amount of the investment necessary to comply with a Prohibition Order, the methods which Northeast Utilities selects to finance the increased costs associated with burning coal as a primary energy source at Norwalk Harbor 1 and 2, the extent to which the cost decrease is spread among CL&P customers, the regulations or policies of the regulatory agencies with jurisdiction over CL&P regarding inclusion of such cost decreases in consumer rates, the actual amount of the fuel cost differential, and other factors.

B. *Consistency with the purposes of ESECA.* Because the issuance of a Prohibition Order to Norwalk Harbor 1 and 2 will discourage the use of natural gas or petroleum products and encourage the increased use of coal, FEA proposes to conclude that this action would be consistent with the purpose of ESECA to provide a means to assist in meeting the essential needs of the United States for fuels.

On the basis of the environmental analysis which FEA is required to conduct prior to issuance of a Notice of Effectiveness of a Prohibition Order, as well as the necessity for these powerplants to comply with the Clean Air Act and other applicable environmental protection requirements, FEA proposes to conclude that a Prohibition Order to Norwalk Harbor 1 and 2 would be consistent with the purpose of ESECA to provide for a means to assist in meeting the essential needs of the United States for fuels in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment.

III. *Coal and coal transportation facilities will be available to these powerplants during the period until December 31, 1984.*

A. *Coal availability.*—1. *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the foreseeable future. U.S. Department of the Interior, Bureau of Mines data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable. (Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974, Bureau of Mines (May 1975) hereafter "BOM Survey"). Within these recoverable reserves approximately 200 billion tons contain 1% or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies, referenced herein, which tolgether provide the best current evidence as to coal availability for the period ending December 31, 1984.

2. *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnages of uncommitted planned national coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that

extend that far into the future; however, the projected total planned national coal production for 1985 already meets 99% of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

a. *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	*Production potential (million tons)*
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's Coal Mine Expansion Study (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, Availability of Potential Coal Supply Through 1985 by Quality Characteristics, August 1976, (hereafter "Availability Study"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	*Production (million tons)*
1977	48.4
1978	122.2
1979	237.1
1980	287.3
1981	344.0
1982	363.9
1983	390.1
1984	469.5
1985	544.9

b. *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) of ESECA, is as follows; (FEA 1976 National Energy Outlook):

Year:	*Demand (million tons)*
1977	698
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

c. *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA is as follows; (Coal availability and Demand: Round I and II Coal Conversion Candidates, August, 1976, hereafter "Coal Conversion Study"):

Year:	*Demand (million tons)*
1977	4.5
1978	9.1
1979	12.0
1980	17.0
1981	19.2
1982	26.8
1983	26.8
1984	26.8

3. *Characteristic coal, production and demand.* FEA's "Availability Study" identifies coal of specific quality characteristics available for use at Norwalk Harbor 1 and 2. The survey is based on data from 31 mining companies that supplied useful information on 96 mining units. Responses from these companies identified planned production of coal which is not now committed to a specific buyer. For those companies which did not respond to the survey, FEA estimated their uncommitted planned production based on their 1974 production.

a. *Characteristic coal requirements for these powerplants.* FEA's "Coal Conversion Study" has determined that pulverized-coal dry bottom boilers, of the type used at Norwalk Harbor 1 and 2 will be able to burn coal of the following characteristics and comply with all applicable air pollution control requirements:

Btu's/lb	11,500
Moisture (percent)	[1] 15
Ash (percent)	[1] 20
Volatile (percent)	[2] 15
Ash softening (temp.) (°F)	[2] 2,200
Sulfur (approx.) (percent)	[1] 2.7

[1] Maximum.
[2] Minimum.

b. *Characteristic coal demand from these powerplants.* The potential demand for coal, of the type described above, which would result from this NOI is estimated to be as follows:

Year:	*Demand (thousand tons)*
1982 and thereafter	898

c. *National planned production, characteristic coal.* The FEA "Coal Conversion Study" has determined that coal of the type described in paragraph A.3.a., above, is uncommitted to a specific buyer and will be potentially available to Norwalk Harbor 1 and 2 in a nationwide market as follows:

Year:	*Production (thousand tons)*
1977	31,209
1978	67,757
1979	133,523
1980	158,405
1981	188,439
1982	198,960
1983	213,044
1984	254,205

d. *National ESECA prohibition order demand for coal regardless of characteristics.* The national planned production of characteristic coal, as stated in paragraph A.3.c., above, exceeds potential demand for coal regardless of characteristic expected from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under Section 2(a) of ESECA. National ESECA Prohibition Order demand as previously stated in paragraph A.2.c., above, is:

Year:	*Demand (thousand tons)*
1977	4,500
1978	9,100
1979	12,000
1980	17,000
1981	19,200
1982	26,800
1983	26,800
1984	26,800

e. *Regional planned production, characteristic coal.* Coal with the characteristics described in paragraph A.3.a., above, is uncommitted and will be potentially available to Norwalk Harbor 1 and 2 (in a probable regional supply/demand relationship related to the location of these powerplants) from Bureau of Mines Districts 1 through 8 and 13 as follows:

Year:	*Production (thousand tons)*
1977	24,221
1978	49,983
1979	95,809
1980	110,977
1981	130,841
1982	138,447
1983	148,705
1984	176,569

f. *Regional ESECA prohibition order demand for coal, regardless of characteristic.* The expected regional production of characteristic coal, as stated in paragraph A.3.e., above, exceeds the potential demand for coal regardless of characteristic from Bureau of Mines Districts 1 through 8 and 13 expected to result from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of section 2(a) of ESECA. This potential regional demand is estimated in FEA's "Coal Conversion Study" as follows:

Year:	*Demand (thousand tons)*
1977	2,369
1978	4,449
1979	5,811
1980	10,351
1981	11,905
1982	19,503
1983	19,503
1984	19,503

g. *Regional ESECA prohibition order demand for coal by sulfur characteristic.* The potential regional demand within BOM Districts 1 through 8 and 13 for coal with a 2.21–2.71 percent sulfur content (which includes the 2.7 percent maximum sulfur content described in paragraph A.3.a., above) resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA is estimated in FEA's "Coal Conversion Study" as follows:

Year:	*Demand (thousand tons) percent sulfur 2.21 to 2.71*
1977	0
1978	0
1979	26
1980	78
1981	78
1982	3,421
1983	3,421
1984	3,421

The regional planned production of coal stated in paragraph A.3.e., above, with the characteristics described in paragraph A.3.a., above, far exceeds the potential ESECA regional demand for coal by sulfur characteristic.

4. *State or local laws.* FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

5. *Conclusion.* FEA's "Availability Study" has identified nationally and in Bureau of Mines Districts 1 through 8 and 13 uncommitted coal production that meets the requirements of Norwalk Harbor 1 and 2 as de-

scribed in paragraph A.3.a. above. FEA proposes to find that this uncommitted coal exists in amounts sufficient in any year to meet the estimated additional demand for coal, both nationally and from these Districts, resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA.

Coal for Norwalk Harbor 1 and 2 will probably be bought from producers according to regional supply/demand relationships related to the powerplants' locations from Bureau of Mines Districts 1 through 8 and 13. FEA observes, however, that these powerplants could purchase coal in other markets as such production becomes available. (The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond, School of Engineering, University of Pennsylvania, November 7, 1975.)

B. *Coal Transportation.*—1. Location of *powerplants and coal supply.* Based on an FEA study, Utility Analysis of Coal Transportation Availability, November 1976, (hereafter "Transportation Availability Study"), coal for Norwalk Harbor 1 and 2 would probably come from Bureau of Mines (BOM) District 8 as both the primary and alternate source of supply. While this supply area is the nearest available potential source able to supply complying coal to these powerplants, complying coal can be transferred by rail from other identified sources within the United States. The analysis of transportation availability is based on the most likely route as well as an alternate route. These routes were chosen to demonstrate transportation availability.

2. *Route of coal shipment.* A primary route for coal delivery for Norwalk Harbor 1 and 2 would originate on the Chessie System, Inc. (Baltimore & Ohio) to Baltimore, Md., then take Consolidated Railroad Corporation (Conrail) to Port Reading, New York, and use inland barges (operated by Express Marine or Red Star Towing and Transportation) to Norwalk, Connecticut. The total rail distance is approximately 400 miles, with a marine leg of about 70 miles.

One alternate route from BOM District 8 would involve originating coal on the Chessie (B&O) to Baltimore, Md. and taking Conrail to Norwalk, Connecticut.

Another alternate supply area within District 8 would use the primary route described above.

3. *Originating trunk carrier.* The Chessie (B&O), the expected originating carrier of coal for Norwalk Harbor 1 and 2, has approximately 21,000 hopper cars with an estimated average capacity of 75 tons. Using an average number of deliveries of 20 per year per 75-ton car, the B&O may need as many as 600 additional cars to handle the increased demand from Norwalk Harbor 1 and 2. This estimate assumes that the railroad would neither have excess originating capacity nor obtain cars from other carriers in the originating vicinity. The B&O indicated that it is willing to acquire any needed capacity involved in shipment to Norwalk Harbor 1 and 2 and that it would modify its expansion plans with demand conditions. The railroad also indicated that its carrying capacity could be expanded as quickly as the utilities prepare to burn coal.

FEA's "Transportation Availability Study" concluded that for all potential Prohibition Order candidates studied, there would be no major constraints in transporting coal. The study examined existing rail transportation car capacity, water transportation capacity, including unloading docks, where applicable, and took into account projections made by all carriers to meet the anticipated demand for all types of transportation facilities assuming all powerplants studied were to receive orders under section 2(a) of ESECA.

The B&O indicated that transportation facilities at those mine sites within BOM District 8 are in satisfactory operating conditions and that loading facilities could handle the required coal volumes.

FEA has not found nor has it been informed of any apparent constraints to carrying coal for any alternate or intermediate carriers should they be used.

4. *Destination carrier and powerplant facilities.* Delivery of coal to Norwalk Harbor 1 and 2 would be accomplished by inland barges, carrying coal from Port Reading, New York. Express Marine and Red Star Towing and Transportation have expressed willingness to transport the projected amount of coal. Existing available barge capacity is sufficient to supply these powerplants. However, if other powerplants in this area create additional demand for barges, new capacity will have to be built. The barge companies are willing to do the necessary construction, given sufficient lead time and a long term barging commitment.

Docking facilities at Norwalk Harbor 1 and 2 are adequate to permit delivery of coal by inland barge. Since the draft in the channel to the powerplants is only 11 feet, barges can only come in at high tide. Furthermore, due to local regulations, coal unloading can only proceed at certain times of the day. Neither of these factors is expected to present a significant obstacle to barge delivery of coal to the powerplants. Norwalk Harbor 1 and 2 are equipped with a bucket type unloader capable of handling the projected load. The unloader may require some minor repair before being put to use, since it has not been in routine use for several years. It is expected that these repairs can be accomplished prior to the effective date for coal burning.

There are no other obstacles to the delivery of coal to Norwalk Harbor 1 and 2.

5. *Conclusion.* Coal transportation facilities will be available for the period a Prohibition Order is expected to be in effect since no significant constraints to coal delivery over the primary route to Norwalk Harbor 1 and 2 presently exist, and an alternate route is available.

IV. *The prohibition of the burning of natural gas or petroleum products as their primary energy source will not impair the reliability of service in the area served by the affected powerplants.* Based on an analysis of the information submitted to FEA by the Federal Power Commission, and after consultation with the Federal Power Commission, FEA proposes to find that the issuance of a Prohibition Order to Norwalk Harbor 1 and 2 will not impair the reliability of service in the area served by these powerplants. This proposed finding is based on the facts and interpretations stated below:

A. *Description of the dispatching system.* 1. The Norwalk Harbor Generating Station is owned by CL&P, which is owned by Northeast Utilities, which is a member of the New England Power Exchange (NEPEX), which is within the geographical area of the New England Subregion of the Northeast Power Coordinating Council regional electric reliability council.

2. The term "dispatching system" as used in the proposed finding means NEPEX.

3. The gross capacity as of September 1976, of all dispatching system powerplants was 20,841 MW. (See line 1, attachment 1.)

4. Proposed changes up to the period in which Norwalk Harbor 1 and 2 may implement a Prohibition Order will result in the gross capacities indicated on line 3 of attachment 1 because of the following changes in the dispatching system listed in Table 1:

TABLE 1

Powerplant designation	Fuel	Type of change	Capacity change (megawatt)	Effective date
Potter 2	Oil	Add	+95	January 1977.
Wyman 4	Oil	Add	+600	December 1978.
Seabrook 1	Nuclear	Add	+1,150	June 1981.
Stony Brook 1	Oil	Add	+270	November 1981.
Millstone Point 3	Nuclear	Add	+1,150	May 1982.
Pilgrim 2	do	Add	+1,190	October 1982.
Stony Brook 2	Oil	Add	+120	November 1982.
Totals:				*Added*
Mar. 1 to Apr. 30, 1982				+2,115
May 1 to June 30, 1982				+3,265
July 1 to Aug. 31, 1982				+3,265
Sept. 1 to Oct. 31, 1982				+4,445
Nov. 1 to Dec. 31, 1982				+4,565
Jan. 1 to Feb. 28, 1983				+4,565

NOTE.—See line 2, attachment 1.

5. The proposed changes in Table 1, above, are based on the best information available to FEA and the Federal Power Commission (FPC Form 12E-2 dated October 25, 1976) at the time this NOI is issued. FEA has taken into consideration the possibility that the proposed changes may not be completed by the indicated effective date, but has determined that in such event, with minor modifications to the projected schedule of changes contained in Table 1, as well as the New England Power Exchange Conversion Schedule (attachment 2 to this NOI), gross capacity in the dispatching system would not be significantly affected during the period required for conversion of Norwalk Harbor 1 and 2. The New England Power Exchange Conversion Schedule is FEA's estimate of the outage times for all the powerplants in NEPEX that are currently being considered for Prohibition Orders. The schedule assumes outages for conversion at those times that are optimally suited, in terms of forecast peak load periods, to maintain reliability of service.

B. *Forecast peak loads for the dispatching system.* 1. Forecasts of peak loads for the dispatching system during the period in which Norwalk Harbor 1 and 2 would implement a Prohibition Order are as indicated on line 8 of attachment 1.

2. The forecast peak loads have been compared with loads in previous similar periods. The annual peak load growth rate for these forecasts is 5.5 percent.

C. *Maximum projected outages for the dispatching system.* 1. Scheduled outages for normal maintenance, including other powerplants implementing Prohibition Orders and nuclear plant refueling within the dispatching system during the periods in which Norwalk Harbor 1 and 2 may be implementing a Prohibition Order, may result in some loss of capacity which is expected to be as indicated on line 4 of attachment 1.

2. A projected outage of 6 months for each powerplant is estimated to be required to make modifications, installations, or other physical adjustments required by a Prohibition Order should it become effective. The powerplants may be less than fully dependable during the period of on-line testing and adjustment following such modifications. This period is not expected to exceed 30 days. To take advantage of the maximum reserve capacity, these projected outages are most likely to occur during the year 1982. The potential loss of capacity from an outage of either Norwalk Harbor 1 or 2 would be approximately 163 MW (line 7, attachment 1). The potential loss of capacity from a combined outage of Norwalk Harbor 1 and 2 would be approximately 326 MW (line 7 of attachment 1). This represents the maximum potential loss due to outages at these powerplants, but it is expected that Norwalk Harbor 1 and 2 will be implementing a Prohibition Order at different times. This maximum potential loss of 326 NW is included in the total outages indicated on line 6 of attachment 1. (The assumed conversion periods specified on attachment 1 are shown for the purpose of illustration only.)

3. Maximum projected outages within the dispatching system, include normal scheduled maintenance for all powerplants (line 4 of attachment 1) and outages due to conversion (line 5 of attachment 1) for those powerplants to be implementing Prohibition Orders, if the attached New England Power Exchange Conversion Schedule is followed. Maximum projected outages are expected to be as indicated on line 6 of attachment 1, thereby reducing the gross capacity and resulting in a net dependable capacity for the dispatching system.

D. *Net dependable capacity for the dispatching system.* 1. Based on the foregoing information, the net dependable capacity of the dispatching system at the expected time of implementation of a Prohibition Order would be as indicated on line 9 of attachment 1.

2. Comparing these net dependable capacities to the forecast peak loads shown on line 8, attachment 1 indicates that the reserve capacities shown on line 10 of attachment 1 would exist for the dispatching system.

3. Comparison of these reserve capacities to the forecast peak loads shown on line 8 of attachment 1 results in reserve margins as indicated on line 11 of attachment 1 (as contrasted with reserve margins as indicated on line 12 of attachment 1 if no units were removed from service due to Prohibition Orders).

4. The Federal Power Commission considers these to be marginally acceptable reserve margins taking into consideration the geographical location of Norwalk Harbor 1 and 2.

5. At the completion of the conversion there will be a net 10.3 NW derating or Norwalk Harbor 1 and 2 as a result of using coal as their primary energy source.

6. Existing transmission system interconnections may transfer an additional 1,925 MW into the dispatching system. This capacity may provide an additional resource of electric power during the implementation period and will enhance the reliability of service.

E. *Conclusion.* If dispatching system conditions, including any scheduled outage by Norwalk Harbor 1 and 2, are as presently forecast during the time required to implement a Prohibition Order by Norwalk Harbor 1 and 2, there will be no impairment of reliability of service within the meaning of ESECA in the area served by CL&P or in the dispatching system as a result of the Order.

Attachment 1

New England power exchange reliability data—Norwalk Harbor

		Assumed conversion periods (megawatt capacity)					
		1982, Mar. 1–Apr. 30	1982, May 1–June 30	1982, July 1–Aug. 31	1982, Sept. 1–Oct. 31	1982, Nov. 1–Dec. 31	1983, Nov. 1–Feb. 28
1	Gross capacity of NEPEX as of Sept. 1, 1976	20,841	20,841	20,841	20,841	20,841	20,841
2	Added capacity	2,115	3,265	3,265	4,445	4,565	4,565
3	Gross capacity	22,956	24,106	24,106	25,286	25,406	25,406
4	Scheduled outages for maintenance	2,101	2,348	687	3,603	1,310	391
5	Projected outages due to prohibition orders	915	277	925	1,598	803	163
6	Maximum projected outages due to maintenance and prohibition orders (line 4 plus line 5)	3,016	2,625	1,612	5,201	2,113	1,590
7	Unit outage	163	163	163	163	163	163
8	Peak load	15,684	18,533	18,533	17,162	20,192	20,192
9	Net dependable capacity	19,940	21,481	22,494	20,085	23,293	23,807
10	Reserve capacity	4,256	2,948	3,961	2,923	3,101	3,705
11	Reserve margin percent (maintenance and prohibition orders)	27.14	15.91	21.37	17.03	15.36	18.35
12	Reserve margin percent (maintenance only)	32.97	17.40	26.36	26.34	19.33	19.1

Attachment 2

New England power exchange conversion schedule

NEPEX member	Station	Unit	Assumed conversion dates
Northeast Utilities	Mt. Tom	1	March to April 1982.
Do	Middletown	1	March to April 1982.
Do	do	2	May to June 1982.
Do	do	3	July to September 1982.
Do	Norwalk Harbor	1	March to August 1982.
Do	do	2	September to February 1983.
The United Illuminating Co	Bridgeport Harbor	1	March to April 1982.
Do	do	2	July to August 1982.
Do	do	3	September to October 1982.
Eastern Utilities Associates	Somerset	8	March to April 1982.
New England Electric System	Brayton Point	1	March to April 1982.
Do	do	2	July to August 1982.
Do	do	3	October to Novemaber 1982.
Do	Salem Harbor	1	March to April 1982.
Do	do	2	July to August 1982.
Do	do	3	September to October 1982.

APPENDIX

PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A PROHIBITION ORDER

ESECA and the FEA regulations require FEA to make certain findings before issuing a Prohibition Order to a powerplant. FEA's proposed findings are set out below with respect to the powerplants named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Generating station	Unit No.	Location
OFU-099	United Illuminating Co	Bridgeport Harbor	1	Bridgeport, Conn.
OFU-100			2	
OFU-101			3	

These findings, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to Issue a Prohibition Order.

United Illuminating Company shall be referred to as the "utility" and as "United Illuminating".

I. *Capability and necessary plant equipment to burn coal.* FEA proposes to find that on June 22, 1974, Powerplants Numbers 1, 2 and 3 at Bridgeport Harbor Generating Station (Bridgeport Harbor 1, 2 and 3) had the capability and necessary plant equipment to burn coal. This proposed finding is based on the facts and interpretations stated below:

A. United Illuminating, in information filed with FEA dated July 10, 1975, indicated that each powerplant had in place on June 22, 1974, a boiler that was capable of burning coal. The boilers had been designed and constructed or modified to burn coal as their primary energy source, notwithstanding the fact that on June 22, 1974, the powerplant may not have been burning coal as its primary energy source.

B. Based on information United Illuminating filed with FEA dated July 10, 1975, and other information available to FEA, the following plant equipment or facilities at Bridgeport Harbor 1, 2 and 3 would have to be acquired or refurbished in order for these powerplants to burn coal as their primary energy source:

1. Coal handling equipment.
2. Pulverizers, burners and boilers.
3. Ash handling equipment.

C. FEA proposes to find that on June 22, 1974, Bridgeport Harbor 1, 2 and 3 had all oter significant plant equipment and facilities associated with the burning of coal.

D. Within the meaning of ESECA and the regulations promulgated pursuant thereto, the equipment and facilities listed in Paragraph B, above, do not individually or in combination constitute a lack of capability and necessary plant equipment to burn coal as of June 22, 1974.

II. *The burning of coal in lieu of natural gas or petroleum products is practicable and consistent with the purposes of ESECA.* FEA proposes to find that the burning of coal at Bridgeport Harbor 1, 2 and 3 in lieu of petroleum products or natural gas is practicable and consistent with the purposes of ESECA. This finding is based upon the presumption that Bridgeport Harbor 1, 2 and 3 will be operated at a 55 percent capacity factor, (this represents a weighted average of each powerplant's projected capacity factor), have an average remaining useful life of 24 years (as of the date of this NOI), are expected to have at least 19 years remaining useful life after conversion of the powerplants, and on the facts and interpretations stated below:

A. *The burning of coal is practicable.*—1. *Costs associated with burning coal.*

a. *Capital investment costs.* The total initial capital investment costs, exclusive of financing costs, that would result from the acquisition and refurbishment of equipment and facilities associated with the burning of coal at Bridgeport Harbor 1, 2 and 3 are estimated to be approximately $62,643,000, which assumes that flue gas desulfization equipment (venturi scrubbers included) will be required at a cost of $58,192,000 to comply with the air pollution control requirements of the Clean Air Act. This estimate is based on a PEDCo-Environmental Specialists, Inc. report entitled Evaluation Of The Coal Conversion Potential Of The Bridgeport Harbor Plant, March 25, 1977, (hereafter "PEDCo. Report").

b. *Annual operating and maintenance costs.* The increase in operating and maintenance costs, exclusive of fuel costs, that would result from the burning of coal is estimated to be approximately $21,861,000 per year including $21,239,000 for operation and maintenance of air pollution control equipment. This estimate is based on the PEDCo. Report.

c. *Fuel costs.* (i) Based on information supplied by United Illuminating, the price of petroleum products available to Bridgeport Harbor 1, 2 and 3 is aproximately $2.26 per million BTU's for oil. This represents $14.01 per barrel of oil, assuming 6.2 million BTU's per barrel.

(ii) Based on information supplied by the Federal Power Commission and Consolidated Railroad Corp. the price of coal available to Bridgeport Harbor 1, 2 and 3 is approximately $1.31 per million BTU's. This represents $32.01 per ton of coal, assuming 24.4 million BTU's per ton.

(iii) FEA estimates that the burning of coal by these powerplants will result in the reduction of approximately 95 cents per million BTU's, or $29,481,000 per year in fuel costs. This estimate is based on fuel consumption presuming Bridgeport Harbor 1, 2 and 3 are operated at a weighted average 55 percent capacity factor and with an average heat rate of 10,017 BTU's per kilowatt hour.

d. *Total annual cost associated with conversion.* As a result of the conversion of Bridgeport Harbor 1, 2 and 3, there will be an estimated total annual increase in costs incurred, exclusive of fuel costs, of approximately $37,720,000.

2. *Reasonableness of costs of conversion.* The foregoing analysis of the costs of conversion provides the basis for deciding whether the conversion of Bridgeport Harbor 1, 2 and 3 is reasonable. Financial impacts of the conversion will be felt by the utility and by the consumer.

As a result of conversion, the utility will incur additional annual capital investment costs, including financing costs of approximately $15,859,000 (this represents an amortized cost over the 19 years remaining useful life of these powerplants after conversion, and is based on a fixed charge rate of 25.3% of the total initial capital investment of $62,643,000) and additional annual operating and maintenance costs, exclusive of fuel costs, of approximately $21,861,000 (these figures are derived from the figures in paragraphs A.1.a., and b.), but will experience an annual fuel cost savings of approximately $29,481,000. (See paragraph A.1.c.). The estimated net annual increase in cost of producing electricity at Bridgeport Harbor 1, 2 and 3 after conversion will be $8,239,000.

Increased costs for conversion will be mitigated by the decrease in fuel costs. The net result, however, will be an increase in the cost of producing electricity at Bridgeport Harbor 1, 2 and 3. The costs to the utility resulting from a Prohibition Order ultimately will be recovered in rates.

Th use of coal at Bridgeport Harbor 1, 2 and 3 will result in an estimated annual equivalent savings of 5,043,000 barrels of oil that otherwise would be used in providing steam for electric power generation. The cost of conversion per barrel of oil saved is estimated to be $1.63.

Although conversion to the burning of coal would be expected to increase the cost of producing electricity at Bridgeport Harbor 1, 2 and 3, FEA proposes to find that such increased cost, per barrel of oil saved, is not unreasonable. This determination is based on consideration of the substantial savings of oil that will result from this conversion. The determination that the costs of converting are not unreasonable is further supported by consideration of such costs in relation to the expected 19 years remaining useful life of the powerplants after conversion, the size and resources of United Illuminating as examined in the following analysis of financial capability, the nature of the expected operations of these powerplants, and potential future increases in the fuel cost differential in favor of coal.

3. *Financial capabilities of United Illuminating.*—a. *Recovery of capital investment.* FEA proposes to find that compliance with a Prohibition Order to Bridgeport Harbor 1, 2 and 3 would be economically feasible. FEA's analysis took into consideration the $62,643,000 additional capital investment costs required for United Illuminating to comply with this NOI and all other NOI's which are currently under consideration, as well as additional capital investment costs related to all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of Section 2 (a) and (c) of ESECA to United Illuminating powerplants. FEA related these additional capital investment costs to United Illuminating's estimate of its 1977–79 construction budget of $235 million, the total capitalization of United Illuminating of $412 million, and the 19 years remaining useful life after conversion of Bridgeport Harbor 1, 2 and 3.

FEA does not consider the effect of this added capital investment cost to represent an unreasonable burden given the financial capabilities of the utility to assume such costs.

b. *Total annual costs associated with conversion.* The total estimated annual increase in costs (amortized increased capital investment costs and other costs, exclusive of fuel costs) associated with the burning of coal as opposed to oil attributable to compliance with this NOI and all other NOI's which are currently under consideration would be $37,720,000. This also represents the total estimated annual incremental increase in revenue requirements of the utility. (FEA also took into consideration revenue requirements of the utility resulting from compliance with all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of Section 2 (a) and (c) of ESECA to United Illuminating powerplants.) This estimate of $37,720,000 in revenue requirements is based on an investment oriented analysis described in an Ultrasystems Inc. report entitled Computer Methodology For Coal Conversion Cost Reasonableness Determination, August 1976, (hereafter "Ultrasystems Computer Model"). The estimate includes an incremental rate of return on retained earnings which are invested.

(For comparison with the Ultrasystems Computer Model results, FEA performed a financial analysis based on a Price Waterhouse and Co. report entitled Identification Of Possible Financial Effects Of Converting Certain Electric Generating Facilities To The Use of Coal, October 1976. This analysis estimated the total annual incremental increase in revenue requirements to be $38,433,000, which assumed a predicted effect on the utility's financial statement and represents revenues required to offset any potential loss in United Illuminating's net earnings per share as reported for Fiscal Year ending 1975.)

The total estimated annual increase in costs of $37,720,000 associated with conversion ultimately will be recovered in rates. However, due to the potential offsetting value of fuel cost savings of approximately $29,481,000 attributable to compliance with this NOI and all other NOI's currently under consideration, the net annual revenue requirements of the utility should increase by approximately $8,239,000.

4. *Consumer Impact.* The potential initial impact of a Prohibition Order to Bridgeport Harbor 1, 2 and 3 is a net increase in revenues required from United Illuminating consumers of approximately $0.0019 per kilowatt hour of electricity sold by United Illuminating. This estimate is based on FEA's analysis of the Ultrasystems Computer Model. The actual amount of the increase will depend on the actual amount of the investment necessary to comply with a Prohibition Order, the methods which United Illuminating selects to finance the increased costs associated with burning coal as a primary energy source at Bridgeport Harbor 1, 2 and 3, the extent to which the cost increase is spread among United Illuminating customers, the regulations or policies of the regulatory agencies with jurisdiction over United Illuminating regarding inclusion of such cost increases in consumer rates, the actual amount of the fuel cost differential, and other factors.

B. *Consistency with the purposes of ESECA.* Because the issuance of a Prohibition Order to Bridgeport Harbor 1, 2 and 3 will discourage the use of natural gas or petroleum products and encourage the increased use of coal, FEA proposes to conclude that this action would be consistent with the purpose of ESECA to provide a means to assist in meeting the essential needs of the United States for fuels.

On the basis of the environmental analysis which FEA is required to conduct prior to issuance of a Notice of Effectiveness of a Pro-

hibition Order, as well as the necessity for these powerplants to comply with the Clean Air Act and other applicable environmental protection requirements, FEA proposes to conclude that a Prohibition Order to Bridgeport Harbor 1, 2 and 3 would be consistent with the purpose of ESECA to provide for a means to assist in meeting the essential needs of the United States for fuels in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment.

III. *Coal and coal transportation facilities will be available to these powerplants during the period until December 31, 1984.*—A. *Coal availability.*

1. *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the foreseeable future. U.S. Department of the Interior, Bureau of Mines date show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recover able (Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974, Bureau of Mines (May 1975) (hereafter "BOM Survey")). Within these recoverable reserves approximately 200 billion tons contain 1 percent or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies, referenced herein, which together provide the best current evidence as to coal availability for the period ending December 31, 1984.

2. *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnages of uncommitted planned national coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets 99 percent of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

a. *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	Production potential (million tons)
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's Coal Mine Expansion Study (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, Availability of Potential Coal Supply Through 1985 by Quality Characteristics, August 1976, (hereafter "Availability Study") indicates current plans for nationwide production of uncommitted coal as follows:

Year:	Production (million tons)
1977	48.4
1978	122.2
1979	237.1
1980	287.3
1981	344.0
1982	363.9
1983	390.1
1984	469.5
1985	544.9

b. *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) of ESECA, is as follows (FEA 1976 National Energy Outlook):

Year:	Demand (million tons)
1977	698
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

c. *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA is as follows (Coal Availability and Demand: Round I and II Coal Conversion Candidates, August 1976 (hereafter "Coal Conversion Study")):

Year:	Demand (million tons)
1977	4.5
1978	9.1
1979	13.0
1980	17.0
1981	19.2
1982	26.8
1983	26.8
1984	26.8

3. *Characteristic coal, production and demand.* FEA's "Availability Study" identifies coal of specific quality characteristics available for use at these powerplants. The survey is based on data from 31 mining companies that supplied useful information on 96 mining units. Responses from these companies identified planned production of coal which is not now committed to a specific buyer. For those companies which did not respond to the survey, FEA estimated thir uncommitted planned production based on their 1974 production.

a. *Characteristic coal requirements for these powerplants.* FEA's "Coal Conversion Study" has determined that cyclone and pulverized-coal dry bottom boilers of the type used at Bridgeport Harbor 1, 2 and 3, will be able to burn coal of the following characteristics and comply with all applicable air pollution control requirements.

	Units 1 and 2	Unit 3
Btu's per pound	12,000 minimum	11,700 minimum.
Moisture	15 pct maximum	15 pct maximum.
Ash	18 pct maximum	20 pct maximum.
Volatile	15 pct minimum	15 pct minimum.
Ash softening temperature	2,300 (°F) maximum	2,200 (°F) minimum.
Sulfur	2.7 pct maximum (approximate)	2.7 pct maximum (approximate).

b. *Characteristic coal demand from these powerplants.* The potential demand for coal, of the type described above, which would result from this NOI is estimated to be as follows:

Year	Demand (1,000 tons)	
	Units 1 and 2	Unit 3
1982 and thereafter	498	772

c. *National planned production, characteristic coal.* The FEA "Coal Conversion Study" has determined that coal of the type described in paragraph A.3.a., above, is uncommitted to a specific buyer and will be potentially available to Bridgeport Harbor 1, 2 and 3 in a nationwide market as follows:

Year	Production (1,000 tons)	
	Units 1 and 2	Unit 3
1977	17,595	29,757
1978	44,749	64,064
1979	97,431	125,895
1980	113,720	148,591
1981	137,139	176,825
1982	144,492	186,738
1983	154,118	200,028
1984	187,596	238,426

d. *National ESECA prohibition order demand for coal, regardless of characteristics.* The national planned production of characteristic coal, as stated in paragraph A.3.c., above, exceeds potential demand for coal regardless of characteristic expected from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under Section 2(a) of ESECA. National ESECA Prohibition Order demand as previously stated in paragraph A.2.c., above, is:

Year:	Demand (thousand tons)
1977	4,500
1978	9,100
1979	12,000
1980	17,000
1981	19,200
1982	26,800
1983	26,800
1984	26,800

e. *Regional planned production, characteristic coal.* Coal with the characteristics described in paragraph A.3.a., above, is uncommitted and will be potentially available to Bridgeport Harbor 1, 2 and 3 in a probable regional supply/demand relationship related to the location of these powerplants from Bureau of Mines Districts 1 through 13 as follows:

Year	Production (1,000 tons)	
	Units 1 and 2	Unit 3
1977	13,627	24,204
1978	34,650	49,041
1979	75,580	95,725
1980	87,625	109,889
1981	104,620	129,725
1982	110,318	137,324
1983	117,770	147,673
1984	143,696	175,499

f. *Regional ESECA prohibition order demand for coal, regardless of characteristic.* The expected regional production of characteristic coal, as stated in paragraph A.3.e., above, exceeds the potential demand for coal regardless of characteristic from Bureau of Mines Districts 1 through 8 and 13 expected to result from this NOI from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. This potential regional demand is estimated in FEA's "Coal Conversion Study" as follows:

Year:	*Demand (thousand tons)*
1977	2,369
1978	4,449
1979	5,811
1980	10,351
1981	11,905
1982	19,503
1983	19,503
1984	19,503

g. *Regional ESECA prohibition order demand for coal by sulfur characteristic.* The potential regional demand within BOM Districts 1 through 8 and 13 for coal with a 2.21–2.71 percent sulfur content (which includes the 2.7 percent maximum sulfur content described in paragraph A.3.a., above) resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA is estimated in FEA's "Coal Conversion Study" as follows:

Year:	*Demand (thousand tons) percent sulfur 2.21 to 2.71*
1977	0
1978	0
1979	26
1980	78
1981	78
1982	3,421
1983	3,421
1984	3,421

The regional planned production of coal, stated in paragraph A.3.e., above, with the characteristics described in paragraph A.3.a., above, far exceeds the potential ESECA regional demand for coal by sulfur characteristic.

4. *State or local laws.* FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

5. *Conclusion.* FEA's "Availability Study" has identified nationally and in Bureau of Mines Districts 1 through 8 and 13 uncommitted coal production that meets the requirements of Bridgeport Harbor 1, 2 and 3 as described in paragraph A.3.a., above. FEA proposes to find that this uncommitted coal exists in amounts sufficient in any year to meet the estimated additional demand for coal, both nationally and from these Districts, resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA.

Coal for Bridgeport Harbor 1, 2 and 3 will probably be bought from producers according to regional supply/demand relationships related to the powerplants' locations from Bureau of Mines Districts 1 through 8 and 13. FEA observes, however, that these powerplants could purchase coal in other markets as such production becomes available. (The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond, School of Engineering, University of Pennsylvania, November 7, 1975.)

B. *Coal transportation.*—1. *Location of powerplants and coal supply.* Based on an FEA study, Utility Analysis of Coal Transportation Availability, November 1976, (hereafter after "Transportation Availability Study"), coal for Bridgeport Harbor 1, 2 and 3 would probably come from Bureau of Mines (BOM) District 8 as both the primary and alternate source of supply. While this supply area is the nearest available potential source able to supply complying coal to these powerplants, complying coal can be transferred by rail from other identified sources within the United States. The analysis of transportation availability is based on the most likely route as well as two alternate routes. These routes were chosen to demonstrate transportation availability.

2. *Route of coal shipment.* A primary route for coal delivery for Bridgeport Harbor 1, 2 and 3 would originate on the Chessie System Inc. (Baltimore & Ohio) from District 8 to Baltimore, Maryland, taking Consolidated Railroad Corporation (Conrail) New York, New York, and ship the coal from Port Reading to Bridgeport Harbor 1, 2 and 3 via inland barges using Express Marine or Red Star Towing and Transportation. The total rail distance is approximately 400 miles, with a marine leg of about 60 miles.

One alternate route from BOM District 8 would involve originating coal on the Chessie (B&O) to Baltimore, Maryland, and taking Conrail to Bridgeport, Connecticut.

Another alternate route from an alternate supply area would be to originate coal from BOM District 8 to Kenova, West Virginia, on Chessie (C&O) to Baltimore, Maryland, on the B&O and by inland barge to Bridgeport, Connecticut.

3. *Originating trunk carrier.* The Chessie (B&O), the expected originating carrier of coal for Bridgeport Harbor 1, 2 and 3, has approximately 21,000 hopper cars with an estimated average capacity of 75 tons. Using an average number of deliveries of 20 per year per 75-ton car, the B&O may need as many as 850 additional cars to handle the increased demand from the Bridgeport Harbor 1, 2 and 3. This estimate assumes that the railroad would neither have excess originating capacity nor obtain cars from other carriers in the originating vicinity.

The B&O indicated that it is willing to acquire any needed capacity involved in shipment to the Bridgeport Harbor facility and that it would modify its expansion plans with demand conditions. The railroad also indicated that its carying capacity could be expanded as quickly as the utility prepares to burn coal.

FEA's "Transportation Availability Study" concluded that, for all potential Prohibition Order candidates studied, there would be no major constraints in transporting coal.

The study examined existing rail transportation car capacity, water transportation capacity, including unloading docks, where applicable, and took into account projections made by all carriers to meet the anticipated demand for all types of transportation facilities assuming all powerplants studied were to receive orders under section 2(a) of ESECA.

The B&O indicated that transportation facilities at those mine sites within BOM District 8 are in satisfactory operating condition and loading facilities could handle the required coal volumes.

FEA has not found nor has it been informed of any apparent constraints to carrying coal for any alternate or intermediate carriers should they be used.

4. *Destination carrier and powerplant facilities.* Coal would be delivered to Bridgeport Harbor 1, 2 and 3 from Port Reading, New York, by inland barge. Red Star Towing and Transportation and Express Marine have expressed willingness to provide the necessary services. Although existing barge capacity is sufficient to handle the load imposed by Bridgeport Harbor 1, 2 and 3, if all potential Prohibition candidates studied were ordered to convert, some new barges would have to be built. The barge companies are willing to undertake the necessary construction, given a long enough lead time and a long-term barging commitment.

Bridgeport Harbor 1, 2 and 3 have facilities to receive coal by either barge or rail. In the past coal was received by rail, coming in on a New Haven Railroad (Conrail) spur, and being unloaded by a shaker unloader. According to the utility, however, coal bought in the future would probably come in by barge. The docking facilities are adequate to receive inland barges. A continuous bucket unloader was installed in 1968 and was never used. This unloading system will be capable of handling the projected load, although it will require some repair work to be brought to a satisfactory operating condition. It is expected that these repairs can be accomplished prior to the effective date for coal burning.

There are no other obstacles to the delivery of coal to Bridgeport Harbor 1, 2 and 3.

5. *Conclusion.* Coal transportation facilities will be available for the period of Prohibition Order is expected to be in effect since no significant constraints to coal delivery over the primary route to Bridgeport Harbor 1, 2 and 3 presently exist, and alternate routes are available.

IV. *The prohibition of the burning of natural gas or petroleum products as their primary energy source will not impair the reliability of service in the area served by the affected powerplants.* Based on an analysis of the information submitted to FEA by the Federal Power Commission, and after consultation with the Federal Power Commission, FEA proposes to find that the issuance of a Prohibition Order to Bridgeport Harbor 1, 2 and 3 will not impair the reliability of service in the area served by these powerplants. This proposed finding is based on the facts and interpretations stated below:

A. *Description of the dispatching system.* 1. The Bridgeport Harbor Station is owned by United Illuminating Company, which is a member of the New England Power Exchange (NEPEX), which is within the geographical area of the New England Subregion of the Northeast Power Coordinating Council regional electric reliability council.

2. The term "dispatching system" as used in the proposed finding means NEPEX.

3. The gross capacity as of September 1976, of all dispatching system powerplants was 20,841 MW. (See line 1, attachment 1.)

4. Proposed changes, up to the period in which Bridgeport Harbor 1, 2 and 3 would implement a Prohibition Order will result in the gross capacities indicated on line 3 of attachment 1 because of the following changes in the dispatching system listed in Table 1:

TABLE 1

Powerplant designation	Fuel	Type of change	Capacity change (megawatt)	Effective date
Potter 2	Oil	Add	+95	January 1977.
Wyman 4	Oil	Add	+600	December 1978.
Seabrook 1	Nuclear	Add	+1,150	June 1981.
Stony Brook 1	Oil	Add	+270	November 1981.
Millstone Point 3	Nuclear	Add	+1,150	May 1982.
Pilgrim 2	do	Add	+1,180	October 1982.

Totals:	Added
Mar. 1 to Apr. 30, 1982	+2,115
July 1 to Aug. 31, 1982	+3,265
Sept. 1 to Oct. 31, 1982	+4,445

NOTE.—See line 2, attachment 1.

5. The proposed changes in Table 1, above, are based on the best information available to FEA and the Federal Power Commission (FPC Form 12E-2 dated October 25, 1976) at the time this NOI is issued. FEA has taken into consideration the possibility that the proposed changes may not be completed by the indicated effective date, but has determined that in such event, with minor modifications to the projected schedule of changes contained in Table 1, as well as the New England Power Exchange Conversion Schedule (attachment 2 to this NOI), gross capacity in the dispatching system would not be significantly affected during the period required for conversion of Bridgeport Harbor 1, 2 and 3. The New England Power Exchange Conversion Schedule is FEA's estimate of the outage times for all the powerplants in NEPEX that are currently being considered for Prohibition Orders. The schedule assumes outages for conversion at those times that are optimally suited, in terms of forecast peak load periods, to maintain reliability of service.

B. *Forecast peak loads for the dispatching system.* 1. Forecasts of peak loads for the dispatching system during the period in which Bridgeport Harbor 1, 2 and 3 would implement a Prohibition Order are as indicated on line 8 of attachment 1.

2. The forecast peak loads have been compared with loads in previous similar periods. The annual peak load growth rate for these forecasts is 5.5 percent.

C. *Maximum projected outages for the dispatching system.* 1. Scheduled outages for normal maintenance including other powerplants implementing Prohibition Orders and nuclear plant refueling within the dispatching system during the periods in which Bridgeport Harbor 1, 2 and 3 may be implementing a Prohibition Order, may result in some loss of capacity which is expected to be as indicated on line 4 of attachment 1.

2. A projected outage of 2 months for each powerplant is estimated to be required to make modifications, installations, or other physical adjustments required by a Prohibition Order should it become effective. The powerplants may be less than fully dependable during the period of on-line testing and adjustment following such modifications. This period is not expected to exceed 30 days. To take advantage of the maximum reserve capacity, these projected outages are most likely to occur during the year 1982. The potential loss of capacity from an outage of Bridgeport Harbor 1, 2 and 3 would be approximately 82 MW, 180 MW, and 400 MW respectively (line 7 attachment 1). The potential loss of capacity from a combined outage of Bridgeport Harbor 1, 2 and 3 would be approximately 662 MW. This represents the maximum potential loss due to outages at these powerplants, but it is expected that Bridgeport Harbor 1, 2 and 3 will be implementing a Prohibition Order at different times. This maximum potential loss of 662 MW is included in the total outages indicated on line 6 of attachment 1. (The assumed conversion period specified on attachments 1 and 2 is shown for purpose of illustration only.)

3. Maximum projected outages within the dispatching system include normal scheduled maintenance for all powerplants (line 4 of attachment 1) and outages due to conversion (line 5 of attachment 1) for those powerplants to be implementing Prohibition Orders, if the attached New England Power Exchange Conversion Schedule is followed. Maximum projected outages are expected to be as indicated on line 6 of attachment 1, thereby reducing the gross capacity and resulting in a net dependable capacity for the dispatching system.

D. *Net dependable capacity for the dispatching system.* 1. Based on the foregoing information, the net dependable capacity of the dispatching system at the expected time of implementation of a Prohibition Order would be as indicated on line 9 of attachment 1.

2. Comparing these net dependable capacities to the forecast peak loads shown on line 8 of attachment 1 indicates that the reserve capacities shown on line 10 of attachment 1 would exist for the dispatching system.

3. Comparison of these reserve capacities to the forecast peak loads shown on line 8 of attachment 1 results in reserve margins as indicated on line 11 of attachment 1 (as contrasted with reserve margins as indicated on line 12 of attachment 1 if no units were removed from service due to Prohibition Orders).

4. The Federal Power Commission considers these to be acceptable reserve margins taking into consideration the geographical location of Bridgeport Harbor 1, 2 and 3.

5. At the completion of the conversion, there will be a net 19.5 MW derating of Bridgeport Harbor 1, 2 and 3 as a result of using coal as their primary energy source.

6. Existing transmission interconnections may transfer an additional 1,925 MW into the dispatching system. This capacity may provide an additional resource of electric power during the implementation period and will enhance the reliability of service.

E. *Conclusion.* If dispatching system conditions, including any schedule outage by Bridgeport Harbor 1, 2 and 3, are as presently forecast during the time required to implement a Prohibition Order by Bridgeport Harbor 1, 2 and 3, there will be no impairment of reliability of service within the meaning of ESECA in the area served by United Illuminating or in the dispatching system as a result of the Order.

New England power exchange reliability data—Bridgeport Harbor

		Assumed conversion periods (megawatt capacity)		
		1982 Mar. 1–Apr. 40	1982 July 1–Aug. 31	1982 Sept. 1–Oct. 31
1	Gross capacity of NEPEX as of Sept. 1, 1976	20,841	20,841	20,841
2	Added capacity	2,115	3,265	4,445
3	Gross capacity	22,956	24,106	25,286
4	Scheduled outages for maintenance	2,101	687	3,603
5	Projected outages due to prohibition orders	915	925	1,598
6	Maximum projected outages due to maintenance and prohibition orders (line 4 plus 5)	3,016	1,612	5,201
7	Unit outage	82	199	400
8	Peak load	15,684	18,533	17,162
9	Net dependable capacity	19,941	22,494	20,685
10	Reserve capacity	4,205	3,961	2,923
11	Reserve margin percent (maintenance and prohibition orders)	27.14	21.37	17.03
12	Reserve margin percent (maintenance only)	32.97	29.39	23.34

New England power exchange conversion schedule

NEPEX member	Station	Unit	Assumed conversion dates
Northeast Utilities	Mt. Tom	1	March to April 1982.
Do	Middletown	1	Do.
Do	do	2	May to June 1982.
Do	do	3	July to September 1982.
Do	Norwalk Harbor	1	March to August 1982.
Do	do	2	September to February 1983.
The United Illuminating Co	Bridgeport Harbor	1	March to April 1982.
Do	do	2	July to August 1982.
Do	do	3	September to October 1982.
Eastern Utilities Associates	Somerset	8	March to April 1982.
New England Electric System	Brayton Point	1	Do.
Do	do	2	July to August 1982.
Do	do	3	October to November 1982.
Do	Salem Harbor	1	March to April 1982.
Do	do	2	July to August 1982.
Do	do	3	September to October 1982.

[FR Doc.77-12159 Filed 4-28-77;8:45 am]

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Intention to Issue Prohibition Orders to Certain Powerplants

The Federal Energy Administration (FEA) hereby gives notice of its intention to issue Prohibition Orders, pursuant to the authorities granted it by section 2 (a) and (b) of the Energy Supply and Environmental Coordination Act of 1974, as amended (ESECA), and Chapter 10, Code of Federal Regulations (10 CFR), Parts 303 and 305 to the following powerplants:

Docket No.	Owner	Generating station	Powerplant No.	Location
OFU-154	Corn Belt Power Cooperative	Wisdom	1	Spencer, Iowa.
OFU-155	Independence Power & Light Department.	Blue Valley	3	Independence, Mo.
OFU-156	St. Joseph Light & Power Co	Lake Rd	5	St. Joseph, Mo.
OFU-157	do	do	6	Do.
OFU-159	Fremont Department of Utilities	Lon D. Wright	7	Fremont, Nebr.

FEA hereby also gives notice of the opportunity for oral and written presentation of data, views, and arguments by interested persons regarded these proposed Prohibition Orders.

The proposed orders would prohibit the above-named powerplants from burning natural gas or petroleum products as their primary energy source.

Prior to issuance of a Prohibition Order to a powerplant, section 2(a) of ESECA and 10 CFR 303.36(b) and 305.3 (b) require that FEA find the powerplant had the capability and necessary plant equipment to burn coal as of June 22, 1974. A Prohibition Order may not be issued unless FEA can find that the prohibition of the utilization of natural gas or petroleum products as a primary energy source is practicable and consistent with the purposes of ESECA, that coal and coal transportation facilities will be available during the period the Prohibition Order will be in effect, and that the prohibition will not impair the reliability of service in the area served by the powerplant. FEA's proposed findings, as well as its proposed conclusions and rationale with respect to these findings, for each powerplant are set out in the Appendix to this notice. These findings, conclusions and rationale may be amended as a result of comments received by FEA pursuant to this notice and other information available to FEA. The findings, conclusions and rationale will be included, with any amendments, for each Prohibition Order that is issued.

Upon completion of the proceedings described in this notice, FEA may determine to issue Prohibition Orders to some or all of the above-named powerplants. These Prohibition Orders will not become effective, however, until (1) either (a) the Administrator of the Environmental Protection Agency (EPA) notifies the FEA, in accordance with section 119(d)(1)(B) of the Clean Air Act, that the powerplant is able to burn coal and to comply with all applicable air pollution control requirements without a compliance date extension under section 119(c) of such Act, or (b) if such notification is not given by EPA, the date that the Administrator of EPA certifies, pursuant to section 119(d)(1)(B) of the Clean Air Act, is the earliest date that the powerplant will be able to comply with all applicable air pollution control requirements of section 119 of that Act; and (2) FEA has considered the environmental impact of the order, pursuant to 10 CFR 208.3(a)(4) and 305.9 and has served the affected powerplant with a Notice of Effectiveness, as provided in 10 CFR 303.10(b), 303.37(b) and 305.7. The date the Prohibition Order will be effective will be stated in the Notice of Effectiveness.

10 CFR 305.9 requires that, prior to the issuance of a Notice of Effectiveness to a powerplant, FEA shall perform an analysis of the environmental impact of the issuance of such Notice of Effectiveness. That analysis shall result in either (1) issuance of a declaration that the Prohibition Order will not, if made effective by a Notice of Effectiveness, be likely to have a significant impact on the quality of the human environment; or (2) the preparation by FEA of an environmental impact statement covering significant site-specific impacts that are likely to result from the Prohibition Order and that have not been adequately addressed in the Final Environmental Statement (FES 75-1, dated April 25, 1975) or in other official documents made publicly available. If FEA prepares an environmental impact statement covering significant site-specific impacts resulting from a Prohibition Order, the statement shall be prepared and published for comment in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969 prior to issuance of a Notice of Effectiveness. Interested persons may request a public hearing pursuant to 10 CFR 303.173 to comment on the contents of a draft environmental impact statement. With respect to comments regarding any impact on air quality that might result from a proposed Prohibition Order, however, it should be recognized that ESECA has assigned to EPA the primary responsibility for analyzing the effect of any such order on the Nation's air quality and for determining the applicable air pollution control requirements that apply to the powerplant that has been issued an order. It is expected that, in almost every case, a powerplant to which a Prohibition Order is issued will be eligible to apply to EPA for a compliance date extension. In connection with that application, EPA must provide an opportunity for written comment and oral presentation of data, views and arguments by interested persons. Enclosed with the Notice of Effectiveness may be a compliance reporting schedule to insure that the powerplant will be able to comply with

the prohibition of the burning of natural gas or petroleum products as a primary energy source on the effective date specified in the Notice of Effectiveness.

Public comment on the proposal to issue Prohibitive Orders to the powerplants listed above is invited in the form of written and oral presentation of data, views, and arguments. Comments should relate to the individual docket numbers and should make clear to which docket number the individual comment is addressed.

Comments should address (1) the adequacy and validity of each of the proposed findings and the conclusions and rationale in support of these findings; (2) the environmental impact of the issuance of a Prohibition Order, including any site-specific environmental impacts; and (3) any other aspects or impacts of the proposed Prohibition Order believed to be relevant.

Pursuant to 10 CFR 303.173 (c) and (d), FEA hereby announces that a public hearing to receive oral presentation of data, views and arguments of interested persons will be held beginning at 9 a.m. on May 10 and 11, 1977, in Room 114, Federal Building, 601 E. 12th Street, Kansas City, Missouri 64106. Any person who has an interest in the subject of the hearing or who is a representative of a group or class of persons which has an interest on the subject of the hearing may make a written request, or a verbal request if confirmed in writing, for an opportunity to make an oral presentation. That request should be directed to Wilbur Jenny, FEA Region VII, 1150 Grand Avenue, Kansas City, Missouri 64106, 816-374-3116. The request should be received before 4.30 p.m., Tuesday, May 3, 1977. The request should describe the person's interest in the issue(s) involved; if appropriate, it should state why the person is an appropriate representative of the group or class of persons which has such an interest; it should give a concise summary of the proposed oral presentation and a phone number where the person may be contacted through May 9, 1977. Speakers will be contacted by an FEA representative before 4.30 p.m., Thursday, May 5, 1977 and should submit ten (10) copies of their oral presentation, if possible, unless such presentation is less than five (5) pages, in which case only one copy is required, to Neil Adams, Regional Administrator, Federal Energy Administration, 1150 Grand Ave., Kansas City, Missouri 64106, before 4:30 p.m., Monday, May 9, 1977.

Detailed technical data, views and arguments should be contained in a written submission in support of the oral presentation. The oral presentation itself should be a summary of those written comments.

While FEA will endeavor to provide adequate opportunity to all who desire to speak, FEA reserves the right to limit the number of persons to be heard at the hearing, to schedule their respective presentations and to establish the procedures governing the conduct of the hearing. The length of time allocated to each presentation may be limited on the basis of the number of persons requesting to be heard. The FEA will prepare an agenda that shall provide, to the extent possible, for the presentation of all relevant data, views and arguments.

An FEA official will be designated to preside at the hearing which will not be a judicial or evidentiary hearing. During oral presentations only those conducting the hearing may ask questions. There will be no cross-examination. At the conclusion of all initial oral presentations, each person who has made an oral statement will be given the opportunity if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit written questions to the presiding officer to be asked of any person making an oral presentation. The presiding officer will determine whether to ask questions, having first determined whether the question is relevant, and whether adequate time may be afforded for an answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and it, together with any written comments submitted in the course of the hearing, will be retained by the FEA and made available for inspection and copying at the public reading room located in Room 2107, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461, and the FEA Regional Office, Library, 1150 Grand Avenue, Kansas City, Missouri 64106, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Anyone may purchase a copy of the transcript from the reporter.

Interested persons are invited to submit written comments consisting of data, views, or arguments with respect to these proposed Prohibition Orders to Executive Communications, Federal Energy Administration, Room 3309, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461.

Comments and other documents submitted to FEA Executive Communications should be identified on the outside of the envelope in which they are transmitted and on the document itself with the designation "Proposed Prohibition Order for the _____ Powerplant." Fifteen copies should be submitted.

All written comments received by 4:30 p.m., Monday, May 30, 1977, all oral presentations, and all other relevant information submitted to or otherwise available to FEA will be considered by FEA prior to issuance of a Prohibition Order.

Any information or data considered to be confidential by the person furnishing it must be so identified and submitted in writing, one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it in accordance with that determination.

Copies of the regulations implementing section 2 (a) and (b) of ESECA (10 CFR Parts 303 and 305) are available from the following FEA Regional Offices:

REGION, ADDRESS AND PHONE

I—Robert Mitchell, Regional Administrator, 150 Causeway Street, Room 700, Boston, Massachusetts 02114, 617-223-3701.

II—Alfred Kleinfield, Regional Administrator, 26 Federal Plaza, Room 3206, New York, New York 10007, 212-264-1021.

III—J. A. LaSala, Regional Administrator, 1421 Cherry Street, Room 1001, Philadelphia, Pennsylvania 19102, 215-597-3390.

IV—Donald Allen, Regional Administrator, 1655 Peachtree Street, NE., 8th Floor, Atlanta 30309, 404-526-2837.

V—N. Allen Andersen, Regional Administrator, Federal Office Building, 175 West Jackson Blvd., Room A-333, Chicago, Illinois 60604, 312-353-0540.

VI—Delbert Fowler, Regional Administrator, Post Office Box 35228, 2626 West Mockingbird Lane, Dallas, Texas 75235, 214-749-7345.

VII—Neil Adams, Regional Administrator, 1150 Grand Avenue, Kansas City, Missouri 64106, 816-374-2061.

VIII—Dudley Faver, Regional Administrator, Post Office Box 26247, Belmar Branch, 1075 South Yukon Street, Lakewood, Colorado 80226, 303-234-2420.

IX—William Arntz, Regional Administrator, 111 Pine Street, San Francisco, California 94111, 415-556-7216.

X—Jack B. Robertson, Regional Administrator, 1992 Federal Building, 915 Second Avenue, Seattle, Washington 98174, 206-442-7280.

Any questions regarding this notice should be directed to the FEA National Office as follows: Federal Energy Administration, Code OFU (Prohibition Order: Powerplant), Washington, D.C. 20461, 202-566-7941.

(Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 791 et seq.), as amended by Pub. L. 94-163; Federal Energy Administration Act of 1974 (15 U.S.C. 761 et seq.), as amended by Pub. L. 94-385; E.O. 11790 (39 FR 23185).)

Issued in Washington, D.C., April 25, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

APPENDIX

PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A PROHIBITION ORDER

ESECA and the FEA regulations require FEA to make certain findings before issuing a Prohibition Order to a powerplant. FEA's proposed findings are set out below with respect to the powerplant named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Generating station	Unit No.	Location
OFU-154	Corn Belt Power Cooperative	Wisdom	1	Spencer, Iowa.

These findings, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to issue a Prohibition Order.

Corn Belt Power Cooperative shall be referred to as the "utility" and as "Corn Belt".

I. *Capability and necessary plant equipment to burn coal.* FEA proposes to find that on June 22, 1974, Powerplant Number 1 at the Wisdom Generating Station (Wisdom 1) had the capability and necessary plant equipment to burn coal. This proposed finding is based on the facts and interpretations stated below:

A. Corn Belt, in information filed with FEA dated July 8, 1975, indicated that this powerplant had in place on June 22, 1974, a boiler that was capable of burning coal. The boiler had been designed and constructed or modified to burn coal as its primary energy source, notwithstanding the fact that on June 22, 1974, the powerplant may not have been burning coal as its primary energy source.

B. Wisdom 1 is presently burning coal as its primary energy source. Therefore, FEA proposes to find that Wisdom 1 has the necessary plant equipment and facilities associated with the burning of coal.

C. Within the meaning of ESECA and the regulations promulgated pursuant thereto, this powerplant had the capability and necessary plant equipment to burn coal as of June 22, 1974.

II. *The burning of coal in lieu of natural gas or petroleum products is practicable and consistent with the purposes of ESECA.* FEA proposes to find that the burning of coal at Wisdom 1 in lieu of petroleum products or natural gas is practicable and consistent with the purposes of ESECA. This finding is based on the facts and interpretations stated below:

A. *The burning of coal is practicable.*—1. *Costs associated with burning coal.* a. *Capital investment costs.* Since Wisdom 1 is currently burning coal as its primary energy source, FEA proposes to find that Wisdom 1 has acquired or modified the equipment and facilities necessary for the burning of coal as its primary energy source, and such actions were not undertaken as a result of (or in contemplation of) the issuance of a Prohibition Order. These acquisitions or modifications either include or should include those necessary for compliance with the requirements of the Clean Air Act.

b. *Annual operating and maintenance costs.* FEA proposes to find that there are no apparent significant increases in operating and maintenance costs that would result from the continued burning of coal by Wisdom 1.

c. *Fuel costs.* The alternate fuel which could be used by Wisdom 1 is natural gas. However, based on information obtained from the Federal Power Commission and from Corn Belt, FEA has determined that Wisdom 1 should continue to experience a substantial curtailment of any future supply of natural gas. FEA, therefore, proposes to find that Wisdom 1 will continue to burn coal as its primary energy source with no increase in fuel costs as a result of a Prohibition Order.

d. *Total annual costs.* FEA proposes to find that there will be no annual increase in costs incurred, at Wisdom 1, as a result of an order which prohibits the burning of natural gas or petroleum products.

2. *Reasonableness of costs.* Considering the fact that FEA has determined that Wisdom 1 should continue to experience curtailment of its alternate fuel, natural gas, as well as the fact that the utility has acquired or modified such equipment and facilities as are necessary in order to burn coal as its primary energy source, FEA proposes to find that the cost of burning coal in lieu of natural gas or petroleum products is reasonable.

3. *Financial capability of Corn Belt Power Cooperative.* FEA assumes that any capital investment costs associated with the acquisitions and modifications necessary for the burning of coal at Wisdom 1 are identified in the utility's current and prospective budgetary plans. FEA proposes to find that the decision by the utility to acquire or modify such equipment and facilities in order to burn coal as a primary energy source at Wisdom 1 was based on an analysis of the financial capability of utility to assume such capital investment costs as well as any additional operating maintenance costs associated with the burning of coal that the utility has concluded that the burning of coal in lieu of petroleum products or natural gas is economically feasible.

4. *Consumer impact.* FEA proposes to find that the issuance of a Prohibition Order to Wisdom 1 should have no material effect on Corn Belt consumers since there will be no significant change in the cost of producing electricity at Wisdom 1 as a result of the continued burning of coal at this powerplant.

B. *Consistency with the purposes of ESECA.* Because the issuance of a Prohibition Order to Wisdom 1 will discourage the use of natural gas or petroleum products and encourage the continued use of coal, FEA proposes to conclude that this action would be consistent with the purpose of ESECA to provide a means to assist in meeting the essential needs of the United States for fuels.

On the basis of the environmental analysis which FEA is required to conduct prior to issuance of a Notice of Effectiveness of a Prohibition Order, as well as the necessity for this powerplant to comply with the Clean Air Act and other applicable environmental protection requirements, FEA proposes to conclude that a Prohibition Order to Wisdom 1 would be consistent with the purpose of ESECA to provide a means to assist in meeting the essential needs of the United States for fuels in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment.

III. *Coal and coal transportation facilities will be available to this powerplant during the period until December 31, 1984.*

A. *Coal availability.*—1. *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the foreseeable future. U.S. Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974, Bureau of Mines (May 1975) [hereafter "BOM Survey"]). Within these recoverable reserves approximately 200 billion tons contain 1 percent or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies, referenced herein, which together provide the best current evidence as to coal availability for the period ending December 31, 1984.

2. *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnages of uncommitted planned national coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets 99% of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

a. *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	*Production potential (million tons)*
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's Coal Mine Expansion Study (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, Availability of Potential Coal Supply Through 1985 by Quality Characteristics, August 1976 (hereafter "Availability Study"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	*Production (million tons)*
1977	48.4
1978	122.2
1979	237.1
1980	237.3
1981	344.0
1982	363.9
1983	390.1
1984	469.5
1985	544.9

b. *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) of ESECA, is as follows (FEA 1976 National Energy Outlook):

Year:	Demand (million tons)
1977	698
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,404

c. *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of section 2 (a) of ESECA is as follows (Coal Availability and Demand: Round I and Round II Coal Conversion Candidates, August 1976, hereafter "Coal Conversion Study"):

Year:	Demand (million tons)
1977	5.4
1978	10.0
1979	13.0
1980	18.0
1981	20.2
1982	41.4
1983	41.4
1984	41.4

3. *Characteristic coal, production and demand.* FEA's "Availability Study" identifies coal of specific quality characteristics available for use at Wisdom 1. The survey is based on data from 31 mining companies that supplied useful information on 96 mining units. Responses from these companies identified planned production of coal which is not now committed to a specific buyer. For those companies which did not respond to the survey, FEA estimated their uncommitted planned production based on their 1974 production.

a. *Characteristic coal requirements for this powerplant.* FEA's "Coal Conversion Study" has determined that a pulverized-coal dry bottom boiler, of the type used at Wisdom 1, is able to burn coal of the following characteristics and comply with all applicable air pollution control requirements:

BTU'S/b.	[1] 8,300
Moisture (percent)	[2] 15
Ash (percent)	[2] 20
Volatile (percent)	[1] 15
Ash softening temp. (°F)	[1] 2,200
Sulfur (approx.) (percent)	[2] 2,2

[1] Minimum.
[2] Maximum.

b. *Characteristic demand from this powerplant.* The potential demand for coal, of the type described above, which would result from this NOI is estimated to be as follows:

Year:	Demand (thousand tons)
1979 and thereafter	94

c. *National planned production, characteristic coal.* The FEA "Coal Conversion Study" has determined that coal of the type described in paragraph A.3.a., above, is uncommitted to a specific buyer and will be potentially available to Wisdom 1 in a nationwide market as follows:

Year:	Production (thousand tons)
1977	24,139
1978	46,733
1979	92,055
1980	113,447
1981	134,286
1982	141,194
1983	150,591
1984	175,497

d. *National ESECA prohibition order demand for coal, regardless of characteristics.* The national planned production of characteristic coal, as stated in paragraph A.3.c., above, exceeds potential demand for coal regardless of characteristic expected from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. National ESECA Prohibition Order demand as previously stated in paragraph A.2.c., above, is:

Year:	Demand (thousand tons)
1977	5,400
1978	10,000
1979	13,000
1980	18,000
1981	20,200
1982	41,400
1983	41,400
1984	41,400

e. *Regional planned production, characteristic coal.* Coal with the characteristics described in paragraph A.3.a., above, is uncommitted and will be potentially available to Wisdom 1 (in a probable regional supply/demand relationship related to the location of this powerplant) from BOM Districts 7 through 20 and 22 as follows:

Year:	Production (thousand tons)
1977	19,491
1978	36,155
1979	68,158
1980	83,700
1981	99,069
1982	104,369
1983	111,665
1984	129,204

f. *Regional ESECA prohibition order demand for coal, regardless of characteristic.* The expected regional production of characteristic coal, as stated in paragraph A.3.e, above, exceeds the potential demand for coal regardless of characteristic from BOM Districts 7 through 20 and 22 expected to result from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. This potential regional demand is estimated in FEA's "Coal Conversion Study" as follows:

Year:	Demand (thousand tons)
1977	4,229
1978	8,270
1979	10,917
1980	14,659
1981	16,363
1982	18,736
1983	18,736
1984	18,736

g. *Regional ESECA prohibition order demand for coal by sulfur characteristic.* The potential regional demand from BOM Districts 7 through 20 and 22 for coal with a 1.81–2.20% sulfur content (which includes the 2.2% maximum sulfur content described in paragraph A.3.a., above) resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA is estimated in FEA's "Coal Conversion Study" as follows:

Year:	Demand (thousand tons) percent sulfur 1.81 to 2.20
1977	992
1978	1,955
1979	2,695
1990	2,695
1981	2,695
1982	4,296
1983	4,296
1984	4,296

The regional planned production of coal stated in paragraph A.3.e., above, with the characteristics described in paragraph A.3.a., above, far exceeds the potential ESECA regional demand for coal by sulfur characteristic.

4. *State or local laws.* FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

5. *Conclusion.* FEA's "Availability Study" has identified nationally and in Bureau of Mines Districts 7 through 20 and 22 uncommitted coal production that meets the requirements of Wisdom 1 as described in paragraph A.3.a., above. FEA proposes to find that this uncommitted coal exists in amounts sufficient in any year to meet the estimated additional demand for coal, both nationally and from these Districts, resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA.

Coal for Wisdom 1 will probably be bought from producers according to regional supply/demand relationships related to the powerplant's location from BOM Districts 7 through 20 and 22. FEA observes, however, that this powerplant could purchase coal in other markets as such production becomes available. (The Feasibility of Considering Expanded Use

of Western Coal by Midwestern and Easterns Utilities in the Period 1978 and Beyond, School of Engineering, University of Pennsylvania, November 7, 1975.)

B. *Coal transportation.*—1. *Location of powerplant and coal supply.* Based on an FEA study, Utility Analysis of Coal Transportation Availability, November 1976, (hereafter "Transportation Availability Study"), coal for Wisdom 1 would probably come from BOM District 19 as both the primary and alternate source of supply. While this supply area is the nearest available potential source able to supply complying coal to these powerplants, complying coal can be transferred by rail from other identified sources within the United States. The analysis of transportation availability is based on the most likely route as well as an alternate route. These routes were chosen to demonstrate transportation availability.

2. *Route of coal shipment.* The primary route for coal delivery to the Widsom plant would originate on the Union Pacific (UP) Railroad to Council Bluffs, Iowa. Coal is delivered from Council Bluffs to Spencer, Iowa on the Chicago, Milwaukee, St. Paul and Pacific (CMSP&P) via Herndon, Iowa. The total distance is approximately 800 miles.

An alternate route from the primary supply would involve originating on UP to Omaha. Coal would be carried to Sheldon, Iowa by Chicago and North Western (C&NW), and from there to the plant via CMSP&P.

3. *Originating trunk carrier.* The UP, the originator of coal for Widsom 1, has approximately 7,000 hopper cars with an estimated average capacity of 85 tons. Using an average number of deliveries of 20 per year per 85-ton car, the UP may need as many as 60 additional cars to handle the demand from Widsom 1. This estimate assumes that the railroad will neither have excess originating capacity nor obtain cars from other carriers in the originating vicinity. The UP indicated that it is willing to acquire any needed capacity involved in shipment to the Widsom facility and that it will modify its expansion plans with demand conditions.

FEA's "Transportation Availability Study" concluded that for all potential Prohibition Order candidates studied, there would be no major constraints in transporting coal. The study examined existing rail transportation car capacity, water transportation capacity, including unloading docks, where applicable, and took into account projections made by all carriers to meet the anticipated demand for all types of transportation facilities assuming all powerplants studied were to receive orders under Section 2(a) of ESECA.

The UP indicated that transportation facilities at those mine sites within BOM District 19 are in satisfactory operating conditions and that loading facilities could handle the required coal volumes.

FEA has not found nor has it been informed of any apparent constraints to carrying coal for any alternate or intermediate carriers should they be used.

4. *Destination carrier and power plant facilities.* The primary and alternate destination carrier for Wisdom 1 is the Chicago, Milwaukee, St. Paul, and Pacific (CMSP&P) Railroad. This company's jurisdiction includes tracks to the plant, and coal is presently being delivered to the plant. The plant has coal unloading facilities, and these are adequate to handle the additional indicated demand through 1985. No construction or refurbishment of these facilities is underway or planned.

5. *Conclusion.* Coal transportation facilities will be available for the period a Prohibition Order is expected to be in effect since no significant constraints to coal delivery to Wisdom 1 presently exist, and an alternate route is available.

IV. *The prohibition of the burning of natural gas or petroleum products as its primary energy source will not impair the reliability of service in the area served by the affected powerplant.* Based on an analysis of the information submitted to FEA by the Federal Power Commission and Corn Belt, FEA purposes to find that the issuance of a Prohibition Order to Wisdom 1 will not impair the reliability of service in the area served by the powerplant since there will be no outage as a result of a Prohibition Order to Wisdom 1.

Corn Belt has advised FEA that Wisdom 1 was designed to burn natural gas or coal and is currently burning coal. There will, therefore, be no impairment of reliability of service within the meaning of ESECA in the area served by Corn Belt as a result of a Prohibition Order.

APPENDIX

PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A PROHIBITION ORDER

ESECA and the FEA regulations require FEA to make certain findings before issuing a Prohibition Order to a powerplant. FEA's proposed findings are set out below with respect to the powerplant named below. Supporting rational and conclusions are also set forth.

Docket No.	Owner	Generating station	Unit No.	Location
OFU-155	Independence Power & Light Department.	Blue Valley	3	Independence, Mo.

These findings, which are now proposed by FEA, are based on information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to issue a Prohibition Order.

Independence Power & Light Department shall be referred to as the "utility" and as "IPLD".

I. *Capability and necessary plant equipment to burn coal.* FEA proposes to find that on June 22, 1974, Powerplant Number 3 at the Blue Valley Generating Station (Blue Valley 3) had the capability and necessary plant equipment to burn coal. This proposed finding is based on the facts and interpretations stated below:

A. IPLD, in information filed with FEA dated July 9, 1975, indicated that this powerplant had in place on June 22, 1974, a boiler that was capable of burning coal. The boiler had been designed and constructed or modified to burn coal as its primary energy source, notwithstanding the fact that on June 22, 1974, the powerplant may not have been burning coal as its primary energy source.

B. Blue Valley 3 is presently burning coal as its primary energy source. Therefore, FEA proposes to find that Blue Valley 3 has the necessary plant equipment and facilities associated with the burning of coal.

C. Within the meaning of ESECA and the regulations promulgated pursuant thereto this powerplant had the capability and necessary plant equipment to burn coal as of June 22, 1974.

II. *The burning of coal in lieu of natural gas or petroleum products is practicable and consistent with the purposes of ESECA.* FEA proposes to find that the burning of coal at Blue Valley 3 in lieu of petroleum products or nautral gas is practicable and consistent with the purposes of ESECA. This finding is based upon the presumption that Blue Valley 3 will be operated at a 55 percent capacity factor, has a remaining useful life of 24 years (as of the date of this NOI), is expected to have at least 21 years remaining useful life after conversion of the powerplant, and on the facts and interpretations stated below:

A. *The burning of coal is practicable.*—1. *Costs associated with burning coal.*—a. *Capital investment costs.* The total initial capital investment costs, exclusive of financing costs, that would result from the acquisition and refurbishment of equipment and facilities associated with the burning of coal at Blue Valley 3 are estimated to be approximately $3,046,000 which assumes that an electrostatic precipitator will be required at a cost of $3,046,000 to comply with the air pollution control requirements of the Clean Air Act. This estimate was supplied by the utility.

b. *Annual operating and maintenance costs.* The increase in operating and maintenance costs, exclusive of fuel costs, that would result from the burning of coal is estimated to be approximately $164,000 per year for the operation and maintenance of air pollution control equipment. This estimate is based on a PEDCo-Environmental Specialists, Inc. report entitled Coal Conversion Cost Reasonableness Analysis For The Blue Valley Plants, March 5, 1977, (hereafter "PEDCo. Report").

c. *Fuel costs.* (i) Based on information supplied by IPLD the price of natural gas available to Blue Valley 3 is approximately $1.05 per million Btu's. This represents $1.05 per MCF of natural gas, assuming 1 million Btu's per MCF.

(ii) Based on information supplied by the Federal Power Commission the price of coal available to Blue Valley 3 is approximately $1.10 per million BTU's. This represents $25.52 per ton of coal, assuming 23.3 million Btu's per ton.

(iii) FEA estimates that the continued burning of coal by this powerplant will result in an increase of approximately $0.05 per million Btu's or $32,377 per year in fuel costs. This estimate is based on fuel consumption presuming Blue Valley is operated with a 55 percent capacity factor and with an average heat rate of 11,200 Btu's per kilowatt hour.

(iv) Based on information supplied by IPLD, FEA has determined that Blue Valley 3 is presently burning coal and should continue to experience a substantial curtail-

ment of any future supply of its alternate fuel, natural gas. FEA, therefore, proposes to find that Blue Valley 3 can continue to burn coal as its primary energy source with a minimal increase in fuel costs as a result of a Prohibition Order.

d. *Total annual costs associated with conversion.* As a result of the conversion of Blue Valley 3 there will be an estimated total annual increase in costs incurred, exclusive of fuel costs, of approximately $492,000.

2. *Reasonableness of costs of conversion.* The foregoing analysis of the costs of conversion provides the basis for deciding whether the conversion of Blue Valley 3 is reasonable. Financial impacts of the conversion will be felt by the utility and by the consumer.

As a result of conversion, the utility will incur additional annual capital investment costs, including financing costs, of approximately $328,000 (this represents an amortized cost over the 21 years remaining useful life of this powerplant after conversion, and is based on a fixed charge rate of 10.8% of the total initial capital investment of $3,046,000) and additional annual operating and maintenance costs, exclusive of fuel costs, of approximately $164,000 (these figures are derived from the figures in paragraphs A.1.a., and b.), but will experience an annual increase in fuel costs of approximately $32,000. (See paragraph A.1.c.) The estimated net annual increase of cost of producing electricity at Blue Valley 3 after conversion will be $524,000.

Increased costs for conversion will be mitigated by the decrease in fuel costs. The net result, however, will be an increase in the cost of producing electricity at Blue Valley 3. The cost to the utility resulting from a Prohibition Order ultimately will be recovered in rates.

The use of coal at Blue Valley 3 will result in an estimated annual equivalent savings of 648,000 MCF of natural gas that otherwise would be used in providing steam for electric power generation. The cost of conversion per MCF of natural gas saved is estimated to be $0.81.

Although conversion to the burning of coal would be expected to increase the cost of producing electricity at Blue Valley 3, FEA proposes to find that such increased cost, per MCF of natural gas saved, is not unreasonable. This determination is based on consideration of the substantial savings of natural gas that will result from this conversion. This determination also takes into account the fact that FEA has determined that Blue Valley 3 should continue to experience curtailment of its alternate fuel, natural gas. The determination that the costs of converting are not unreasonable is further supported by consideration of such costs in relation to the expected 21 years remaining useful life of the powerplant after conversion, the size and resources of the utility as examined in the following analysis of financial capability, the nature of the expected operations of this powerplant, and potential future increases in the fuel cost differential in favor of coal.

3. *Financial capabilities of Independence Power and Light Department.*—a. *Recovery of capital investment.* FEA proposes to find that compliance with a Prohibition Order to Blue Valley 3 would be economically feasible. FEA's analysis took into consideration the $3,046,000 additional capital investment required for IPLD to comply with this NOI and all other NOI's which are currently under consideration, as well as additional capital investment costs related to all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of Section 2(a) and (c) of ESECA to IPLD powerplants.

FEA related these additional capital investment costs to IPLD's net property and plant of $45.8 million, the utility's estimate of its 1977–79 construction budget of $19 million, the total capitalization of the utility of $63 million, and the 21 years remaining useful life after conversion of Blue Valley 3. FEA does not consider the effect of this added capital investment cost to represent an unreasonable burden given the financial capabilities of IPLD to assume such costs.

b. *Total annual costs associated with conversion.* The total estimated annual increase in costs (amortized increased capital investment costs and other costs, exclusive of fuel costs) associated with the burning of coal as opposed to natural gas attributable to compliance with this NOI would be $492,000. This also represents the total estimated annual incremental increase in revenue requirements of the utility.

(FEA also took into consideration revenue requirements of the utility resulting from compliance with all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of Section 2(a) and (c) of ESECA to IPLD powerplants.) This estimate of $492,000 in revenue requirements is based on an investment oriented analysis described in an Ultrasystems Inc. report entitled Computer Methodology For Coal Conversion Cost Reasonableness Determination, August 1976, (hereafter "Ultrasystems Computer Model"). The estimate includes an incremental rate of return on retained earnings which are invested.

(For comparison with the Ultrasystems Computer Model results, FEA performed a financial analysis based on a Price Waterhouse and Co. report entitled Identification Of Possible Financial Effects Of Converting Certain Electric Generating Facilities To The Use Of Coal, October 1976. This analysis estimated the total annual incremental increase in revenue requirements to be $388,000 which assumed a predicted effect on IPLD's financial statement and represents revenues required to offset any potential loss in net income as reported for Fiscal Year ending 1975.)

The total estimated annual incerase in costs, exclusive of fuel costs, of $492,000 associated with conversion ultimately will be recovered in rates. However, due to the annual increase in fuel costs of approximately $32,000 attributable to compliance with this NOI, the total annual revenue requirements of IPLD should increase by appproximately $524,000. FEA does not consider the effect of this added capital investment cost to represent an unreasonable burden given the financial capabilities of the utility to assume such costs.

4. *Consumer impact.* The potential initial impact of a Prohibition Order to Blue Valley 3 is a net increase in revenues required from IPLD consumers of approximately $0.00096 per kilowatt hour of electricity sold by IPLD. This estimate is based on FEA's analysis of the Ultrasystems Computer Model. The actual amount of the increase will depend on the actual amount of the investment necessary to comply with a Prohibition order, the methods which IPLD selects to finance the increased costs associated with burning coal as a primary energy source at Blue Valley 3, the extent to which the cost increase is spread among IPLD's consumers, the regulations or policies of the regulatory agencies with jurisdiction over IPLD regarding inclusion of such cost increases in consumer rates, the actual amount of the fuel cost differential, and other factors.

B. *Consistency with the purposes of ESECA.* Because the issuance of a Prohibition Order to Blue Valley 3 will discourage the use of natural gas or petroleum products and encourage the increased use of coal, FEA proposes to conclude that this action would be consistent with the purpose of ESECA to provide a means to assist in meeting the essential needs of the United States for fuels.

On the basis of the environmental analysis which FEA is required to conduct prior to issuance of a Notice of Effectiveness of a Prohibition Order, as well as the necessity for this powerplant to comply with the Clean Air Act and other applicable environmental protection requirements, FEA proposes to conclude that a Prohibition Order to Blue Valley 3 would be consistent with the purpose of ESECA to provide for a means to assist in meeting the essential needs of the United States for fuels in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment.

III. *Coal and coal transportation facilities will be available to this powerplant during the period until December 31, 1984.*

A. *Coal availability.*—1. *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the foreseeable future. U.S. Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974, Bureau of Mines (May 1975)—hereafter "BOM Survey"). Within these recoverable reserves approximately 200 billion tons contain 1 percent or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies, referenced herein, which together provide the best current evidence as to coal availability for the period ending December 31, 1984.

2. *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnages of uncommitted planned national coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production, already meets 99 percent of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

a. *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	*Production potential (million tons)*
1977	733.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's Coal Mine Expansion Study (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond

1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, Availability of Potential Coal Supply Through 1985 by Quality Characteristics, August 1976, (hereafter "Availability Study"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	Production (million tons)
1977	48.4
1978	122.2
1979	237.1
1980	287.3
1981	344.0
1982	363.9
1983	390.1
1984	469.5
1985	544.9

b. *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) of ESECA, is as follows (FEA 1976 National Energy Outlook):

Year:	Demand (million tons)
1977	698
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

c. *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Order issued to date under authority of Section 2(a) of ESECA is as follows (Coal Availability and Demand: Round I and II Coal Conversion Candidates, August 1976, (hereafter "Coal Conversion Study"):

Year:	Demand (million tons)
1977	5.4
1978	10.0
1979	13.0
1980	18.0
1981	20.2
1982	41.4
1983	41.4
1984	41.4

3. *Characteristic coal, production and demand.* FEA's "Availability Study" identifies coal of specific quality characteristics available for use at Blue Valley 3. The survey is based on data from 31 mining companies that supplied useful information on 96 mining units. Responses from these companies identified planned production of coal which is not now committed to a specific buyer. For those companies which did not respond to the survey, FEA estimated their uncommitted planned production based on their 1974 production.

a. *Characteristic coal requirements for this powerplant.* FEA's "Coal Conversion Study" has determined that a pulverized-coal wet bottom boiler, of the type used at Blue Valley 3 will be able to burn coal of the following characteristics and comply with all applicable air pollution control requirements:

BTU's/lb.	[1] 10,300
Moisture (percent)	[2] 15
Ash (percent)	[2] 20
Volatile (percent)	[1] 15
Ash softening temperature (°F)	[1] 10,300
Sulfur (approximately) (percent)	[2] 6.0

[1] Minimum.
[2] Maximum.

b. *Characteristic coal demand from this powerplant.* The potential demand for coal, of the type described above, which would result from this NOI is estimated to be as follows:

Year:	Demand (thousand tons)
1980 and thereafter	152

c. *National planned production, characteristic coal.* The FEA "Coal Conversion Study" has determined that coal of the type described in paragraph A.3.a, above, is uncommitted to a specific buyer and will be potentially available to Blue Valley 3 in a nationwide market as follows:

Year:	Production (thousand tons)
1977	15,511
1978	30,521
1979	56,681
1980	69,131
1981	81,867
1982	86,452
1983	92,821
1984	107,352

d. *National ESECA prohibition order demand for coal, regardless of characteristics.* The national planned production of characteristic coal, as stated in paragraph A.3.c., above, exceeds potential demand for coal regardless of characteristic expected from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under the authority of Section 2(a) of ESECA. National ESECA Prohibition Order demand as previously stated in paragraph A.2.c., above, is:

Year:	Demand (thousand tons)
1977	5,400
1978	10,000
1979	13,000
1980	18,000
1981	20,200
1982	41,400
1983	41,400
1984	41,400

e. *Regional planned production, characteristic coal.* Coal with the characteristics described in paragraph A.3.a., above, is uncommitted and will be potentially available to Blue Valley 3 (in a probable regional supply/demand relationship related to the location of this powerplant) from BOM Districts 7 through 20 and 22 as follows:

Year:	Production (thousand tons)
1977	15,004
1978	29,231
1979	53,016
1980	61,052
1981	71,658
1982	76,033
1983	82,124
1984	95,690

f. *Regional ESECA prohibition order demand for coal, regardless of characteristic.* The expected regional production of characteristic coal, as stated in paragraph A.3.e., above, exceeds the potential demand for coal regardless of characteristic from BOM Districts 7 through 20 and 22 expected to result from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. This potential regional demand is estimated in FEA's "Coal Conversion Study" as follows:

Year:	Demand (thousand tons)
1977	2,838
1978	5,340
1979	7,111
1980	12,016
1981	13,644
1982	33,485
1983	33,485
1984	33,485

g. *Regional ESECA prohibition order demand for coal by sulfur characteristic.* The potential regional demand within BOM Districts 7 through 20 and 22 for coal with a 1.41–6.01 percent sulfur content (which includes the 6.0 percent maximum sulfur content described in paragraph A.3.a., above) resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA is estimated in FEA's "Coal Conversion Study" as follows:

Year:	Demand (thousand tons) percent sulfur 1.41 to 6.01
1977	1,143
1978	1,765
1979	1,957
1980	2,880
1981	3,362
1982	3,458
1983	3,458
1984	3,458

The regional planned production of coal stated in paragraph A.3.e., above, with the characteristics described in paragraph A.3.a., above, far exceeds the potential ESECA regional demand for coal by sulfur characteristic.

4. *State or local laws.* FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

5. *Conclusion.* FEA's "Availability Study" has identified nationally and in Bureau of Mines Districts 7 through 20 and 22 uncommitted coal production that meets the requirements of Blue Valley 3 as described in paragraph A.3.a. above. FEA proposes to find that this uncommitted coal exists in amounts sufficient in any year to meet the estimated additional demand for coal, both nationally and from these Districts, resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2 (a) of ESECA.

Coal for Blue Valley 3 will probably be bought from producers according to regional supply/demand relationships related to the

powerplant's location from Bureau of Mines Districts 7 through 20 and 22. FEA observes, however, that the powerplant could purchase coal in other markets as such production becomes available. (The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond, School of Engineering, University of Pennsylvania, November 7, 1975.)

B. *Coal transportation.*—1. *Location of powerplant and coal supply.* Based on an FEA study, Utility Analysis of Coal Transportation Availability, November 1976, (hereafter "Transportation Availability Study"), coal for Blue Valley 3 would probably come from BOM District 20 as both the primary and alternate source of supply. While this supply area is the nearest available potential source able to supply complying coal to these powerplants, complying coal can be transferred by rail from other identified sources within the United States. The analysis of transportation availability is based on the most likely route as well as an alternate route. These routes were chosen to demonstrate transportation availability.

2. *Route of coal shipment.* The primary route for coal delivery to the Blue Valley plant would originate at Salina, Utah on the Denver & Rio Grande Western (D&RGW) Railroad to Pueblo, Colorado (coal is trucked from the mine to the originating point at Salina, Utah). Union Pacific would carry the coal from Pueblo, Colorado to Kansas City, Missouri, where it would be received by the Missouri Pacific and delivered to the plant. The total distance is approximately 550 miles.

An alternate route from the primary supply area would involve originating on the D&RGW from Salina, Utah to Pueblo, Colorado. The Missouri Pacific would then carry the coal to the plant via Kansas City, Mo.

3. *Originating trunk carrier.* The D&RGW, the originator of coal for Blue Valley 3 has approximately 2,500 hopper cars with an estimated average capacity of 90 tons. Using an average number of deliveries of 20 per year per 90-ton car, the D&RGW may need as many as 90 additional cars to handle the demand from Blue Valley 3. This assumes that the railroad would neither have existing excess originating capacity nor obtain cars from other carriers in the originating vicinity. The D&RGW indicated that it is willing to acquire any needed capacity involved in shipment to the Blue Valley facility and that it will modify its expansion plans with demand conditions.

FEA's "Transportation Availability Study" concluded that for all potential Prohibition Order candidates studied, there would be no major constraints in transporting coal. The study examined existing rail transportation car capacity, water transportation capacity, including unloading docks, where applicable, and took into account projections made by all carriers to meet the anticipated demand for all types of transportation facilities assuming all powerplants studied were to receive Orders under Section 2(a) of ESECA.

The D&RGW indicated that transportation facilities at those mine sites within BOM District 20 served by D&RGW are in satisfactory operating condition and that loading facilities could handle the required coal volumes.

FEA has not found nor has it been informed of any apparent constraints to carrying coal for any alternate or intermediate carriers should they be used.

4. *Destination carrier and power plant facilities.* The primary and alternate destination carrier for Blue Valley 3 is the Missouri Pacific (MP). This company's jurisdiction includes tracks to the plant, and coal deliveries are presently being made on a regular basis by MP. The plant currently has coal unloading facilities.

5. *Conclusion.* Coal transportation facilities will be available for the period a Prohibition Order is expected to be in effect since no significant constraints to coal delivery to Blue Valley 3 presently exist, and an alternate route is available.

IV. *The prohibition of the burning of natural gas or petroleum products as its primary energy source will not impair the reliability of service in the area served by the affected powerplant.* Based on an analysis of the information submitted to FEA by the Federal Power Commission, and after consultation with the Federal Power Commission, FEA proposes to find that the issuance of a Prohibition Order to Blue Valley 3 will not impair the reliability of service in the area served by the powerplant. This proposed finding is based on the facts and interpretations stated below:

A. *Description of the dispatching system.* 1. The Blue Valley Generating Station is owned by Independence Power and Light Department (IPLD), which is within the geographical area of the Southwest Power Pool regional electric reliability council.

2. The term "dispatching system" as used in the proposed finding means the IPLD.

3. The gross capacity, as of September 1, 1976, of all dispatching system powerplants was 285 MW (See line 1, attachment 1.)

4. Proposed changes up to the period in which Blue Valley 3 would implement a Prohibition Order will result in the gross capacity indicated on line 3 of attachment 1 because of the following changes in the dispatching system listed in Table 1:

TABLE 1

Powerplant designation	Fuel	Type of change	Capacity change (megawatt)	Effective date
Iatan 1	Coal	Add	+726	April 1980.
Totals		Added	+726	

NOTE.—See line 2, attachment 1.

5. The proposed changes in Table 1, above, are based on the best information available to FEA and the Federal Power Commission (FPC Form 12E-2 dated October 1, 1976) at the time this NOI is issued. FEA has taken into consideration the possibility that the proposed changes may not be completed by the indicated effective date, but has determined that in such event, with minor modifications to the projected schedule of changes contained in Table 1, gross capacity in the dispatching system would not be significantly affected during the period required for conversion of Blue Valley 3. FEA assumes outages for conversion at those times that are optimally suited, in terms of forecast peak load periods, to maintain reliability of service.

B. *Forecast peak loads for the dispatching system.* 1. A forecast of the peak load for the dispatching system during the period in which Blue Valley 3 would implement a Prohibition Order is as indicated on line 8 of attachment 1.

2. The forecast peak load has been compared with the peak load in a previous similar period. The annual peak load growth rate for these forecasts is 5.4 percent.

C. *Maximum projected outages for the dispatching system.* 1. Scheduled outages for normal maintenance, including other powerplants implementing Prohibition Orders and nuclear plant refueling within the dispatching system during the period in which Blue Valley 3 may be implementing a Prohibition Order, may result in some loss of capacity which is expected to be as indicated on line 4 of attachment 1.

2. A projected outage of 2 months is estimated to be required to make modifications, installations, or other physical adjustments required by a Prohibition Order should it become effective. The powerplant may be less than fully dependable during the period of on-line testing and adjustment following such modifications. This period is not expected to exceed 30 days. To take advantage of the maximum reserve capacity, this projected outage is most likely to occur during the year 1977. The potential loss of capacity from an outage of Blue Valley 3 would be approximately 60 MW (line 7 of attachment 1) which is included in the total outages indicated on line of attachment 1. (The assumed conversion period specified on attachment 1 is shown for the purpose of illustration only.)

3. Maximum projected outages within the dispatching system include normal scheduled maintenance for all powerplants (line 4 of attachment 1) and outages due to conversion (line 5 of attachment 1) for those powerplants to be implementing Prohibition Orders. Maximum projected outages are expected to be as indicated on line 6 of attachment 1, thereby reducing the gross capacity and resulting in a net dependable capacity for the dispatching system.

D. *Net dependable capacity for the dispatching system.* 1. Based on the foregoing information, the net dependable capacity for the dispatching system at the expected time of implementation of a Prohibition Order would be as indicated on line 9 of attachment 1.

2. A comparison of this net dependable capacity to the forecast peak load shown on line 8 of attachment 1 indicates that the reserve capacity shown on line 10 of attachment 1 would exist for the dispatching system.

3. Comparison of this reserve capacity to the forecast peak load shown on line

8 of attachement 1 results in a reserve margin as indicated on line 11 of attachment 1 (as contrasted with a reserve margin as indicated on line 12 of attachment 1 if no units were removed from service due to Prohibition Orders).

4. The Federal Power Commission considers this to be an acceptable reserve margin taking into consideration the geographical location of Blue Valley 3.

5. At the completion of the conversion there will be a net 0.23 MW derating of Blue Valley 3 as a result of using coal as its primary energy source.

E. *Conclusion.* If dispatching system conditions, including any scheduled outage by Blue Valley 3, are as presently forecast during the time required to implement a Prohibition Order by Blue Valley 3, there will be no impairment of reliability of service within the meaning of ESECA in the area served by IPLD or in the dispatching system as a result of the Order.

ATTACHMENT 1

CITY POWER AND LIGHT RELIABILITY DATA—BLUE VALLEY

	Assumed conversion period June 1–July 31, 1980 (megawatt capacity)
1. Gross capacity as of September 1, 1976	285
2. Added capacity	726
3. Gross capacity	1,011
4. Scheduled outages for maintenance	60
5. Projected outages due to prohibition orders	60
6. Maximum projected outages, due to maintenance and prohibition orders (line 4 plus line 5)	120
7. Unit outage	60
8. Peak load summer 1980	330
9. Net dependable capacity	891
10. Reserve capacity	561
11. Reserve margin percent (maintenance and prohibition orders)	170
12 Reserve margin percent (maintenance only)	188

APPENDIX

PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A PROHIBITION ORDER

ESECA and the FEA regulations require FEA to make certain findings before issuing a Prohibition Order to a powerplant. FEA's proposed findings are set out below with respect to the powerplants named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Generating station	Unit No.	Location
OFU-156	St. Joseph Light & Power Co.	Lake Rd.	5	St. Joseph, Mo.
OFU-157			6	

These findings, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to Issue a Prohibition Order.

St. Joseph Light & Power Company shall be referred to as the "utility" and as "SJLPC".

I. *Capability and necessary plant equipment to burn coal.* FEA proposes to find that on June 22, 1974, Powerplants Number 5 and Number 6 at the Lake Road Generating Station (Lake Road 5 and 6) had the capability and necessary plant equipment to burn coal. This proposed finding is based on the facts and interpretations stated below:

A. SJLPC in information filed with FEA dated July 10, 1975, indicated that each powerplant had in place on June 22, 1974, a boiler that was capable of burning coal. The boilers had been designed and constructed or modified to burn coal as their primary energy source, notwithstanding the fact that on June 22, 1974, the powerplant may not have been burning coal as its primary energy source.

B. Lake Road 5 and 6 are presently burning coal as their primary energy source. Therefore, FEA proposed to find that Lake Road 5 and 6 have the necessary plant equipment and facilities associated with the burning of coal.

C. Within the meaning of ESECA and the regulations promulgated pursuant thereto, these powerplants had the capability and necessary plant equipment to burn coal as of June 22, 1974.

II. *The burning of coal in lieu of natural gas or petroleum products is practicable and consistent with the purposes of ESECA.* FEA proposes to find that the burning of coal at Lake Road 5 and 6 in lieu of petroleum products or natural gas is practicable and consistent with the purposes of ESECA. This finding is based on the facts and interpretations stated below:

A. *The burning of coal is practicable.*—1. *Costs associated with burning coal.*

a. *Capital investment costs.* Since Lake Road 5 and 6 are currently burning coal as their primary energy source, FEA proposes to find that Lake Road 5 and 6 have acquired or modified the equipment and facilities necessary for the burning of coal as their primary energy source, and such actions were not undertaken as a result of (or in contemplation of) the issuance of a Prohibition Order. These acquisitions or modifications either include or should include those necessary for compliance with the requirements of the Clean Air Act.

b. *Annual operating and maintenance costs.* FEA proposes to find that there are no apparent significant increases in operating and maintenance costs that would result from the continued burning of coal by Lake Road 5 and 6.

c. *Fuel costs.* The alternate fuel which could be used by Lake Road 5 and 6 is natural gas. However, based on information obtained from the Federal Power Commission and from SJLPC, FEA has determined that Lake Road 5 and 6 should continue to experience a substantial curtailment of any future supply of natural gas. FEA, therefore, proposes to find that Lake Road 5 and 6 will continue to burn coal as their primary energy source with no increase in fuel costs as a result of a Prohibition Order.

d. *Total annual costs.* FEA proposes to find that there will be no annual increase in costs incurred, at Lake Road 5 and 6, as a result of an order which prohibits the burning of natural gas or petroleum products.

2. *Reasonableness of costs.* Considering the fact that FEA has determined that Lake Road 5 and 6 should continue to experience curtailment of their alternate fuel, natural gas, as well as the fact that the utility has acquired or modified such equipment and facilities as are necessary in order to burn coal as their primary energy source, FEA proposes to find that the cost of burning of coal in lieu of natural gas or petroleum products is reasonable.

3. *Financial capability of St. Joseph Light & Power Company.* FEA assumes that any capital investment costs associated with the acquisitions and modifications necessary for the burning of coal at Lake Road 5 and 6 are identified in the utility's current and prospective budgetary plans. FEA proposes to find that the decision by the utility to acquire or modify such equipment and facilities in order to burn coal as a primary energy source at Lake Road 5 and 6 was based on an analysis of the financial capability of the utility to assume such capital investment costs as well as any additional operating and maintenance costs associated with the use of coal.

FEA, therefore, proposes to find that the utility has concluded that the burning of coal in lieu of petroleum products or natural gas is economically feasible.

4. *Consumer impact.* FEA proposes to find that the issuance of a Prohibition Order to Lake Road 5 and 6 should have no material effect on SJLPC consumers since there will be no significant change in the cost of producing electricity at Lake Road 5 and 6 as a result of the continued burning of coal at these powerplants.

B. *Consistency with the purposes of ESECA.* Because the issuance of a Prohibition Order to Lake Road 5 and 6 will discourage the use of natural gas or petroleum products and encourage the continued use of coal, FEA proposes to conclude that this action would be consistent with the purpose of ESECA to provide a means to assist in meeting the essential needs of the United States for fuels.

On the basis of the environmental analysis which FEA is required to conduct prior to issuance of a Notice of Effectiveness of a Prohibition Order, as well as the necessity for these powerplants to comply with the Clean Air Act and other applicable environmental protection requirements, FEA proposes to conclude that a Prohibition Order to Lake Road 5 and 6 would be consistent with the purpose of ESECA to provide for a means to assist in meeting the essential needs of the United States for fuels in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment.

III. *Coal and coal transportation facilities will be available to these powerplants during the period until December 31, 1984.*—A. *Coal availability.*

1. *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the foreseeable future. U.S. Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974, Bureau of Mines (May 1975) [hereafter "BOM Survey"]). Within these recoverable reserves approximately 200 billion tons contain 1 percent or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies, referenced herein, which together provide the best current evidence as to coal availability for the period ending December 31, 1984.

2. *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnages of uncommitted planned national coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through

1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets 99% of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

a. *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	*Production potential (million tons)*
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's Coal Mine Expansion Study (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, Availability of Potential Coal Supply Through 1985 by Quality Characteristics, August 1976 (hereafter "Availability Study"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	*Production (million tons)*
1977	48.4
1978	122.2
1979	237.1
1980	287.3
1981	344.0
1982	363.9
1983	390.1
1984	469.5
1985	544.9

b. *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) of ESECA, is as follows (FEA 1976 National Energy Outlook):

Year:	*Demand (million tons)*
1977	698
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

c. *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA is as follows (Coal Availability and Demand: Round I and Round II Coal Conversion Candidates, August 1976, hereafter "Coal Conversion Study"):

Year:	*Demand (million tons)*
1977	5.4
1978	10.0
1979	13.0
1980	18.0
1981	20.2
1982	41.4
1983	41.4
1984	41.4

3. *Characteristic coal, production and demand.* FEA's "Availability Study" identifies coal of specific quality characteristics available for use at Lake Road 5 and 6. The survey is based on data from 31 mining companies that supplied useful information on 96 mining units. Responses from these companies identified planned production of coal which is not now committed to a specific buyer. For those companies which did not respond to the survey, FEA estimated their uncommitted planned production based on their 1974 production.

a. *Characteristic coal requirements for these powerplants.* FEA's "Coal Conversion Study" has determined that pulverized-coal dry bottom and cyclone boilers, of the type used as Lake Road 5 and 6, are able to burn coal of the following characteristics and comply with all applicable air pollution control requirements:

	Unit 5	Unit 6
Btu's per pound	10,200 minimum	10,100 minimum.
Moisture	15 pct maximum	15 pct maximum.
Ash	20 pct maximum	18 pct maximum.
Volatile	15 pct maximum	15 pct minimum.
Ash softening temperature	2,200 (°F) minimum	2,300 (°F) maximum.
Sulfur	1.1 pct maximum (approximate)	1.1 pct maximum (approximate).

b. *Characteristic coal demand from these powerplants.* The potential demand for coal, of the type described above, which would result from this NOI is estimated to be as follows:

Year:	*Demand (thousand tons)*
1982 and thereafter	361

c. *National planned production, characteristic coal.* The FEA "Coal Conversion Study" has determined that coal of the type described in paragraph A.3.a., above, is uncommitted to a specific buyer and will be potentially available to Lake Road 5 and 6 in a nationwide market as follows:

Year:	*Production (thousand tons)* Unit 5	Unit 6
1977	13,529	9,594
1978	35,196	21,992
1979	65,842	48,784
1980	81,773	59,008
1981	97,346	72,329
1982	102,537	75,917
1983	109,793	80,619
1984	127,475	96,967

d. *National ESECA prohibition order demand for coal, regardless of characteristics.* The national planned production of characteristic coal, as stated in paragraph A.3.c., above, exceeds potential demand for coal regardless of characteristic expected from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. National ESECA Prohibition Order demand as previously stated in paragraph A.2.c., above, is:

Year:	*Demand (thousand tons)*
1977	5,400
1978	10,000
1979	13,000
1980	18,000
1981	20,200
1982	41,400
1983	41,400
1984	41,400

e. *Regional planned production, characteristic coal.* Coal with the characteristics described in paragraph A.3.a., above, is uncommitted and will be potentially available to Lake Road 5 and 6 (in a probable regional supply/demand relationship related to the location of these powerplants) from BOM Districts 7 through 20 and 22 as follows:

Year	Production (1,000 tons) Unit 5	Unit 6
1977	16,551	7,901
1978	30,602	17,633
1979	50,253	39,380
1980	70,399	47,219
1981	83,666	57,934
1982	88,149	60,814
1983	94,425	64,590
1984	108,000	77,713

f. *Regional ESECA prohibition order demand for coal, regardless of characteristic.* The expected regional production of characteristic coal, as stated in paragraph A.3.e., above, exceeds the potential demand for coal regardless of characteristic from BOM Districts 7 through 20 and 22 expected to result from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of section 2(a) of ESECA. This potential regional demand is estimated in FEA's "Coal Conversion Study" as follows:

Year:	*Demand (thousand tons)*
1977	4,229
1978	8,270
1979	10,917
1980	14,659
1981	16,383
1982	18,735
1983	18,735
1984	18,735

g. *Regional ESECA prohibition order demand for coal by sulfur characteristic.* The potential regional demand from BOM Districts 7 through 20 and 22 for coal with a 1.01–1.40% sulfur content (which includes the 1.1% maximum sulfur content described in paragraph A.3.a., above) resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA is estimated in FEA's "Coal Conversion Study" as follows:

Year:	Demand (thousand tons) percent sulfur 1.01 to 1.40
1977	1,482
1978	2,741
1979	3,152
1980	3,283
1981	3,283
1982	3,607
1983	3,607
1984	3,607

The regional planned production of coal stated in paragraph A.3.e., above, with the characteristics described in paragraph A.3.a., above, far exceeds the potential ESECA regional demand for coal by sulfur characteristic.

4. *State or local laws.* FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

5. *Conclusion.* FEA's "Availability Study" has identified nationally and in Bureau of Mines Districts 7 through 20 and 22 uncommitted coal production that meets the requirements of Lake Road 5 and 6 as described in paragraph A.3.a., above.

FEA proposes to find that this uncommitted coal exists in amounts sufficient in any year to meet the estimated additional demand for coal, both nationally and from these Districts, resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA.

Coal for Lake Road 5 and 6 will probably be bought from producers according to regional supply/demand relationships related to the powerplants' locations from BOM Districts 7 through 20 and 22. FEA observes, however, that these powerplants could purchase coal in other markets as such production becomes available. (The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond, School of Engineering, University of Pennsylvania, November 7, 1975.)

B. *Coal Transportation*—1. *Location of powerplants and coal supply.* Based on an FEA study, Utility Analysis of Coal Transporation Availability, November 1976, (hereafter "Transportation Availability Study"), coal for Lake Road 5 and 6 would probably come from BOM District 19 as both the primary and alternate source of supply. While this supply area is the nearest available potential source able to supply complying coal to these powerplants, complying coal can transferred by rail from other identified sources within the United States. The analysis of transportation availability is based on the most likely route as well as an alternate route. These route were chosen to demonstrate transportation availability.

2. *Route of coal shipment.* The primary route for coal delivery to the Lake Road plant would originate coal on the Union Pacific Railroad (U.P.) to Council Bluffs, Iowa. Burlington Northern would then deliver the coal to the plant in St. Joseph, Missouri. The total distance is approximately 750 miles.

An alternate route from the primary supply area would involve originating on UP through Cheyenne, Wyo., Denver, Colo., and Limon, Colo. to Kansas City, Mo. Delivery to the plant from Kansas City would be made by Burlington Northern.

3. *Originating trunk carrier.* The UP, the originator of coal for Lake Road 5 and 6 has approximately 7,000 hopper cars with an estimated average capacity of 85 tons. Using an average number of deliveries of 20 per year per 85-ton car, the UP may need as many as 200 additional cars to handle the demand from Lake Road 5 and 6. This estimate assumes that the railroad will neither have excess originating capacity nor obtain cars from other carriers in the originating vicinity. The UP indicated that it is willing to acquire any needed capacity involved in shipment to the Lake Road facility and that it will modify its expansion plans with demand conditions.

FEA's "Transportation Availability Study" concluded that for all potential Prohibition Order candidates studied, there would be no major constraints in transporting coal. The study examined existing rail transportation car capacity, water transportation capacity, including unloading docks, where applicable, and took into account projections made by all carriers to meet the anticipated demand for all types of transportation facilities assuming all powerplants studied were to receive orders under section 2(a) of ESECA.

The UP indicated that transportation facilities at those mine sites within BOM District 19 are in satisfactory operating condition and that loading facilities could handle the required coal volumes.

FEA has not found nor has it been informed of any apparent constraints to carrying coal for any alternate or intermediate carriers should they be used.

4. *Destination carrier and powerplant facilities.* The primary and alternate destination carriers for Lake Road 5 and 6 are the Burlington Northern (BN) or Missouri Pacific (MP). Both the MP's and BN's jurisdiction includes tracks to the plants and the MP is presently delivering coal to the plants. These powerplants presently burn coal. All coal delivery facilities are adequate for the demand anticipated through 1985, and no equipment constraints exist at the plant.

5. *Conclusion.* Coal transportation facilities will be available for the period a Prohibition Order is expected to be in effect since no significant constraints to coal delivery to Lake Road 5 and 6 presently exist, and alternate routes are available.

IV. *The prohibition of the burning of natural gas or petroleum porducts as their primary energy source mill not impair the reliability of service in the area served by the affected powerplants.* Based on an analysis of the information submitted to FEA by the Federal Power Commission and St. Joseph Light & Power Co., FEA proposes to find that the issuance of a Prohibition Order to Lake Road 5 and 6 will not impair the reliability of service in the area served by these powerplants since there will be no outage as a result of a Prohibition Order to Lake Road 5 and 6.

SJLPC has advised FEA that Lake Road 5 and 6 were designed to burn natural gas or coal and are currently burning coal. There will therefore be no impairment of reliability of service within the meaning of ESCEA in the area served by SJLPC as a result of a Prohibition Order.

APPENDIX

PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A PROHIBITION ORDER

ESECA and the FEA regulations require FEA to make certain findings before issuing a Prohibition Order to a powerplant. FEA's proposed findings are set out below with respect to the powerplant named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Generating station	Unit No.	Location
OFU-159	Fremont Department of Utilities	Lon D. Wright Memorial	7	Fremont, Nebr.

These findings, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to Issue a Prohibition Order.

Fremont Department of Utilities shall be referred to as the "utility" and as "Fremont".

I. *Capability and necessary plant equipment to burn coal.* FEA proposes to find that on June 22, 1974, Powerplant Number 7 at the Lon D. Wright Memorial Generating Station (Wright 7) had the capability and necessary plant equipment to burn coal. This proposed finding is based on the facts and interpretations stated below:

A. Fremont, in information filed with FEA dated July 10, 1975, indicated that this powerplant had in place on June 22, 1974, a boiler that was capable of burning coal. The boiler had been designed and constructed or modified to burn coal as its primary energy source, notwithstanding the fact that on June 22, 1974, the powerplant may not have been burning coal as its primary energy source.

B. Wright 7 is presently burning coal as its primary energy source. Therefore, FEA proposes to find that Wright 7 has the necessary plant equipment and facilities associated with the burning of coal.

C. Within the meaning of ESECA and the regulations promulgated pursuant thereto, this powerplant had the capability and necessary plant equipment to burn coal as of June 22, 1974.

II. *The burning of coal in lieu of natural gas or petroleum products is practicable and consistent with the purposes of ESECA.* FEA proposes to find that the burning of coal at Wright 7 in lieu of petroleum products or natural gas is practicable and consistent with the purposes of ESECA. This finding is based on the facts and interpreations stated below:

A. *The buring of coal is practicable.*—1. *Costs associated with burning coal.*

a. *Capital investment costs.* Since Wright 7 is currently burning coal as its primary energy source, FEA proposes to find that Wright 7 has acquired or modified the equipment and facilities necessary for the burning of coal as its primary energy source, and such actions were not undertaken as a result of (or in contemplation of) the issuance of a Prohibition Order. These acquisitions or modifications either include or should include those necessary for compliance with the requirements of the Clean Air Act.

b. *Annual operating and maintenance costs.* FEA proposes to find that there are no apparent significant increases in operating and maintenance costs that would result from the continued burning of coal by Wright 7.

c. *Fuel costs.* The alternate fuel which could be used by Wright 7 is natural gas. However, based on information obtained from the Federal Power Commission and from Fremont, FEA has determined that Wright 7 should continue to experience a substantial curtailment of any future supply of natural gas. FEA, therefore, proposes to find that Wright 7 will continue to burn coal as its primary energy source with no increase in fuel costs as a result of a Prohibition Order.

d. *Total annual costs.* FEA proposes to find that there will be no annual increase in costs incurred, at Wright 7, as a result of

an order which prohibits the burning of natural gas or petroleum products.

2. *Reasonableness of costs.* Considering the fact that FEA has determined that Wright 7 should continue to experience a curtailment of its alternate fuel, natural gas, as well as the fact that the utility has acquired or modified such equipment and facilities as are necessary in order to burn coal as its primary energy source, FEA proposes to find that the cost of burning coal in lieu of natural gas or petroleum products is reasonable.

3. *Financial capability of Fremont Department of Utilities.* FEA assumes that any capital investment costs associated with the acquisitions and modifications necessary for the burning of coal at Wright 7 are identified in the utility's current and prospective budgetary plans. FEA proposes to find that the decision by the utility to acquire or modify such equipment and facilities in order to burn coal as a primary energy source at Wright 7 was based on an analysis of the financial capability of the utility to assume such capital investment costs as well as any additional operating and maintenance costs associated with the burning of coal.

FEA, therefore, proposes to find that the utility has concluded that the burning of coal in lieu of petroleum products or natural gas is economically feasible.

4. *Consumer impact.* FEA proposes to find that the issuance of a Prohibition Order to Wright 7 should have no material effect on Fremont consumers since there will be no significant change in the cost of producing electricity at Wright 7 as a result of the continued burning of coal at this powerplant.

B. *Consistency with the purposes of ESECA.* Because the issuance of a Prohibition Order to Wright 7 will discourage the use of natural gas or petroleum products and encourage the continued use of coal, FEA proposes to conclude that this action would be consistent with the purpose of ESECA to provide a means to assist in meeting the essential needs of the United States for fuels.

On the basis of the environmental analysis which FEA is required to conduct prior to issuance of a Notice of Effectiveness of a Prohibition Order, as well as the necessity for this powerplant to comply with the Clean Air Act and other applicable environmental protection requirements, FEA proposes to conclude that a Prohibition Order to Wright 7 would be consistent with the purpose of ESECA to provide a means to assist in meeting the essential needs of the United States for fuels in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment.

III. *Coal and coal transportation facilities will be available to this powerplant during the period until December 31, 1984.*—A. *Coal availability.* 1. *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the foreseeable future. U.S. Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974, Bureau of Mines (May 1975) [hereafter "BOM Survey"]). Within these recoverable reserves, approximately 200 billions tons contain 1 percent or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies, referenced herein, which together provide the best current evidence as to coal availability for the period ending December 31, 1984.

2. *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnages of uncommitted planned national coal production (derived from responses to a survey of coal prdoucing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total national coal production for 1985 already meets 99 percent of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

a. *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	*Production potential (million tons)*
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's Coal Mine Expansion Study (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, Availability of Potential Coal Supply Through 1985, by Quality Characteristics, August 1976 (hereafter "Availability Study"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	*Production (million tons)*
1977	48.4
1978	122.2
1979	237.1
1980	287.3
1981	344.0
1982	363.9
1983	390.1
1984	469.5
1985	544.9

b. *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) of ESECA, is as follows (FEA 1976 National Energy Outlook):

Year:	*Demand (million tons)*
1977	698
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

c. *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA is as follows (Coal Availability and Demand: Round I and Round II Coal Conversion Candidates, August 1976 (hereafter "Coal Conversion Study")):

Year:	*Demand (million tons)*
1977	5.4
1978	10.0
1979	13.0
1980	18.0
1981	20.3
1982	41.4
1983	41.4
1984	41.4

3. *Characteristic coal, production and demand.* FEA's "Availability Study" identifies coal of specific quality characteristics available for use at Wright 7. The survey is based on data from 31 mining companies that supplied useful information on 96 mining units. Responses from these companies identified planned production of coal which is not now committed to a specific buyer. For those companies which did not respond to the survey, FEA estimated their uncommitted planned production based on their 1974 production.

a. *Characteristic coal requirements for this powerplant.* FEA's "Coal Conversion Study" has determined that a pulverized-coal wet bottom boiler, of the type used at Wright 7, is able to burn coal of the following characteristics and comply with all applicable air pollution control requirements:

BTU's s/lb	[1] 9,900
Moisture (percent)	[2] 15
Ash (percent)	[2] 20
Volatile (percent)	[1] 15
Ash softening temp. (°F)	[2] 2,300
Sulfur (approximately) (percent)	[2] 1.3

[1] Minimum.
[2] Maximum.

b. *Characteristic coal demand from this powerplant.* The potential demand for coal, of the type described above, which would result from this NOI is estimated to be as follows:

Year:	*Demand (thousand tons)*
1982 and thereafter	927

c. *National planned production, characteristic coal.* The FEA "Coal Conversion Study" has determined that coal of the type described in paragraph A.3.a., above, is uncommitted to a specific buyer and will be potentially available to Wright 7 in a nationwide market as follows:

Year:	*Production (thousand tons)*
1977	9,594
1978	21,993
1979	48,786
1980	59,010
1981	72,332
1982	75,920
1983	80,622
1984	90,971

d. *National ESECA prohibition order demand for coal, regardless of characteristics.* The national planned production of characteristic coal, as stated in paragraph A.3.c., above, exceeds potential demand for coal regardless of characteristic expected from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under the authority of Section 2(a) of ESECA. National ESECA Prohibition Order demand as previously stated in paragraph A.2.c., above, is:

Year:	Demand (thousand tons)
1977	5,400
1978	10,000
1979	13,000
1980	18,000
1981	20,200
1982	41,400
1983	41,400
1984	41,400

e. *Regional planned production, characteristic coal.* Coal with the characteristics described in paragraph A.3.a., above, is uncommitted and will be potentially available to Wright 7 (in a probable regional supply/demand relationship related to the location of this powerplant) from BOM Districts 7 through 20 and 22 as follows:

Year:	Production (thousand tons)
1977	7,901
1978	17,684
1979	39,832
1980	47,221
1981	57,937
1982	60,817
1983	64,593
1984	77,716

f. *Regional ESECA prohibition order demand for coal, regardless of characteristic.* The expected regional production of characteristic coal, as stated in paragraph A.3.e., above, exceeds the potential demand for coal regardless of characteristic from BOM Districts 7 through 20 and 22 expected to result from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. This potential regional demand is estimated in FEA's "Coal Conversion Study" as follows:

Year:	Demand (thousand tons)
1977	4,229
1978	8,270
1979	10,917
1980	14,659
1981	16,383
1982	18,735
1983	18,735
1984	18,735

g. *Regional ESECA prohibition order demand for coal by sulfur characteristic.* The potential regional demand from BOM Districts 7 through 20 and 22 for coal with a 1.01–1.40 percent sulfur content (which includes the 1.3 percent maximum sulfur content as described in paragraph A.3.a., above) resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA is estimated in FEA's "Coal Conversion Study" as follows:

Year:	Demand (thousand tons) Sulfur 1.01 to 1.4
1977	1,482
1978	2,741
1979	3,152
1980	3,283
1981	3,283
1982	3,607
1983	3,607
1984	3,607

The regional planned production of coal, stated in paragraph A.3.e., above, with the characteristics described in paragraph A.3.a., above, far exceeds the potential ESECA regional demand for coal by sulfur characteristic.

4. *State or local laws.* FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

5. *Conclusion.* FEA's "Availability Study" has identified nationally and in Bureau of Mines Districts 7 through 20 and 22 uncommitted coal production that meets the requirements of Wright 7 as described in paragraph A.3.a., above. FEA proposes to find that this uncommitted coal exists in amounts sufficient in any year to meet the estimated additional demand for coal, both nationally and from these Districts, resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of section 2(a) of ESECA. Coal for Wright 7 will probably be bought from producers according to regional supply/demand relationships related to the powerplant's location from BOM Districts 7 through 20 and 22. FEA observes, however, that this powerplant could purchase coal in other markets as such production becomes available. (The Feasibility of Considering Expanded Use of Western Coal by Mid-western and Eastern Utilities in the Period 1978 and Beyond, School of Engineering, University of Pennsylvania, November 7, 1975.)

B. *Coal transportation.*—1. *Location of powerplants and coal supply.* Based on an FEA study, Utility Analysis of Coal Transportation Availability, November 1976, (hereafter "Transportation Availability Study"), coal for Wright 7 would probably come from Bureau of Mines (BOM) District 19 as both the primary and alternate source of supply. While this supply area is the nearest available potential source able to supply complying coal to this powerplant, complying coal can be transferred by rail from other identified sources within the United States. The analysis of transportation availability is based on the most likely route as well as an alternate route. These routes were chosen to demonstrate transportation availability.

2. *Route of coal shipment.* The primary route for coal delivery to the Wright 7 would originate coal on the Union Pacific (UP) to Fremont, Nebraska. The coal would be delivered to the plant by the Chicago and North Western (C&NW). The total distance is approximately 700 miles.

An alternate route from the primary supply area would involve originating on the UP to Brush, Colo. The Burlington Northern (BN) would bring the coal to Fremont. C&NW would make the final delivery.

3. *Originating trunk carrier.* The UP, the originator of coal for Wright 7, has approximately 7,000 hopper cars with an estimated average capacity of 85 tons. Using an average number of deliveries of 20 per year per 85-ton, the UP may need as many as 40 additional cars to handle the demand from Wright 7. This assumes that the railroad will neither have excess originating capacity nor obtain cars from other carriers in the originating vicinity. The UP indicated that it is willing to acquire any needed capacity involved in shipment to the Wright 7 and that it will modify its expansion plans with demand conditions.

FEA's "Transportation Availability Study" concluded that for all potential Prohibition Order candidates studied, there would be no major constraints in transporting coal. The study examined existing rail transportation car capacity, water transportation capacity, including unloading docks, where applicable, and took into account projections made by all carriers to meet the anticipated demand for all types of transportation facilities assuming all powerplants studied were to receive orders under section 2(a) of ESECA.

The UP indicated that transportation facilities at those mine sites within BOM District 19 are in satisfactory operating condition and that loading facilities could handle the required coal volumes.

FEA has not found nor has it been informed of any apparent constraints to carrying coal for any alternate or intermediate carriers should they be used.

4. *Destination carrier and powerplant facilities.* The Chicago and North Western is the destination carrier for the Wright 7. The C&NW owns the railroad siding into the plant. At present the C&NW delivers coal to Wright 7. The plant has adequate unloading equipment to handle the coal deliveries. This equipment is presently in operating condition, and is being used to unload coal.

5. *Conclusion.* Coal transportation facilities will be available for the period a Prohibition Order is expected to be in effect since no significant constraints to coal delivery to Wright 7 presently exist, and alternate routes are available.

IV. *The prohibition of the burning of natural gas or petroleum products as its primary energy source will not impair the reliability of service in the area served by the affected powerplant.* Based on an analysis of the information submitted to FEA by the Federal Power Commission and Fremont, FEA proposes to find that the issuance of a Prohibition Order to Wright 7 will not impair the reliability of service in the area served by the powerplant since there will be no outage as a result of a Prohibition Order to Wright 7.

The Fremont Department of Utilities has advised FEA that Wright 7 was designed to burn gas and coal and is currently burning coal. There will therefore be no impairment of reliability of service within the meaning of ESECA in the area served by Wright 7 as a result of a Prohibition Order.

[FR Doc.77-12160 Filed 4-28-77;8:45 am]

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Intention To Issue Prohibition Orders to Certain Powerplants

The Federal Energy Administration (FEA) hereby gives notice of its intention to issue a Prohibition Order, pursuant to the authorities granted it by Section 2 (a) and (b) of the Energy Supply and Environmental Coordination Act of 1974, as amended (ESECA), and Chapter 10, Code of Federal Regulations (10 CFR), Parts 303 and 305 to the following powerplant:

Docket No.	Owner	Generating station	Unit No.	Location
OFU-139	Philadelphia Electric Co.	Cromby	2	Phoenixville, Pa.

FEA hereby also gives notice of the opportunity for oral and written presentation of data, views, and arguments by interested persons regarding this proposed Prohibition Order.

The proposed order would prohibit the above-named powerplant from burning natural gas or petroleum products as its primary energy source.

Prior to issuance of a Prohibition Order to a powerplant, section 2(a) of ESECA and 10 CFR 303.36(b) and 305.3 (b) require that FEA find that the powerplant had the capability and necessary plant equipment to burn coal as of June 22, 1974. A Prohibition Order may not be issued unless FEA can find that the prohibition of the utilization of natural gas or petroleum products as a primary energy source is practicable and consistent with the purposes of ESECA, that coal and coal transportation facilities will be available during the period the Prohibition Order will be in effect, and that the prohibition will not impair the reliability of service in the area served by the powerplant. FEA's proposed findings, as well as its proposed conclusions and rationale with respect to these findings, for each powerplant are set out in the Appendix to this notice. These findings, conclusions and rationale may be amended as a result of comments received by FEA pursuant to this notice and other information available to FEA. The findings, conclusions and rationale will be included, with any amendments, for each Prohibition Order that is issued.

Upon completion of the proceedings described in this notice, FEA may determine to issue a Prohibition Order to the above-named powerplant. This Phohibition Order will not become effective, however, until (1) either (a) the Administrator of the Environmental Protection Agency (EPA) notifies the FEA, in accordance with section 119(d)(1)(B) of the Clean Air Act, that the powerplant is able to burn coal and to comply with all applicable air pollution control requirements without a compliance date extension under section 119(c) of such Act, or (b) if such notification is not given by EPA, the date that the Administrator of EPA certifies, pursuant to section 119(d)(1)(B) of the Clean Air Act, is the earliest date that the powerplant will be able to comply with all applicable air pollution control requirements of section 119 of that Act, and (2) FEA has considered the environmental impact of the order, pursuant to 10 CFR 208.3(a)(4) and 305.9, and has served the affected powerplant with a Notice of Effectiveness, as provided in 10 CFR 303.10(b), 303.37(b) and 305.7. The date the Prohibition Order will be effective will be stated in the Notice of Effectiveness.

10 CFR 305.9 requires that, prior to the issuance of a Notice of Effectiveness to a powerplant, FEA shall perform an analysis of the Environmental impact of the issuance of such Notice of Effectiveness. That analysis shall result in either (1) issuance of a declaration that the Prohibition Order will not, if made effective by issuance of a Notice of Effectiveness, be likely to have a significant impact on the quality of the human environment, or (2) the preparation by FEA of an environmental impact statement covering significant site-specific impacts that are likely to result from the Prohibition Order and that have not been adequately addressed in the Final Environmental Statement (FES 75-1, dated April 25, 1975) or in other official documents made publicly available.

If FEA prepares an environmental impact statement covering significant site-specific impacts resulting from a Prohibition Order, the statement shall be prepared and published for comment in accordance with Section 102(2)(C) of the National Environmental Policy Act of 1969 prior to issuance of a Notice of Effectiveness. Interested persons may request a public hearing pursuant to 10 CFR 303.173 to comment on the contents of a draft environmental impact statement. With respect to comments regarding any impact on air quality that might result from a proposed Prohibition Order, however, it should be recognized that ESECA has assigned to EPA the primary responsibility for analyzing the effect of any such order on the Nation's air quality and for determining the applicable air pollution control requirements that apply to the powerplant that has been issued an order. It is expected that, in almost every case, a powerplant to which a Prohibition Order is issued will be eligible to apply to EPA for a compliance date extension. In connection with that application, EPA must provide an opportunity for written comment and oral presentation of data, views and arguments by interested persons. Enclosed with the Notice of Effectiveness may be a compliance reporting schedule to insure that the powerplant will be able to comply with the prohibition of the burning of natural gas or petroleum products as a primary energy source on the effective date specified in the Notice of Effectiveness.

Public comment on the proposal to issue a Prohibition Order to the powerplant listed above is invited in the form of written and oral presentation of data, views and arguments.

Comments should address (1) the adequacy and validity of each of the proposed findings and the conclusions and rationale in support of these findings, (2) the environmental impact of the issuance of a Prohibition Order, including any site-specific environmental impacts, and (3) any other aspects of impacts of the proposed Prohibition Order believed to be relevant.

Pursuant to 10 CFR 303.173 (c) and (d), FEA hereby announces that a public hearing to receive oral presentation of data, views and arguments of interested persons will be held beginning at 9:00 a.m. on May 10, 1977, in Conference Room 11B, 1421 Cherry Street, Philadelphia, Pennsylvania 19102. Any person who has an interest in the subject of the hearing or who is a representative of a group or class of persons which has an interest in the subject of the hearing may make a written request or a verbal request if confirmed in writing, for an opportunity to make an oral presentation. That request should be directed to Ed Gray, FEA Region III, Room 1001, 1421 Cherry Street, Philadelphia, Pennsylvania 19102, (215) 597-3607. The request should be received before 4:30 p.m., Tuesday, May 3, 1977. The request should describe the person's interest in the issue(s) involved; if appropriate, it should state why the person is an appropriate representative of the group or class of persons which has such an interest; it should give a concise summary of the proposed oral presentation and a phone number where the person may be contacted through May 9, 1977. Speakers will be contacted by an FEA representative before 4:30 p.m., Thursday, May 5, 1977, and should submit ten (10) copies of their oral presentation, if possible, unless such presentation is less than five (5) pages, in which case only one copy is required, to Ed Gray, Federal Energy Administration, Room 1001, 1421 Cherry Street, Philadelphia, Pennsylvania 19102, before 4:30 p.m., Monday, May 9, 1977.

Detailed technical data, views, and arguments should be contained in a written submission in support of the oral presentation. The oral presentation itself should be a summary of those written comments.

While FEA will endeavor to provide adequate opportunity to all who desire to speak, FEA reserves the right to limit the number of persons to be heard at the hearing, to schedule their respective presentations and to establish the procedures governing the conduct of the hearing. The length of time allocated to each presentation may be limited on the basis of the number of persons requesting to be heard. The FEA will prepare an agenda that shall provide, to the extent possible, for the presentation of all relevant data, views, and arguments.

An FEA official will be designated to preside at the hearing which will not be a judicial or evidentiary hearing. During oral presentations only those conducting the hearing may ask questions. There will be no cross-examination. At the conclusion of all initial oral presentations, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit written questions to the presiding officer to be asked of any person making an oral presentation. The presiding officer will determine whether to ask questions, having first determined whether the question is relevant, and whether adequate time may be afforded for an answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and it, together with any written comments submitted in the course of the hearing, will be retained by the FEA and made available for inspection and copy-

ing at the public reading room located in Room 2107, Federal Building, 12th & Pennsylvania Avenue, N.W., Washington, D.C. 20461, and the FEA Regional Office, Room 1001, 1421 Cherry Street, Philadelphia, Pennsylvania 19102, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. Anyone may purchase a copy of the transcript from the reporter.

Interested persons are invited to submit written comments consisting of data, views, or arguments with respect to this proposed Prohibition Order to Executive Communications, Box MC, Federal Energy Administration, Federal Building, Room 3309, 12th & Pennsylvania Avenue, N.W., Washington, D.C. 20461.

Comments and other documents submitted to FEA Executive Communications should be identified on the outside of the envelope in which they are transmitted and on the document itself with the designation "Proposed Prohibition Order for the Cromby Powerplant." Fifteen copies should be submitted.

All written comments received by 4:30 p.m., Monday, May 30, 1977, all oral presentations, and all other relevant information submitted to or otherwise available to FEA will be considered by FEA prior to issuance of a Prohibition Order.

Any information or data considered to be confidential by the person furnishing it must be so identified and submitted in writing, one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it in accordance with that determination.

Copies of the regulations implementing section 2(a) and (b) of ESECA (10 CFR Parts 303 and 305) are available from the following FEA Regional Offices:

REGION, ADDRESS AND PHONE

I. Robert Mitchell, Regional Administrator, 150 Causeway Street, Room 700, Boston, Massachusetts 02113—617-223-3701.

II. Alfred Kleinfeld, Regional Administrator, 26 Federal Plaza, Room 3206, New York, New York 10007—212-264-1021.

III. J.A. LaSala, Regional Administrator, 1421 Cherry Street, Room 1001, Philadelphia, Pennsylvania 19102—215-597-3390.

IV. Donald Allen, Regional Administrator, 1655 Peachtree Street, N.E., 8th Floor, Atlanta, Georgia 30309—404-526-2837.

V. N. Allen Andersen, Regional Administrator, Federal Office Building, 175 West Jackson Blvd., Room A-333, Chicago, Illinois 60604—312-353-0540.

VI. Delbert Fowler, Regional Administrator, Post Office Box 35228, 2626 W. Mockingbird Lane, Dallas, Texas 75235—214-749-7345.

VII. Neil Adams, Regional Administrator, 1150 Grand Avenue, Kansas City, Missouri 64106—816-374-2061.

VIII. Dudley Faver, Regional Administrator, Post Office Box 26247, Belmar Branch, 1075 South Yukon Street, Lakewood, Colorado 80226—303-234-2420.

IX. William Arntz, Regional Administrator, 111 Pine Street, San Francisco, California 94111—415-556-7216.

X. Jack B. Robertson, Regional Administrator, 1992 Federal Building, 915 Second Avenue, Seattle, Washington 98174—206-442-7280.

Any questions regarding this Notice should be directed to the FEA National Office as follows: Federal Energy Administration, Code OCU (Prohibition Order: Cromby Powerplant), Washington, D.C. 20461, 202-566-7941.

(Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 791 *et seq.*), as amended by Pub. L. 94-163; Federal Energy Administration Act of 1974 (15 U.S.C. 761 *et seq.*), as amended by Pub. L. 94-385; E.O. 11790 (39 FR 23185))

Issued in Washington, D.C., April 25, 1977.

ERIC J. FYGI,
Acting General Council,
Federal Energy Administration.

APPENDIX

PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A PROHIBITION ORDER

ESECA and the FEA regulations require FEA to make certain findings and to consider certain factors before issuing a Prohibition Order to a powerplant. FEA's proposed findings are set out below with repect to the powerplant named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Generating station	Unit No.	Location
0FU-139	Philadelphia Electric Co.	Cromby	2	Phoenixville, Pa.

These findings, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to Issue a Prohibition Order.

Philadelphia Electric Company shall be referred to as the "utility" and as "Philadelphia Electric".

I. *Capability and necessary plant equipment to burn coal.* FEA proposes to find that on June 22, 1974, Powerplant Number 2 at the Cromby Generating Station (Cromby 2) had the capability and necessary plant equipment to burn coal. This proposed finding is based on the facts and interpretations stated below:

A. Philadelphia Electric in information filed with FEA dated July 10, 1975, indicated that the powerplant had in place on June 22, 1974, a boiler that was capable of burning coal. The boiler had been designed and constructed or modified to burn coal as its primary energy source, notwithstanding the fact that on June 22, 1974, the powerplant may not have been burning coal as its primary energy source.

B. Based on information Philadelphia Electric filed with FEA dated July 10, 1975, and other information available to FEA, the following plant equipment or facilities at Cromby 2 would have to be acquired or refurbished in order for this powerplant to burn coal as its primary energy source: (1) Coal burners and mills, (2) ash handling system, (3) superheater tube shields, and (4) combustion controls.

C. FEA proposes to find that on June 22, 1974, Cromby 2 had all other significant plant equipment and facilities associated with the burning of coal.

D. Within the meaning of ESECA and the regulations promulgated pursuant thereto, the equipment and facilities listed in paragraph B, above, do not individually or in combination constitute a lack of capability and necessary plant equipment to burn coal as of June 22, 1974.

II. *The burning of coal in lieu of natural gas or petroleum products is practicable and consistent with the purposes of ESECA.* FEA proposes to find that the burning of coal at Cromby 2 in lieu of petroleum products or natural gas is practicable and consistent with the purposes of ESECA. This finding is based upon the presumption that Cromby 2 will be operated at a 64 percent capacity factor, has a remaining useful life of 14 years (as of the date of this NOI), is expected to have at least 9 years remaining useful life after conversion of the powerplant, and on the facts and interpretations stated below:

A. *The burning of coal is practicable.*—1. *Costs associated with burning coal.*

a. *Capital investment costs.* The total initial capital investment costs, exclusive of financing costs, that would result from the acquisition and refurbishment of equipment and facilities associated with the burning of coal at Cromby 2 are estimated to be approximately $29,393,000, which assumes that flue gas desulfurization equipment (including venturi scrubber) will be required at a cost of $29,342,000 to comply with the air pollution control requirements of the Clean Air Act. This estimate is based on a PEDCo-Environmental Specialists, Inc. report entitled Coal Conversion Cost Reasonableness Analysis for the Cromby 2 Plant, Feb. 25, 1977 (hereafter "PEDCo. Report").

b. *Annual operating and maintenance costs.* The increase in operating and maintenance costs, exclusive of fuel costs, that would result from the burning of coal is estimated to be approximately $10,234,000 per year including $9,857,000 for operation and maintenance of air pollution control equipment. This estimate is based on the PEDCO. Report.

c. *Fuel costs.* (i) Based on information supplied by Philadelphia Electric, the price of petroleum products available to Cromby 2 is approximately $2.45 per million Btu's for oil. This represents $14.60 per barrel of oil, assuming 5.96 million Btu's per barrel.

(ii) Based on information supplied by PEDCo-Environmental Specialists, Inc. the price of coal available to Cromby 2 is approximately $1.03 per million Btu's. This represents $29.78 per ton of coal, assuming 24.8 million Btu's per ton.

(iii) FEA estimates that the burning of coal by this powerplant will result in a reduction of approximately $1.37 per million Btu's, or $15,621,000 per year in fuel costs. This estimate is based on fuel consumption presuming Cromby 2 is operated at a 64 percent capacity factor and with an average heat rate of 9,789 Btu's per kilowatt hour.

d. *Total annual costs associated with conversion.* As a result of the conversion of Cromby 2, there will be an estimated total annual increase in costs incurred, exclusive of fuel costs, of approximately $16,184,000.

2. *Reasonableness of costs of conversion.* The foregoing analysis of the costs of conversion provides the basis for deciding whether the conversion of Cromby 2 is reasonable. Financial impacts of the conversion

will be felt by the utility and by the consumer.

As a result of conversion, the utility will incure additional annual capital investment costs, including financing costs, of approximately $5,900,000 (this represents an amortized cost over the 9 years remaining useful life of this powerplant after conversion, and is based on a fixed charge rate of 28.9% of the total initial capital investment of $20,396,000) and additional annual operating and maintenance costs, exclusive of fuel costs, of approximately $10,284,000 (these figures are derived from the figures in paragraphs A.1. a., and b.), but will experience an annual fuel cost savings of approximately $15,021,000. (See paragraphs A.1.c.) The estimated net annual increase in cost of producing electricity at Cromby 2 after conversion will be $1,163,000.

Increased costs for conversion will be mitigated by the decrease in fuel costs. The net result, however, will be in an increase in the cost of producing electricity at Cromby 2. The costs to the utility resulting from this Prohibition Order ultimately will be recovered in rates.

The use of coal at Cromby 2 will result in an estimated annual equivalent savings of 1,844,000 barrels of oil that otherwise would be used in providing steam for electric power generation. The cost of conversion per barrel of oil saved is estimated to be $0.63.

Although conversion to the burning of coal would be expected to increase the cost of producing electricity at Cromby 2, FEA proposes to find that such increased cost, per barrel of oil saved, is not unreasonable. This determination is based on consideration of the substantial savings of oil that will result from this conversion. The determination that the costs of converting are not unreasonable is further supported by consideration of such costs in relation to the expected 9 years remaining useful life of the powerplant after conversion, the size and resources of Philadelphia Electric as examined in the following analysis of financial capability, the nature of the expected operations of this powerplant, and potential future increases in the fuel cost differential in favor of coal.

3. *Financial capabilities of Philadelphia Electric.* a. *Recovery of capital investment.* FEA proposes to find that compliance with a Prohibition Order to Cromby 2 would be economically feasible. FEA's analysis took into consideration the $20,396,000 additional capital investment required for Philadelphia Electric to comply with this NOI and all other NOI's which are currently under consideration, as well as additional capital investment costs related to all other Notices of Intention, to date, if any, to issue prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of Section 2 (a) and (c) of ESECA to Philadelphia Electric powerplants. FEA related these additional capital investment costs to Philadelphia Electric's estimate of its 1977–79 construction budget of $2 billion, the total capitalization of Philadelphia Electric of $3.5 billion, and the 9 years remaining useful life after conversion of Cromby 2.

FEA does not consider the effect of this added capital investment cost to represent an unreasonable burden given the financial capabilities of the utility to assume such costs.

b. *Total annual costs associated with conversion.* The total estimated annual increase in costs (amortized increased capital investment costs and other costs, exclusive of fuel costs) associated with the burning of coal as opposed to oil attributable to compliance with this NOI and all other NOI's which are currently under consideration would be $16,184,000. This also represents the total estimated annual incremental increase in revenue requirements of Philadelphia Electric. (FEA also took into consideration revenue requirements of Philadelphia Electric resulting from compliance with all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of Section 2 (a) and (c) of ESECA to Philadelphia Electric powerplants.) This estimate of $16,184,000 in revenue requirements is based on an investment oriented analysis described in an Ultrasystems Inc. report entitled Computer Methodology For Coal Conversion Cost Reasonableness Determination, August 1976, (hereafter "Ultrasystems Computer Model"). The estimate includes an incremental rate of return on retained earnings which are invested.

(For comparison with the Ultrasystem Computer Model results, FEA performed a financial analysis based on a Price Waterhouse and Co. report entitled Identification Of Possible Financial Effects Of Converting Certain Electric Generating Facilities To The Use Of Coal, October 1976. This analysis estimated the total annual incremental increase in revenue requirements to be $16,320,000, which assumed a predicted effect on Philadelphia Electric's financial statement and represents revenues required to offset any potential loss in Philadelphia Electric's net earnings per share as reported for Fiscal Year ending 1975.)

The total estimated annual increase in costs of $16,184,000 associated with conversion ultimately will be recovered in rates. However, due to the potential offsetting value of fuel cost savings of approximately $15,021,000 attributable to compliance with this NOI and all other NOI's currently under consideration, the net annual revenue requirements of Philadelphia Electric should increase by approximately $1,163,000.

4. *Consumer Impact.* The potential initial impact of a Prohibition Order to Cromby 2 is a net increase in revenues required from Philadelphia Electric consumers of approximately $0.00046 per kilowatt hour of electricity sold by Philadelphia Electric. This estimate is based on FEA's analysis of the Ultrasystems Computer Model.

The actual amount of the increase will depend on the actual amount of the investment necessary to comply with a Prohibition Order, the methods which Philadelphia Electric selects to finance the increased cost associated with burning coal as a primary energy source at Cromby 2, the extent to which the cost increase is spread among Philadelphia Electric consumers, the regulations or policies of the regulatory agencies with jurisdiction over Philadelphia Electric regarding inclusion of such cost increases in consumer rates, the actual amount of the fuel differential, and other factors.

B. *Consistency with the purposes of ESECA.* Because the issuance of a Prohibition Order to Cromby 2 will discourage the use of natural gas or petroleum products and encourage the increased use of coal, FEA proposes to conclude that this action would be consistent with the purpose of ESECA to provide a means to assist in meeting the essential needs of the United States for fuels.

On the basis of the environmental analysis which FEA is required to conduct prior to issuance of a Notice of Effectiveness of a Prohibition Order, as well as the necessity for this powerplant to comply with the Clean Air Act and other applicable environmental protection requirements, FEA proposes to conclude that a Prohibition Order to Cromby 2 would be consistent with the purpose of ESECA to provide for a means to assist in meeting the essential needs of the United States for fuels in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment.

III. *Coal and coal transportation facilities will be available to this powerplant during the period until December 31, 1984.*

A. *Coal availability.*—1. *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the foreseeable future. U.S. Department of the Interior, Bureau of Mines data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable, (Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974, Bureau of Mines (May 1975) [hereafter "BOM Survey"]). Within these recoverable reserves approximately 200 billion tons contain 1% or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies, referenced herein, which together provide the best current evidence as to coal availability for the period ending December 31, 1984.

2. *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnages of uncommitted planned national coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansions plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets 99 percent of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

a. *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	*Production potential (million tons)*
1977	733.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's Coal Mine Expansion Study (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An EPA study, Availability of Potential Coal Supply Through 1985 by Quality Characteristics, August 1976, (hereafter "Availability Study"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	*Production (million tons)*
1977	48.4
1978	122.3
1979	237.1
1980	287.3
1981	344.0
1982	363.9
1983	390.1
1984	469.5
1985	544.9

b. *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) of ESECA, is as follows (FEA 1976 National Energy Outlook):

Year:	Demand (million tons)
1977	698
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

c. *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of section 2(a) of ESECA is as follows (Coal Availability and Demand: Round I and II Coal Conversion Candidates, August 1976 (hereafter "Coal Conversion Study")):

Year:	Demand (million tons)
1977	4.5
1978	9.1
1979	12.0
1980	17.0
1981	19.2
1982	27.6
1983	27.6
1984	27.6

3. *Characteristic coal, production and demand.* FEA's "Availability Study" identifies coal of specific quality characteristics available for use at Cromby 2. The survey is based on data from 31 mining companies that supplied useful information on 96 mining units. Responses from these companies identified planned production of coal which was not committed to a specific buyer. For those companies which did not respond to the survey, FEA estimated their uncommitted planned production based on their 1974 production.

a. *Characteristic coal requirements for this powerplant.* FEA's "Coal Conversion Study" has determined that a pulverized-coal, dry bottom boiler of the type used at Cromby 2 will be able to burn coal of the following characteristics and comply with all applicable air pollution control requirements:

BTU's/lb	[1] 13,100
Moisture (percent)	[2] 15
Ash (percent)	[2] 19
Volatile (percent)	[1] 15
Ash softening temperature (°F)	[1] 2,200
Sulfur (approximate) (percent)	[2] 2.7

Minimum.
Maximum.

b. *Characteristic coal demand from this powerplant.* The potential demand for coal of the type described above, which would result from this NOI is estimated to be as follows:

Year:	Demand (thousand tons)
1982 and thereafter	443

c. *National planned production, characteristic coal.* The FEA "Coal Conversion Study" has determined that coal of the type described in paragraph A.3.a., above, is uncommitted to a specific buyer and will be potentially available to Cromby 2 in a nationwide market as follows:

Year:	Production (thousand tons)
1977	13,258
1978	26,667
1979	50,263
1980	58,353
1981	69,045
1982	72,867
1983	77,854
1984	94,105

d. *National ESECA prohibition order demand for coal, regardless of characteristics.* The national planned production of characteristic coal, as stated in paragraph A.3.c., above, exceeds potential demand for coal regardless of characteristic expected from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. National ESECA Prohibition Order demand as stated in paragraph A.2.c., above is:

Year:	Demand (thousand tons)
1977	4,500
1978	9,100
1979	12,000
1980	17,000
1981	19,200
1982	27,600
1983	27,600
1984	27,600

e. *Regional planned production, characteristic coal.* Coal with the characteristics described in paragraph A.3.a., above, is uncommitted and will be potentially available to Cromby 2 (in a probable regional supply/demand relationship related to the location of this powerplant) from Bureau of Mines Districts 1 through 15 as follows:

Year:	Production (thousand tons)
1977	13,258
1978	26,667
1979	50,263
1980	58,353
1981	69,045
1982	72,867
1983	77,854
1984	94,105

f. *Regional ESECA prohibition order demand for coal, regardless of characteristic.* The expected regional production of characteristic coal, as stated in paragraph A.3.a., above, exceeds the potential demand for coal regardless of characteristic from Bureau of Mines Districts 1 through 15 expected to result from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. This potential regional demand is estimated in FEA's "Coal Conversion Study" as follows:

Year:	Demand (thousand tons)
1977	2,877
1978	5,256
1979	7,027
1980	11,932
1981	14,138
1982	22,179
1983	22,179
1984	22,179

g. *Regional ESECA prohibition order demand for coal by sulfur characteristic.* The potential regional demand for coal from BOM Districts 1 through 15 with a 2.21–2.71 percent sulfur content (which includes the 2.7 percent maximum sulfur content described in paragraph A.3.a., above) resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of section 2(a) of ESECA is estimated in FEA's "Coal Conversion Study" as follows:

Year:	Demand (thousand tons) percent sulfur 2.21 to 2.71
1977	508
1978	807
1979	1,242
1980	1,563
1981	1,733
1982	5,519
1983	5,519
1984	5,519

The regional planned production of coal stated in paragraph A.3.e., above, with the characteristics described in paragraph A.3.a., above, far exceeds this potential ESECA regional demand for coal by sulfur characteristic.

4. *State or local laws.* FEA has found no state or local laws or policies limiting the extraction of utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

5. *Concusion.* FEA's "Availability Study" has identified nationally and in Bureau of Mines District 1 through 15 uncommitted coal production that meets the requirements of Cromby 2 as described in paragraph A.3.a., above. FEA proposes to find that this uncommitted coal exists in amounts sufficient in any year to meet the estimated additional demand for coal, both nationally and from these Districts, resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA.

Coal for Cromby 2 will probably be bought from producers according to regional supply/demand relationships related to the powerplant's location from Bureau of Mines Districts 1 through 15. FEA observes, however, that this powerplant could purchase coal in other markets as such production becomes available. (The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond, School of Engineering, University of Pennsylvania, November 7, 1975.)

B. *Coal transportation.*—1. *Location of powerplant and coal supply.* Based on an FEA Study, Utility Analysis of Coal Transportation Availability, November 1976, (hereafter "Transportation Availability Study"), coal for Cromby 2 would probably come from Bureau of Mines (BOM) District 1 as the primary source of supply and from District 8 as the alternate source of supply. While these supply areas are the nearest available sources able to supply complying coal to the powerplant, complying coal can be transferred by rail from other identified sources within the United States. The analysis of transportation availability is based on the most likely route as well as two alternate routes. These routes were chosen to demonstrate transportation availability.

2. *Route of coal shipment.* A primary route for coal delivery for Cromby 2 would originate on Consolidated Railroad Corporation (Conrail), and be delivered to the plant via Coalport, Harrisburg, and Lancaster, Pennsylvania. The total rail distance is approximately 300 miles.

One alternate route from BOM District 1 would involve originating and delivering coal by Conrail, via Keating, Williamsport, and Reading, Pennsylvania.

Another alternate route from an alternate supply would be to originate coal from BOM District 8 to Hagerstown, Maryland, on the Norfolk and Western (N&W) Railroad. Conrail would deliver the coal from Hagerstown, Maryland to the powerplant.

3. *Originating trunk carrier.* Conrail, the expected originating carrier of coal from Cromby 2, has approximately 52,000 hopper cars with an estimated average capacity of 80 tons. Using an average number of deliveries of 10 per year per 80-ton car, Conrail may need as many as 550 additional cars to handle the increased demand from Cromby 2. This estimate assumes that the railroad would neither have excess originating capacity nor obtain cars from other carriers in the originating vicinity.

Conrail indicated that it is willing to acquire any needed capacity involved in shipment to Cromby 2 and that it would modify its expansion plans with demand conditions. The railroad also indicated that its carrying capacity could be expanded as quickly as the utility prepares to burn coal.

FEA's "Transportation Availability Study" concluded that for all potential Prohibition Order candidates studied, there would be no major constraints in transporting coal. The study examined existing rail transportation car capacity, water transportation capacity, including unloading docks, where applicable, and took into account projections made by all carriers to meet the anticipated demand for all types of transportation facilities assuming all powerplants studied were to receive orders under section 2(a) of ESECA.

Conrail indicated that transportation facilities at those mine sites within BOM District 1, served by Conrail are in satisfactory operating condition and that loading facilities could handle the required coal volumes.

FEA has not found nor has it been informed of any apparent constraints to carrying coal for any alternate of intermediate carriers should they be used.

4. *Destination carrier and powerplant facilities.* The primary and alternate destination carrier for Cromby 2 is Conrail. Conrail jurisdiction includes spur tracks to the plant, which are reported by the utility to be in good condition. Car dumpers are in place and operable for unloading coal.

Philadelphia Electric has indicated that all coal receiving facilities serving Cromby 2 are adequate to handle the projected demand through 1985.

There are no other obstacles to the delivery of coal to Cromby 2:

5. *Conclusion.* Coal transportation facilities will be available for the period a Prohibition Order is expected to be in effect since no major constraints to coal delivery over the primary route to the Cromby 2 presently exist, and alternate routes are available.

IV. *The prohibition of the burning of natural gas or petroleum products as its primary energy source will not impair the reliability of service in the area served by the affected powerplant.* Based on an analysis of the information submitted to FEA by the Federal Power Commission, and after consultation with the Federal Power Commission, FEA proposes to find that the issuance of a Prohibition Order to Cromby 2 will not impair the reliability of service in the area served by the powerplant. This proposed finding is based on the facts and interpretations stated below:

A. *Description of the dispatching system.* 1. The Cromby Station is owned by Philadelphia Electric, which is a member of the Pennsylvania/New Jersey/Maryland (PJM) power pool, which is within the geographical area of the Mid-Atlantic Area Council regional electric reliability council.

2. The term "dispatching system" as used in the proposed finding means the PJM.

3. The gross capacity, as of September 1976, of all dispatching system powerplants was 44,543 MW. (See line 7, attachment 1)

4. Proposed changes up to the period in which Philadelphia Electric would implement a Prohibition Order will result in the gross capacity indicated on line 3 of attachment 1 because of the following changes in the dispatching system listed in Table 1:

TABLE 1

Powerplant designation	Fuel	Type of change	Capacity change (megawatt)	Effective date
Salem 1	Nuclear	Add	+1,090	December 1976.
Martin Creek 4	Oil	Add	+850	January 1977.
Calvert Cliffs 2	Nuclear	Add	+900	March 1977.
Crawford 3	Coal	Retired	−42	Do.
Crawford 4	do	do	−5	Do.
Gould St. 1	Oil	do	−33	April 1977.
Gould St. 2	Oil	do	−33	Do.
Easton 21	Oil	Add	+6.25	May 1977.
Easton 22	Oil	Add	+6.25	Do.
Easton 3	Oil	Retired	−.7	Do.
Gilbert 8	Oil	Add	+130	Do
Homer City 3	Coal	Add	+693	October 1977.
Three Mile Island 2	Nuclear	Add	+927	May 1978.
Crawford 1	Oil	Retired	−33	June 1978.
Crawford 2	Oil	do	−33	Do.
Salem 2	Nuclear	Add	+1,115	May 1979.
Indian River 4	Coal	Add	+415.5	Do.
Brandon Shores 1	Oil	Add	+610	February 1980.
Chalk Point 4	Oil	Add	+601	May 1980.
Susquehanna 1	Nuclear	Add	+1,050	November 1980.
Easton 4	Oil	Retired	−.7	May 1981.
Westport 1	Oil	do	−25	January 1982.
Westport 13	Oil	do	−20	Do.
Westport 14	Oil	do	−20	Do.
Brandon Shores 2	Oil	Add	+610	February 1982.
Totals; 1982 Spring load period:				
Added				+9031
Retired				−245
Net change				+8786

NOTE.—See line 2 attachment 1.

5. The proposed changes in Table 1, above, are based on the best information available to FEA and the Federal Power Commission (FPC Form 12E-2 dated October 29, 1976) at the time this NOI is issued. FEA has taken into consideration the possibility that the proposed changes may not be completed by the indicated date, but has determined that in such event, with minor modifications to the projected schedule of changes contained in Table 1, gross capacity in the dispatching system would not be significantly affected during the period required for conversion of Cromby 2. FEA assumes outages for conversion at those times that are optimally suited, in terms of forecast peak load periods, to maintain reliability of service.

B. *Forecast peak loads for the dispatching system.* 1. A forecasts of peak the load for the dispatching system during the period in which Cromby 2 would implement a Prohibition Order is as indicated on line 8 of attachment 1.

2. The forecast peak load has been compared with the load peak in a previous similar period. The annual peak load growth rate for these forecasts is 5 percent.

C. *Maximum projected outages for the dispatching system.* 1. Scheduled outages for normal maintenance, including other powerplants implementing Prohibition Orders and nuclear plant refueling within the dispatching system during the period in which Cromby 2 may be implementing a Prohibition Order, may result in some loss of capacity which is expected to be as indicated on line 4 of attachment 1.

2. A projected outage of 2 months is estimated to be required for the powerplant to make modifications, installations, or other physical adjustments required by a Prohibition Order should it become effective. The powerplant may be less than fully dependable during the period of on-line testing and adjustment following such modifications. This period is not expected to exceed 30 days. To take advantage of the maximum reserve capacity, the projected outage is most likely to occur during 1982. The potential loss of capacity from an outage of Cromby 2 would be approximately 220 MW, (line 7, attachment 1) which is included in the total outages indicated on line 6 of attachment 1. The assumed conversion period specified on attachment 1 is shown for the purpose of illustration only.

3. Maximum projected outages within the dispatching system include normal scheduled maintenance for all powerplants (line 4 of attachment 1) and outages due to conversion (line 5 of attachment 1) for those powerplants to be implementing Prohibition Orders. Maximum projected outages are expected to be as indicated on line 6 of attachment 1, thereby reducing the gross capacity and resulting in a net dependable capacity for the dispatching system.

D. *Net dependable capacity for the dispatching system.* 1. Based on the foregoing information, the net dependable capacity for the dispatching system at the expected time of implementation of a Prohibition Order would be as indicated on line 9 of attachment 1.

2. Comparing the net dependable capacity to the forecast peak load shown on line 8 of attachment 1 indicates that the reserve capacity shown on line 10 of attachment 1 would exist for the dispatching system.

3. Comparison of this reserve capacity to the forecast peak load shown on line 8 of attachment 1 results in a reserve margin as indicated on line 11 of attachment 1 (as contrasted with a reserve margin as indicated on line 12 of attachment 1 if no units were removed from service due to Prohibition Orders).

4. The Federal Power Commission considers this to be an acceptable reserve margin taking into consideration the geographical location of Cromby 2.

5. At the completion of the conversion, there will be a net 5.4 MW derating of Cromby 2 as a result of using coal as its primary energy source.

6. Existing transmission system interconnections may transfer an additional 9,260 MW into the dispatching system. This ca-

pacity may provide an additional resource of electric power during the implementation period and will enhance the reliability of service.

E. *Conclusion.* If dispatching system conditions, including any scheduled outage by Cromby 2, are as presently forecast during the time required to implement a Prohibition Order by Cromby 2 there will be no impairment of reliability of service within the meaning of ESECA in the area served by Philadelphia Electric or in the dispatching system as a result of the Order.

ATTACHMENT 1

PJM RELIABILITY DATA CROMBY

ASSUMED CONVERSION PERIOD MARCH 1 TO JUNE 30, 1982

	Megawat capacity
1. Gross capacity of PJM as of September 1, 1976	44,543
2. Added capacity	8,789
3. Gross capacity	53,332
4. Scheduled outages for maintenance	10,132
5. Projected outages due to prohibition orders	468
6. Maximum projected outages, due to maintenance and prohibition orders (line 4 and line 5)	10,600
7. Unit outage	220
8. Peak load spring 1982	32,923
9. Net dependable capacity	42,732
10. Reserve capacity	9,809
11. Reserve margin percent (maintenance and prohibition orders)	29.79
12. Reserve margin percent (maintenance only)	31.22

[FR Doc.77-12161 Filed 4-28-77;8:45 am]

Federal Register

FRIDAY, APRIL 29, 1977

PART III

OFFICE OF THE FEDERAL REGISTER

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FREEDOM OF INFORMATION INDEX REQUIREMENTS

Guide to Agency Material; January–March, 1977

OFFICE OF THE FEDERAL REGISTER

FREEDOM OF INFORMATION INDEX REQUIREMENTS

Guide to Agency Material; January–March 1977

AGENCY: Office of the Federal Register, NARS, GSA.

ACTION: Notice of availability of indexes.

SUMMARY: This notice contains information submitted by agencies to the Office of the Federal Register for the first quarter of 1977 on indexes that the agencies are required to publish and make available under the Freedom of Information Act. This notice is compiled and published to notify the public of the availability of these indexes for sale or public inspection or both.

FOR FURTHER INFORMATION CONTACT:

Doris O'Keefe, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, DC 20408 (202–523–5230).

SUPPLEMENTARY INFORMATION: 5 U.S.C. 552 (commonly called the Freedom of Information Act) requires agencies to maintain and make available for public inspection and copying current indexes providing identifying information for the public as to any matter issued, adopted, or promulgated after July 4, 1967, and required to be made available or published (5 U.S.C. 552(a)(2)). Certain amendments (Pub. L. 93–502, November 21, 1974, 88 Stat. 1561) require the publication (with some exceptions) and distribution of these indexes at least quarterly. This guide has been compiled by the Office of the Federal Register from information submitted by agencies for the first quarter of 1977 in order to notify the public of the availability of these indexes for sale and/or public inspection.

FRED J. EMERY,
Director, Office of the Federal Register.

APRIL 29, 1977.

Agency and subagency name	Index title: period covered, brief description of contents	Order from; price; make checks payable to—	For inspection, copying, or additional information contact
Department of Agriculture, Agricultural Stabilization and Conservation Service.	ASCS handbooks: Current listing of all administrative staff manuals.	Director, Data Systems Division, ASCS, USDA, P.O. Box 2415, Washington, D.C. 20013. No charge.	Director, Data Systems Division, ASCS USDA, P.O. Box 2415, Washington, D.C. 20013.
Do	Marketing quota: Review committee determinations; 1970 to date; listing by crop-year of all decisions made on marketing quota appeals.	do	Do.
Do	Board of contract appeals decisions; 1970 to date; listing of all decisions on appeals affecting ASCS and or CCC.	do	Do.
Do	CCC Board dockets; 1969 to date; listing of all Commodity Credit Corporation dockets approved by the Secretary of Agriculture.	do	Do.
Do	ASCS program appeals; 1970 to date; chronological listing of all appeals handled by ASCS program appeals staff.	do	Do.
Department of Agriculture, Rural Electrification Administration.	Index of current REA publications: Electric Program, as of Apr. 6, 1976, with supplement thereto updating the index to Mar. 31, 1977. An alphabetic and numerical index of REA electric program bulletins, staff instructions, contract forms, and specifications.	Director, Information Services Division, Rural Electrification Administration, U.S. Department of Agriculture, Room 4043 South, Washington, D.C. 20250. No charge.	Director, Information Service Division, Rural Electrification Administration, U.S. Department of Agriculture, Room 4043 South, Washington, D.C. 20250.
Do	Index of current REA publications: Telephone as of Mar. 5, 1976, with supplement thereto updating the index to Mar. 31, 1977. An alphabetic and numerical index of REA telephone program bulletins, staff instructions, contract forms, specifications, sections of the Telephone Engineering and Construction and Telephone Operations manuals, and the rules and regulations of the Rural Telephone Bank.	do	Do.
Department of Defense, Department of the Air Force.	Numerical index of departmental forms (AFR 0-9). Aug. 6, 1976. Lists forms numerically within each category, including accountable forms, forms requiring storage safeguards, and obsolete forms.	DADF at nearest Air Force installation. Shelf stock. $2.76 per copy; reproduced copies, $5.50 per copy; shelf stock will be used while it lasts. Checks payable to: AFO (name of base furnishing copies).	DADF at nearest Air Force installation.
Do	Guide to indexes, catalogs, and lists of departmental publications (AFR 0-1). Sept. 1, 1974. Describes the indexes, catalogs, and lists of departmental publications; explains their use, tells how often they are revised, shows their distribution and gives the office of primary responsibility.	DADF at nearest Air Force installation. Shelf stock, $2.05 per copy; reproduced copies $2 per copy; shelf stock will be used while supply lasts. Checks payable to: AFO (name of base furnishing copies).	Do.
Do	Numerical index of standard publications and recurring periodicals (AFR 0-2). Mar. 4, 1977. Lists regulations, manuals, and pamphlets together under each subject series; lists visual aids and recurring periodicals separately.	DADF at nearest Air Force installation. Shelf stock. $2.75 per copy; reproduced copies $5.75; shelf stock will be used while supply lasts. Checks payable to: AFO (name of base furnishing copies).	Do.
Do	Miscellaneous Air Force and other Government agency publications (AFR 0-16). Sept. 10, 1976. Lists a wide range of subjects of interest to the Air Force.	DADF at nearest Air Force installation. Shelf stock, $2.08 per copy; reproduced copies, $2.10 per copy; shelf stock will be used while supply lasts. Checks payable to: AFO (name of base furnishing copies).	Do.
Do	Publications Numbering Systems (AFR 5-4). February 15, 1974. Contains subject series and description guide and alphabetical list of subjects.	DADF at nearest Air Force installation. Shelf stock $2.15 per copy, reproduced copies $2.45 per copy; shelf stock will be used while it lasts. Checks payable to: AFO (name of base furnishing copies).	Do.
Do	Disposition of Air Force documentation (AFM 12-50). Oct. 1, 1969. Pt. 2 consists of decision logic tables which provide for disposition of documentation created or accumulated by all Air Force activities. Attachment 3 is an index to the tables, arranged alphabetically by title of the record.	DADF at nearest Air Force installation. Shelf stock will not be used. Pt. 2 is voluminous, therefore, only tables pertaining to requested records will be reproduced. $2. for 1st 6 pages, plus $0.05 for each additional page. Checks payable to: AFO (name of base furnishing copies).	Do.

Agency and subagency name	Index title: period covered, brief description of contents	Order from; price; make checks payable to—	For inspection, copying, or additional information contact
Department of Defense, Department of the Army, TAGCEN, Army Publications Directorate.	DA pamphlet 310-1: Index of administrative publications (regulations, circulars, pamphlets, posters, general orders, joint chiefs of staff publications.) Basic dated May 1975, with/change 1, Aug. 25, 1975.	Director, Army Publications Directorate, Forrestal Bldg., Washington, D.C. 20314. Price: $4.50. Payable to: Treasurer of United States.	Director, Army Publications Directorate, Forrestal Bldg., Washington, D.C. 20314.
Do	DA pamphlet 310-2: Index of blank forms, December 1976.	Director, Army Publications Directorate, Forrestal Bldg., Washington, D.C. 20314. Price: $3.50. Payable to: Treasurer of United States.	Do.
Do	DA pamphlet 310-3: Index of doctrinal, training, and organizational publications (field manuals, reserve officer's training corps manuals, training circulars, Army training programs, Army subject schedules, Army training tests, firing tables and trajectory charts, tables of distribution and allowances). Basic dated May 1975.	Director, Army Publications Directorate, Forrestal Bldg., Washington, D.C. 20314. Price: $3.55. Payable to: Treasurer of United States.	Do.
Do	DA pamphlet 310-4: Index of technical manuals, technical bulletins, supply manuals (types 7, 8, and 9), supply bulletins, and lubrication orders. Basic dated November 1974, with change 3, October 1975.	Director, Army Publications Directorate, Forrestal Bldg., Washington, D.C. 20314. Price: $8.50. Payable to: Treasurer of United States.	Do.
Do	DA pamphlet 310-6: Index of supply catalogs and supply manuals. Basic dated July 1976, with change 2, Dec. 30, 1976.	Director, Army Publications Directorate, Forrestal Bldg., Washington, D.C. 20314. Price: $3.50. Payable to: Treasurer of United States.	Do.
Do	DA pamphlet 310-7: Index of Equipment Modification Work Orders, June 1976.	Director, Army Publications Directorate, Forrestal Bldg., Washington, D.C. 20314. Price: $3.50. Payable to: Treasurer of United States.	Do.
Department of Defense, Department of the Navy:	Directives Issuance System Consolidated Subject Index of Unclassified Instructions (NAVPUBNOTE 5215). Published quarterly. Lists instructions issued by Washington headquarters organizations to addressees outside their headquarters.	Commanding Officer, Naval Publications and Forms Center, Philadelphia, Pa. 19120. Price: $5 per issue. Make check payable to the Treasurer of the United States.	Navy Department Library, 2d floor of building 220 at the Washington Navy Yard, U.S. Naval Station, 9th and M Sts. NW., Washington, D.C. Also available at nearest Navy or Marine Corps activity.
Do	Marine Corps Directives System Quarterly Checklist of Directives (MARCORPS Bulletin 5215).	Commandant of the Marine Corps (code HQSP), Navy Department, Washington, D.C. 20380. Price: minimum of $2 plus $0.01 per page over 6 when stock is available and $0.05 per page when not available and must be reproduced. Make check payable to the Treasurer of the United States.	Navy Department Library (see above) and Headquarters Marine Corps, room 1135 of the Navy Arlington Annex (Federal Office Bldg. No. 21), Southgate Rd. and Columbia Pike, Arlington, Va. Also at nearest Marine Corps activity.
Do	Indexes to Navy and Marine Corps directives issued by naval activities and of less than departmentwide or general applicability.	Local Navy and Marine activity. Price: minimum of $2, plus $0.01 per page over 6 when stock is available and $0.05 when not available and pages must be reproduced.	Local Navy and Marine Corps issuing activity.
Do	Marine Corps' Stock List (SL-1-3): Quarterly index of publications authorized and stocked by the U.S. Marine Corps (PASMC).	Commandant of the Marine Corps (code HQSP), Navy Department, Washington, D.C. 20380. Price: $2, plus $0.01 per page over 6 when stock is available and $0.05 when not available and pages must be reproduced. Make check payable to the Treasurer of the United States.	Headquarters, U.S. Marine Corps, Room 1135 of the Navy Arlington Annex (Federal Office Bldg., No. 21), Southgate Rd. and Columbia Pike, Arlington, Va. 20380. Also at Marine Corps field activities and Navy Department Library (see above).
Do	Standard Subject Identification Codes (SEC NAVINST 5210.11A). Lists standard subject (numerical) codes used for categorizing and identifying naval documents, including directives, blank forms, reports (control symbols), and other records and filing systems.	Commanding Officer, Naval Publications and Forms Center, 5801 Tabor Ave., Philadelphia, Pa. 19120. Price: minimum of $2, plus $0.01 per page over 6 when stock is available and $0.05 when not available and pages must be reproduced. Make check payable to the Treasurer of the United States.	Navy Department Library (see above) and at all naval shore activities.
Do	NAVFAC Documentation Index (NAVFAC P-349): A Keyword Out of Context (KWOC) index of unclassified instructions, publications, forms, and reports sponsored by the Naval Facilities Engineering Command (NAVFAC).	Commanding Officer, Naval Publications and Forms Center, 5801 Tabor Ave., Philadelphia, Pa. 19120. Price: $5. Make check payable to the Treasurer of the United States.	Navy Department Library (see above) and at Naval Facilities Engineering Command headquarters and field activities.
Do	Indexes to certain other technical publications and manuals of sponsoring system command or other headquarters organizations.	Director, Navy Publications and Printing Service Management Office, Washington Navy Yard, U.S. Naval Station, Washington, D.C. 20374. Price: $2 minimum plus $0.01 per page over 6 if printed stock is available and $0.05 per page when not available and pages must be reproduced. Make check payable to the Treasurer of the United States.	Navy Publications and Printing Service Management Office, building 157, Washington Navy Yard, 9th and M Sts. SE., Washington, D.C.
Do	Index to Navy Procurement Directives	Chief of Naval Material (MAT-00), Navy Department, Washington, D.C. 20360. Price: $2 minimum, plus $0.01 per page over 6 when stock is available and $0.05 per page when not available and copies must be reproduced. Make check payable to the Treasurer of the United States.	Navy Department Library (see above) and Navy procurement activities.
Defense Civil Preparedness Agency:	Publications catalog, MP-20: A listing of publications and other printed matter on the U.S. Civil Defense program available to the public. Contains a brief resume of each one and provides information on where to obtain.	U.S. Army Publications Center, Civil Preparedness Branch, 2800 Eastern Blvd. (Middle River), Baltimore, Md. 21220. No charge.	DCPA Headquarters, Room 1D511, Pentagon Bldg., Washington, D.C. 20301 or DCPA regional offices as shown at app. C, pt. 1813, ch. XVIII, title 32, CFR.
Do	DCPA manual 5450.2: Index of DCPA instructions and manuals, a listing, both numerical and subjective, of the Agency instructions announcing policy, outlining programs, and prescribing internal operating procedures.	do	Do.

Agency and subagency name	Index title: period covered, brief description of contents	Order from; price; make checks payable to—	For inspection, copying, or additional information contact
Defense Communications Agency.	1. DCA circulars and notices: Enclosure 1 consists of 2 sections. Section A contains the index of current DCA circulars and notices. Those circulars, notices, and changes published during the period July 1–Dec. 31, 1976, are highlighted by a number sign (#) in the left margin. Section B contains a listing of those publications which have been canceled or replaced since July 1, 1976, by a publication of a different number. Publications superseded by a revised issue bearing the same number are not included. Enclosure 2 is an alphabetical listing of current DCA circulars. Enclosure 3 is an alphabetical listing of current DCA Notices. 2. DCA instructions: Enclosure 1 consists of 2 sections. Section A contains the index of current DCA instructions. Those instructions and changes published during the period Apr. 1 to Sept. 30, 1976, are highlighted by a number sign (#) in the left margin. Section B contains a listing of those instructions which have been canceled or replaced by an instruction of a different number since Apr. 1, 1976. Enclosure 2 is an alphabetical listing of current DCA instructions.	Defense Communications Agency, Washington, D.C. 20305. No charge.	Defense Communications Agency, 8th St. and South Courthouse Rd., Arlington, Va. 22201.
Defense Nuclear Agency	Index to administrative publications, May 10, 1976, with changes. Description: Administrative instructions covering manpower, personnel, international programs, planning and readiness, R. & D., logistics, maintenance, transportation, general administration, organization and function, security, administrative services, public information, legal and legislative policies, comptrollership, budgeting, appropriations accounting and control, auditing, and reports control.	Defense Nuclear Agency, Attention: PAO, Washington, D.C. 20305. $1 by xeroxing, $0.35 by printing run. Payable to: Treasurer of the United States.	
Do	Government reports index: Biweekly, annual cumulation. Description: Indexes DNA and other Government-sponsored research and development reports prepared by Federal agencies or their contractors.	National Technical Information Service, Springfield, Va. 22161. $125 annual subscription rate. Payable to National Technical Information Service.	Director, Defense Nuclear Agency, Technical Library, Washington, D.C. 20305.
Defense Nuclear Agency, Armed Forces Radiobiology Research Institute.	Index of Armed Forces Radiobiology Research Institute (AFRRI) instructions, Nov. 10, 1975, with changes. Description: Listing of all AFRRI instructions in force.	Director, Armed Forces Radiobiology Research Institute, Attention: Administrative Officer, Defense Nuclear Agency, National Naval Medical Center, Bethesda, Md. 20014. 9 pages at $0.05 per page ($0.45). Checks payable to Treasurer of the United States.	
Defense Nuclear Agency, field command.	FCDNA instruction 5025.8J. Apr. 30, 1976 with changes. Description: Current index to field command instructions.	Field Command, Defense Nuclear Agency, Attention: Security Specialist, Support Directorate, Kirtland AFB, N. Mex. 87115. No charge.	
Defense Nuclear Agency, field command (FCDNA).	FCDNA instruction 5030.1D; Oct. 31, 1975. Description: Current index to FCDNA agreements, memoranda of understanding, and interservice agreements.	do	
Defense Nuclear Agency, field command, Johnston Atoll (FCJ).	FCJ instruction 5025.8D; Jan. 22, 1975 with changes. Description: Current index to FCJ instructions.	do	
Defense Supply Agency, Defense General Supply Center.	Index of publications: Current listing of policy statements, regulations, handbook, manuals, directives, letters, supplements, procedures, and clause manual.	Commander, Defense General Supply Center, attention of DGSC-B, Richmond, Va. Reproduced copies $2. Treasurer of the United States.	Public Affairs Officer, Defense General Supply Center, Richmond, Va. 23297.
Department of Health, Education, and Welfare, Food and Drug Administration (HEW/FDA).	Administrative Guidelines Manual. Jan. 1, 1973. Provides guidance to personnel responsible for regulatory decisions. Contains regulatory tolerances and guidance, and authorization for direct action by the field in areas of seizure, citation, and prosecution.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. No charge.	Supervisor, Public Records and Documents Center (HFC-18), Room 4-62, FDA, 5600 Fishers Lane, Rockville, Md. 20852.
Do	Bureau of Foods Staff Manual Guide. Primarily concerned with the preparation of and review of documents within the Bureau of Foods.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. $10. Checks payable to Food and Drug Administration.	Do.
Do	Bureau of Drugs staff manual guide. Primarily concerned with the preparation of and review of documents within the Bureau of Drugs.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. $21.50. Checks payable to Food and Drug Administration.	Do.
Do	Compliance Policy Guides. Provides a system for the issuing, filing, and retrieval of all official statements of FDA compliance policy.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. No charge.	Do.
Do	Compliance Program Guidance Manual. Provides general guidance to the field as to how certain industries will be inspected, sampled, etc., during a fiscal year. Programs within this manual assign the number of inspections or samples to be done within a specific industry. Over 3,000 pages.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. 10 cents per page. (Suggest before ordering, to request transmittal checklist to ascertain programs needed.) Checks payable to Food and Drug Administration.	Do.
Do	Drug autoanalysis manual. Provides content uniformity test specifications in USP XVII and NFX II. Provides assurance of homogeneity within a single lot for a safe and effective drug supply. Specifications are for all tablet monographs where the active ingredient is present in low quantities (usually 50 mg or less).	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. No charge.	Do.
Do	ERDO data code manual. Lists computer code information for programs management system project (PMS) which is used for reporting project information into the program oriented data system (PODS).	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. $15. Checks payable to Food and Drug Administration.	Do.

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Do.	Field management directives. Used by the field staff to transmit FDA field policy in the areas of operations' management, planning and budget guidance, program management, and State program management which gives policy information.	do.	Do.
Do.	Food additives analytical manual. Presents a compilation of analytical methodology for additives authorized for use. Compilation consists of methods for additives which can be used only as permitted in foods for human consumption and in feeds and drinking water of animals or treatment of food-producing animals.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. No charge.	Do.
Do.	Hazard Analysis and Critical Control Point—A System for Inspection of Food Processors. Explains the hazard analysis and critical control point procedure. Used for overseeing industry's processing practices in order to provide the consumer with the best assurances possible of quality control in processing foods.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. $131.05. Checks payable to Food and Drug Administration.	Do.
Do.	Inspector Operations Manual. Provides FDA personnel with standard operating inspectional and investigational procedures. Contains instructions needed by operating inspectors and investigators. Contains authorities, objectives, responsibilities, policies, and guides.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. $25. Checks payable to Food and Drug Administration.	Do.
Do.	Inspector Training Manual. Basic training manual for food and drug inspectors and inspection technicians to provide the field with uniform approach to the administration of basic training.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. $15. Checks payable to Food and Drug Administration.	Do.
Do.	Inspector's Manual for State Food and Drug Officials. Divided into 2 parts (1) Operations manual with information applicable to sample collection, inspections, and investigations in all fields of food and drug work; (2) commodities manual divided into specific types of food commodities. Manual for official use of State and local food and drug enforcement officers only.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. $65. Checks payable to Food and Drug Administration.	Do.
Department of Health, Education, and Welfare, Food and Drug Administration (HEW/FDA):	Inspector's Technical Guide. To provide a medium for making all FDA inspectors aware of selected technical information not previously available on a broad scale.	Supervisor, Public Records and Documents Center (HFC-18) 5600 Fishers Lane, Rockville, Md. 20852. $5.00. Payable to Food and Drug Administration.	Supervisor, Public Records and Documents Center (HFC-18) Room 4-62, FDA, 5600 Fishers Lane, Rockville, Md. 20852.
Do.	Laboratory Operations Manual. Provides day-to-day guide for laboratory directors and supervisors. Reflects the science adviser program and district laboratory relationships with BDAC field offices and disposition of consumer complaint samples.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. $17.40. Checks payable to Food and Drug Administration.	Do.
Do.	Pesticide Analytical Manual. Brings together the procedures and methods used in the FDA laboratories for surveillance of the extent and significance of contamination of man and his environment by pesticides and their metabolites.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. No charge.	Do.
Do.	Quantity of contents compendium. Used to measure acceptable levels of shrinkage in food containers. Manual divided into 2 parts: (1) Contains procedures for measuring fill-of-container, statistical evaluation acceptable common or usual declaration of quantity of contents; (2) contains information on sampling where special techniques are required.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. $25. Checks payable to Food and Drug Administration.	Do.
Do.	Regulatory Procedures Manual. Provides guidance on regulatory policy and supporting processing procedures.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. $25. Checks payable to Food and Drug Administration.	Do.
Do.	Staff Manual Guides—Organization and Delegations. Contains directives issued by the Food and Drug Administration to establish policy, organization, procedures or responsibilities in the administrative area. Used to issue continuing instructions or information and remains in effect until rescinded or superseded.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. Vol. I, $60; Vol. II, $60; Vol. III, $30. Checks payable to Food and Drug Administration.	Do.
Do.	Supervisory Inspectors Guide. Designed to furnish supervisory inspectors with guidelines to assist them in performing their duties.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. $28.50. Checks payable to Food and Drug Administration.	Do.
Do.	Index to Administrative Staff Manuals. Current listing of all staff manuals with indexes and/or table of contents and costs.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. $20. Checks payable to Food and Drug Administration.	Do.
Do.	Statements of policy and interpretations adopted by FDA and not published in the FEDERAL REGISTER.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. $5.00. Payable to Food and Drug Administration.	Do.
Department of Health, Education, and Welfare, National Institutes of Health (NIH):	NIH Freedom of Information Act index; from July 4, 1967-July 31, 1976, includes items in the following categories: (1) administrative manuals and memorandum, (2) animal resources and programs, (3) audio-visuals policy and criteria, (4) clinical center operations, (5) contracts policy and guides, (6) employee and committee member handbooks and manuals, (7) grants policy and guides, (8) library resources and guidelines, (9) minority programs, (10) patient policy, (11) research centers guides, (12) safety guides and permits, and (13) site visit formats.	In addition to copies of the NIH FOIA index maintained by HEW, NIH will make photocopies available if requests are forwarded to: Associate Director for Communications, NIH, Building 1, Room 309, 9000 Rockville Pike, Bethesda, Md. 20014. Fees, as prescribed in 45 CFR 5.61, are 10 cents per page with the charge being made if the total amount exceeds $5. Checks payable to: DHEW—National Institutes of Health.	Associate Director for Communications, NIH, Building 1, Room 309, 9000 Rockville Pike, Bethesda, Md. 20014. (301)496-4461.

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Department of Health, Education, and Welfare, Public Health Service, Alcohol, Drug Abuse, and Mental Health Administration.	The ADAMHA Freedom of Information Act Index is comprised of various ADAMHA component program guidelines, announcements, handbook listings, policy supplements, instructions, and manual materials. The index is divided to reflect the various ADAMHA components, namely the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse, the National Institute of Mental Health, including Saint Elizabeths Hospital and the Office of the Administrator.	Copies of the ADAMHA Freedom of Information Act index are maintained by the HEW, FOI Officer, Room 5360, HEW North Bldg., 330 Independence Ave., SW., Washington, D.C. 20201. ADAMHA will also make copies available if requests are forwarded to: Director, OCPA, ADAMHA, Parklawn Bldg., Room 16-95, 5600 Fishers Lane, Rockville, Md. 20852. Fees are 10¢ per page with the charge being made if the total amount exceeds $5 and are payable to Treasurer of the United States.	Director, Office of Communications and Public Affairs, Parklawn Bldg., Room 16-95, 5600 Fishers Lane, Rockville, Md. 20852.
Department of Health, Education, and Welfare, Public Health Service, Center for Disease Control (HEW/PHS/CDC).	A written description of the general preventive medicine residency program, dated Apr. 29, 1976. Residency assignments, qualifications, appointments, and supervision, as outlined in this document.	Center for Disease Control, Attention: Assistant Director for Operations, Atlanta, Ga. 30333. No charge for 1 copy.	Center for Disease Control, Assistant Director for Operations, 1600 Clifton Rd. NE., Atlanta, Ga. 30333.
Do	Memorandum dated July 7, 1975. Subject: Medical care, resource personnel. This is the written procedure for handling telephone calls regarding the medical care of certain individuals.	Center for Disease Control, Attention: Director, Office of Biosafety, Atlanta, Ga. 30333. No charge for 1 copy.	Center for Disease Control, Office of Biosafety, 1600 Clifton Rd. NE., Atlanta, Ga. 30333.
Do	Memorandum dated Apr. 27, 1976. Subject: Hot line, 633-5313. This is the written procedure for handling reports of damage to packages of infectious materials.	do	Do.
Do	Staff publications booklet: An annual bibliographical listing of contributions made by the CDC staff to medical and scientific literature during the previous year.	Center for Disease Control, Attention: Director, Office of Information, Atlanta, Ga. 30333. No charge for 1 copy.	Center for Disease Control, Office of Information, 1600 Clifton Rd. NE., Atlanta, Ga. 30333.
Do	Minutes of meetings and annual reports of following public advisory committees: Coal Mine Health Research Advisory Committee, Safety and Occupational Health Study Section, Immunization Practices Advisory Committee, Medical Laboratory Services Advisory Committee.	Center for Disease Control, Attention: Director, Management Analysis Office, Atlanta, Ga. 30333. No charge for 1 copy.	Center for Disease Control, Management Analysis Office, 1600 Clifton Rd. NE., Atlanta, Ga. 30333.
Do	Morbidity and mortality weekly reports. In addition to providing informational morbidity and mortality data on diseases, these reports prescribe policies and interpret policies relative to prevention of diseases as well as health requirements that are covered by regulations.	Center for Disease Control, Attention: Director, Bureau of Epidemiology, Atlanta, Ga. 30333. No charge for 1 copy.	Center for Disease Control, Bureau of Epidemiology, 1600 Clifton Rd. NE., Atlanta, Ga. 30333.
Department of Health, Education, and Welfare, Public Health Service, Center for Disease Control (HEW/PHS/CDC).	Annual report to Congress regarding smoking and health.	Center for Disease Control, Attention: Director, Bureau of Health Education, Atlanta, Ga., 30333. No charge for 1 copy.	Center for Disease Control, Bureau of Health Education, 1600 Clifton Rd. NE., Atlanta, Ga. 30333.
Do	"Current Items". This publication from the Bureau of Laboratories is directed generally to heads of State or local laboratories. The publication includes technical procedures and informational data.	Center for Disease Control, Attention: Director, Bureau of Laboratories, Atlanta, Ga. 30333. No charge for 1 copy.	Center for Disease Control, Bureau of Laboratories, 1600 Clifton Rd. NE. Atlanta, Ga. 30333.
Do	National Institute for Occupational Safety and Health (NIOSH) policy memorandum, dated Sept. 11, 1974, on trade secret information.	Director, National Institute for Occupational Safety and Health, Park Bldg., Room 3-30, 5600 Fishers Lane, Rockville, Md. 20852. No charge for 1 copy.	Director, National Institute for Occupational Safety and Health, Park Bldg., Room 3-30, 5600 Fishers Lane, Rockville, Md. 20852.
Do	"NIOSH Policy Letter", dated Nov. 5, 1973, regarding reimbursement to an employer for financial loss (production time; pay) incurred as a result of a NIOSH research project.	do	Do.
Do	The President's report on occupational safety and health, annual report for 1974. This report covers programs of the Department of Labor; Department of Health, Education, and Welfare; and the Occupational Safety and Health Review Commission for calendar year 1974. It contains results of the 1st full year of occupational injury and illness survey.	do	Do.
Do	The Federal coal mine health program in 1973. This is a report of health activities under the Federal Coal Mine Health and Safety Act of 1969.	do	Do.
Do	The Division of Training, National Institute for Occupational Safety and Health, Center for Disease Control, announcement of courses that are available to the public. HEW publication No. (NIOSH) 75-170.	do	Do.
Do	The National Institute for Occupational Safety and Health current intelligence bulletin. This current bulletin alerts members of the occupational health community, government, labor, and industry to new information on potential occupational health hazards.	do	Do.
Do	Proposed interim program guidelines for venereal disease control, dated March 1975.	Center for Disease Control, Attention: Director, Bureau of State Services, Atlanta, Ga. 30333. No charge for 1 copy.	Center for Disease Control, Bureau of State Services, 1600 Clifton Rd. NE., Atlanta, Ga. 30333.
Do	Venereal disease review criteria, dated Dec. 10, 1971.	do	Do.
Do	Recommended treatment schedules for syphilis, dated 1976.	do	Do.
Do	Gonorrhea, CDC recommended treatment schedules, dated 1974.	do	Do.
Do	Commentary on national strategies to control gonorrhea, dated July 1975.	Center for Disease Control, Attention: Director, Bureau of State Services, Atlanta, Ga. 30333. No charge for 1 copy.	Center for Disease Control, Bureau of State Services, 1600 Clifton Rd. NE., Atlanta, Ga. 30333.
Do	Program guidelines for the influenza immunization project grants, dated Apr. 14, 1976.	do	Do.
Do	Community-wide influenza compaign, achieving public response.	do	Do.
Do	Influenza immunization operations workbook, dated May 1976.	do	Do.
Do	Supplemental guidelines on informed consent for influenza immunization project grants, dated June 21, 1976.	do	Do.
Do	Guidelines for assessing immunity levels, dated November 1973.	do	Do.

Agency and subagency name	Index title: period covered, brief description of contents	Order from; price; make checks payable to—	For inspection, copying, or additional information contact
Do	Immunization Against Disease, 1972 handbook.	do	Do.
Do	Public Health Service recommendations for Counting Reported Tuberculosis Cases, dated January 1977.	do	Do.
Do	Preventive therapy of tuberculosis infection, dated February 1975.	do	Do.
Do	Memorandum dated Nov. 7, 1975, regarding duration of preventive therapy with isoniazid.	do	Do.
Department of Health, Education, and Welfare, Public Health Service, Center for Disease Control (HEW/PHS/CDC).	Guidelines for prevention of TB transmission in hospitals, dated September 1974.	Center for Disease Control, Attention: Director, Bureau of State Services, Atlanta, Ga. 30333. No charge for 1 copy.	Center for Disease Control, Bureau of State Services, 1600 Clifton Rd. NE., Atlanta, Ga. 30333.
Do	Recommendations for health department supervision of tuberculosis patients—MMWR, dated Feb. 23, 1974.	do	Do.
Do	Equipment and procedures for erythrocyte protoporphyrin (EP) analysis as a screening method for pediatric lead poisoning, dated Feb. 3, 1975.	do	Do.
Do	Urban rat survey—guidelines for classroom use and field training of inspectors who serve in community rodent control programs, dated March 1974.	do	Do.
Do	Urban rat control project grants program guidelines for applicants, dated 1975.	do	Do.
Do	Guidelines for grant applications. Childhood lead poisoning control, dated Mar. 14, 1974.	do	Do.
Do	Policy statement—laboratories performing blood lead determination for community programs receiving lead-based paint poisoning grant funds, dated 1972.	do	Do.
Do	Increased lead absorption and lead poisoning in young children. A statement by the Center for Disease Control, dated March 1975.	do	Do.
Do	Policy and procedures for shipping and lending federally owned XRF analyzers, Mar. 26, 1973.	do	Do.
Do	The "Training Bulletin," which is published every 18 mo. This document lists each of the headquarters, field, or home-study courses that are available through the auspices of CDC during that time period. Specific information is presented that identifies prerequisites for attendance and describes the nature of each course.	Center for Disease Control Attention: Director, Bureau of Training, Atlanta, Ga. 30333. No charge for 1 copy.	Center for Disease Control, Bureau of Training, 1600 Clifton Rd. NE., Atlanta, Ga. 30333.
Do	Final denials, revocations, suspensions and limitations of licenses, and letters of exemptions to laboratories subject to the Clinical Laboratories Improvement Act of 1967.	Center for Disease Control, Attention: Bureau of Laboratories, Atlanta, Ga. 30333. No charge for 1 copy.	Center for Disease Control, Bureau of Laboratories, 1600 Clifton Rd. NE., Atlanta, Ga. 30333.
Do	Administrative issuance. Facilities Engineering and Construction Manual, ch. CDC: 3-335, dated May 1, 1972. This issuance provides rules and regulations covering CDC buildings and grounds. It applies to CDC employees and also to visitors, solicitors, etc.	Center for Disease Control, Attention: Management Analysis Office, Atlanta, Ga. 30333. No charge for 1 copy.	Center for Disease Control, Management Analysis Office, 1600 Clifton Rd. NE., Atlanta, Ga. 30333.
Do	Administrative issuance. Manual Guide—General Administration No. CDC-57, dated Nov. 13, 1970. This issuance provides policy and procedures to CDC employees for claims including those against CDC or against CDC employees as a result of their official duties.	do	Do.
Do	Administrative issuance. Manual Guide—General Administration No. CDC-1, dated Sept. 30, 1970. This issuance provides policy and procedures for conferences including those cosponsored by CDC and an organization other than a Federal agency.	do	Do.
Do	Administrative issuance. Manual Guide—ADP Systems No. CDC-1, dated Apr. 22, 1971. This issuance specifies the type of information for CDC organizations to furnish CDC computer systems office for determination as to whether a contract should be entered into with an outside source to perform the ADP services or whether the work can be performed within the Center.	do	Do.
Do	Administrative issuance. CDC General Memorandum No. 74-9, dated June 20, 1974. This issuance specifies rates for the Center to pay for blood.	do	Do.
Do	Administrative issuance. Procurement Manual Subpart CDC: 3-75.3, dated May 12, 1972. This issuance specifies CDC delegations of authority for publication of advertisements, notices, or proposals.	do	Do.
Do	Administrative issuance. Manual Guide—Printing Management No. CDC-6, dated Nov. 5, 1969. This issuance provides CDC policies and procedures for procurement of CDC authored articles which are to be published in private journals and briefly mentions publishers' services, e.g., setting of type, sending proofs, etc.	do	Do.
Do	Administrative issuance. National Institute for Occupational Safety and Health Administrative Issuance No. 406, dated Sept. 3, 1974. This issuance describes contents and documentation needed for research and technical services contract requests for NIOSH.	do	Do.
Do	Administrative issuance. Procurement Manual Subpart CDC: 3-3.6, dated Sept. 21, 1970. This issuance prescribes CDC policies and procedures for small purchases particularly through use of imprest funds, and briefly mentions vendors' role.	do	Do.

Agency and subagency name	Index title: period covered, brief description of contents	Order from; price; make checks payable to—	For inspection, copying, or additional information contact
Department of Health, Education, and Welfare, Public Health Service, Center for Disease Control (HEW/PHS/CDC).	Administrative issuance. CDC General Memorandum No. 76-8, dated Sept. 22, 1976. This issuance provides instructions to CDC employees for obtaining typewriter repair service and lists individual companies under contract to make repairs.	Center for Disease Control, Attention: Management Analysis Office, Atlanta, Ga. 30333. No charge for 1 copy.	Center for Disease Control, Management Analysis Office, 1600 Clifton Rd. NE., Atlanta, Ga. 30333.
Do	Administrative issuance. CDC General Memorandum No. 74-1, dated Jan. 16, 1974. This issuance specifies CDC policies and procedures on unauthorized commitments and for obtaining approval for such commitments.	do	Do.
Do	Administrative issuance. Manual Guide—General Administration No. CDC-52, dated Mar. 12, 1973. This issuance provides policies and procedures for handling public inquiries to CDC during nonwork hours.	do	Do.
Do	Administrative issuance. Manual Guide—General Administration No. CDC-18, dated Mar. 6, 1969. This issuance provides CDC policies and procedures for obtaining clearance of CDC authored manuscripts, publications, etc., and includes policy on responding to requests from the press, etc.	do	Do.
Do	Administrative issuance. CDC General Memorandum No. 72-3, dated Feb. 9, 1972. This issuance provides policies and general guidelines to CDC employees on giving assurances of confidentiality in obtaining information from the public.	do	Do.
Do	Administrative issuance. Manual Guide—Personal Property Management No. CDC-2, dated Apr. 17, 1969. This issuance provides CDC policies and procedures for producing, maintaining, shipping, and storing exhibits and includes procedures for production o exhibits by commercial contractors.	do	Do.
Do	Administrative issuance. Manual Guide—Safety Management No. CDC-19, dated Mar. 18, 1974. This issuance provides policy to CDC employees for distribution of cultures of microbial agents and of vectors to non-CDC persons.	do	Do.
Do	Administrative issuance. Manual Guide—Safety Management No. CDC-2, dated Dec. 15, 1975. This issuance provides policy on the need for and use of hazard warning signs that applies to CDC employees and also to visitors.	do	Do.
Do	Administrative issuance. Manual Guide—Safety Management No. CDC-3, dated June 18, 1973. This issuance provides policies on and procedures for handling compressed gases in cylinders. It applies to CDC employees and also certain policies and procedures apply to vendors.	do	Do.
Do	Administrative issuance. Personnel Guides for Supervisors, chapter IV, CDC Guide 7-2, dated Mar. 12, 1963, but still current. This issuance provides CDC policies and procedures for handling complaints on employee indebtedness.	do	Do.
Do	Administrative issuances. Manual Guide—General Administration No. CDC-5, dated Apr. 8, 1971 and National Institute for Occupational Safety and Health Administrative Issuance No. 2, dated Mar. 4, 1974. These issuances provide policies and procedures for making CDC and NIOSH facilities available to guest researchers.	do	Do.
Do	Administrative issuance. Manual Guide—General Administration No. CDC-61, dated Apr. 26, 1973. This issuance provides CDC policies and procedures for providing to students work experiences which relate to the CDC mission and to the educational objectives of the students.	do	Do.
Do	Administrative issuance. National Institute for Occupational Safety and Health unnumbered memorandum, dated Mar. 4, 1974. This issuance provides NIOSH policy on loan of property to non-Federal persons or institutions.	do	Do.
Do	Administrative issuances. Manual Guide—General Administration No. CDC-11, dated June 8, 1973 and National Institute for Occupational Safety and Health policy memorandum, dated June 25, 1973. These issuances provide policies and procedures for the protection of the individuals who are participating or involved in research investigations of the Center and of NIOSH, respectively.	do	Do.
Do	Administrative issuance. Manual Guide—Travel CDC-10, dated Dec. 26, 1972. This issuance provides CDC policy and procedures for employees renting automobiles for official travel and mentions services provided by the car rental contractors and the conditions of the contracts.	do	Do.
Do	Administrative issuances. Manual Guide—Travel No. CDC-2 dated Jan. 14, 1974 and Correspondence Manual Chapter 10-40, dated Oct. 1, 1974. These issuances provide instructions to CDC employees for making reservations on common carriers and for picking up the tickets. They list the airlines and their telephone numbers.	do	Do.

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Department of Health, Education, and Welfare, Public Health Service, Center for Disease Control (HEW/PHS/CDC).	Administrative issuance. Manual Guide—General Administration No. CDC-63, Privacy Act, dated Nov. 23, 1976. This issuance provides to CDC employees guidance on carrying out requirements of the act.	Center for Disease Control, Attention: Management Analysis Office, Atlanta, Ga. 30333. No charge for 1 copy.	Center for Disease Control, Management Analysis Office, 1600 Clifton Rd. NE., Atlanta, Ga. 30333.
Do	Administrative issuance. CDC general memorandum No. 75-10, Freedom of Information Act, dated July 25, 1975. This issuance provides general information to CDC employees on major provisions of the act, procedures for responding to requests for information under the act, and brief data to the CDC employees on the Privacy Act.	do	Do.
Do	Administrative issuance. CDC general memorandum No. 75-2, civil defense, dated April 2, 1975. This issuance provides information on the civil defense capacity and equipment of the CDC facilities in the Atlanta area that are officially designated to be used as public shelter areas under the national fallout shelter program.	do	Do.
Do	Administrative issuance. CDC unnumbered memorandums, parking at Clifton Rd. facilities, dated July 14, 1975 and Jan. 20, 1976. These issuances provide policy for CDC employees and visitors parking at the Clifton Rd. facilities, Center for Disease Control.	do	Do.
Do	Administrative issuance. CDC unnumbered memorandum, directory of licensed day-care facilities in the Metropolitan Atlanta area, dated Mar. 15, 1976. This issuance provides a listing of these facilities.	do	Do.
Do	Administrative issuance. CDC unnumbered memorandum, injury compensation, dated Sept. 15, 1975. This issuance provides procedures for CDC employees to follow to document on-the-job traumatic injuries, including submission of reports from attending physicians.	do	Do.
Do	Administrative issuance. Manual guide—general administration No. CDC-8, soliciting, vending, and displaying or distributing commercial advertising within CDC, dated Apr. 23, 1975. This issuance provides policy for soliciting, vending, and commercially advertising on property occupied by CDC.	do	Do.
Do	Administrative issuance. Personnel guide for supervisors, ch. III, CDC guide 1-2, commercial employment offices, dated Jan. 7, 1976. This issuance provides policy on using commercial employment offices for recruiting personnel.	do	Do.
Do	Administrative issuance. Personnel guide for supervisors, ch. III, CDC guide 1-9, dated Feb. 26, 1976. This issuance provides policies, responsibilities, and procedures for the selective placement program for handicapped employees and disabled veterans.	do	Do.
Do	Administrative issuance. National Institute for Occupational Safety and Health Administration, issuance No. 6, dated Apr. 15, 1976. This issuance provides policies and procedures for keeping interested governmental, labor, and management groups informed on the initiation and progress of NIOSH field studies.	do	Do.
Do	Administrative issuance. National Institute for Occupational Safety and Health Administration. ssuance No. 8, dated Oct. 30, 1975. This issuance provides procedures for maintenance of minutes of NIOSH meetings with representatives of nongovernmental groups.	do	Do.
Do	Recommendations of the Public Health Service Advisory Committee on Immunization Practices, such as: BCG vaccines, cholera vaccine, diphtheria and tetanus toxoids and pertussis vaccine, immune serum globulin for protection against viral hepatitis, perspectives on the control of viral hepatitis, type B, influenza vaccine, measles vaccine, meningococcal polysaccharide vaccines, mumps vaccine, plague vaccine, poliomyelitis vaccines, rabies, Rh immune globulin, Rocky Mountain spotted fever vaccine, rubella vaccine, smallpox vaccine, typhoid vaccine, typhus vaccine, yellow fever vaccine.	Center for Disease Control, Attention: Director, General Services Office, Atlanta, Ga. 30333. No charge for 1 copy.	Center for Disease Control, General Services Office 1600 Clifton Rd., NE., Atlanta, Ga. 30333.
Department of Health, Education, and Welfare, Public Health Service, Health Resources Administration (HEW/PHS/HRA).	Health Resources Administration index of policy documents as required by Public Law 90-23 (Freedom of Information). July 1, 1973, to Oct. 1, 1976. The HRA FOIA index is a listing of the following HRA documents: HRA policy, information, and instruction memoranda; supplements and circulars to the Federal personnel and HEW staff manuals; Federal regulations; delegations of authority; organization and functions statements; programmatic circulars, memoranda, instructions, notices, guides, guidelines, and operating manuals used by HRA components.	Associate Administrator, Office of Communications, Health Resources Administration, Room 10A-31, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. 20857. Fees, as prescribed in 45 CFR 5.61, are 10¢ per page with the charge being made if the total amount exceeds $5. Check payable to DHEW-Health Resources Administration.	Associate Administrator, Office of Communications, Health Resources Administration Room 10A-31, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. 20857, (301) 443-1620

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Department of Health, Education, and Welfare, Public Health Service, Health Services Administration (HEW/PHS/HSA).	HSA Freedom of Information Act (FOIA) Index: March 1975 to March 1977. The HSA, FOIA index is a compilation of supplements to the departmental manual system, program level operations manuals, circulars, memoranda, notices and guides used by the components of HSA. All information included in this index is current as of Mar. 31, 1977. The respective bureau level indexes are listed as follows: OA—OFFICE OF THE ADMINISTRATOR OCPA—Public Affairs Management System Manual; OPEL—HSA forward plan, fiscal year 1977-81; OM/OCG—HSA procurement operating instructions; OM/OMP—HSA transmittal notices for supplements to DHEW manuals; OM/OFS—policy decisions and opinion. BMS—BUREAU OF MEDICAL SERVICES Division of Hospitals and Clinics Operations Manual; BMS supplements to DHEW manuals; Manual of Operations for PHS Health Unit, DFEH, BMS; CHAMPUS circulars; Contract Physician's Guide; Division of Hospitals and Clinics circular memoranda. IHS—INDIAN HEALTH SERVICES IHS circulars; IHS supplements to DHEW manuals; IHS Operations Manual; General Counsel opinions. BCHS—BUREAU OF COMMUNITY HEALTH SERVICES BCHS administrative guide system; BCHS Operations Manual. BQA—BUREAU OF QUALITY ASSURANCE BQA transmittal system; BQA Procedures Manual; PSRO Program Manual; PSRO Financial Management and Accounting Systems Manual; PSRO Contracts Management Manual; PSRO Management Information System (PMIS) Federal Reports Manual (FRM) medical care evaluation studies; PMIS—FRM—cost reporting; PMIS—FRM—concurrent review reporting; PSRO Hospital Discharge Data Set (PHDDS) Training Manual.	Office of Communications and Public Affairs, DHEW/PHS/HSA, Room 14A-55, 5600 Fishers Lane, Rockville, Md. 20857. Checks payable to DHEW/Public Health Service. Mail to HSA Collection Officer, DHEW/PHS/HSA, Room 16-36, 5600 Fishers Lane, Rockville, Md. 20857. Fees charged for research and reproduction of information is based upon the current departmental fee schedule for information under the FOI regulations (45 CFR part 5 subpart E).	Office of Communications and Public Affairs DHEW/PHS/HSA, Room 14A-55, 5600 Fishers Lane, Rockville, Md.
HEW/PHS/Office of Administrative Management.	Index to the PHS Manual for financial evaluation of Public Health Service awards, continuous from July 1, 1974.	Photocopies available if requests are forwarded to: Division of Grants and Contracts, ORM/OAM/PHS, 5600 Fishers Lane, Rockville, Md. 20857. Fees as prescribed in 45 CFR 5.61 are 10¢ per page, with the charge being made if the total amount exceeds $5. Checks payable to DHEW, Public Health Service.	Division of Grants and Contracts, ORM/OAM/PHS, 5600 Fishers Lane, Rockville, Md. 20857.
Do	A guide to institutional cost sharing agreements for research grants and contracts, supported by the Department of Health, Education, and Welfare, continuous from July 1974.	Copies may be obtained from Division of Grants and Contracts, ORM/OAM/PHS, 5600 Fishers Lane, Rockville, Md. 20857. No charge.	Division of Grants and Contracts, ORM/OAM/PHS, 5600 Fishers Lane, Rockville, Md. 20857.
Do	PHS procurement regulations; policies and procedures which implement and supplement the DHEW procurement regulations and the Federal procurement regulations, continuous from May 1974.	Photocopies available if requests are forwarded to: Division of Grants and Contracts, ORM/OAM/PHS, 5600 Fishers Lane, Rockville, Md. 20857. Fees as prescribed in 45 CFR 5.61 are 10¢ per page with the charge being made if the total amount exceeds $5. Checks payable to DHEW, Public Health Service.	Copies available: ASC Forms and Publications Services Center, OAM/PHS, 12100 Parklawn Dr., Rockville, Md. 20857. Additional information: Division of Grants and Contracts ORM/OAM/PHS, 5600 Fishers Lane, Rockville, Md. 20857.
Do	PHS grants policy statement; comprehensive policy document for use by PHS grantees, continuous from July 1974.	GPO, 90 cents, Superintendent of Documents (Stock No. 1720-00055).	Superintendent of Documents, GPO, Washington, D.C. 20407.
Do	Index to PHS supplements to HEW Grants Administration Staff Manual; supplementation and implementations to HEW manual; continuous from January 1974.	Photocopies available if requests are forwarded to: Division of Grants and Contracts, ORM/OAM/PHS, 5600 Fishers Lane, Rockville, Md. 20857. Fees are prescribed in 45 CFR 5.61, as 10¢ per page with the charge being made if the total amount exceeds $5. Checks payable to DHEW, PHS.	Division of Grants and Contracts ORM/OAM/PHS, 5600 Fishers Lane, Rockville, Md. 20857.
Do	Tables of contents to PHS supplementation of HEW staff manuals containing authorities, policies, and procedures in the following areas: Emergency, forms management, general administration, organization, ADP systems management, records management, safety management, security, facilities engineering and construction, and procurement.	Director, Division of Directives and Authorities Management, OOMS/OAM/PHS, Room 17-81, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. 20857. Fees as described in 45 CFR 5.61, are 10 cents per page with the charge being made if the total amount exceeds $5. Checks payable to DHEW, Public Health Service, Office of the Assistant Secretary for Health.	Director, Division of Directives and Authorities Management, OOMS/OAM/PHS, Room 17-81 Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. 20857.
Do	Table of contents to PHS Commissioned Corps Personnel Manual containing authorities, policies, and procedures in that subject area.	do	Chief, Employment Operations Branch, CPOD/OPM/OAM/PHS, Room 4A-18, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. 20857.
Do	Table of contents to PHS supplementation of the Federal Personnel Manual containing authorities, policies, and procedures in that subject area.	do	Director, Office of Personnel Management, OAM/PHS, Room 18A-55, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. 20857.
Do	Table of contents to Parklawn guidelines: a series of internal operating guides providing operating instructions and procedures of a continuing nature for occupants of the Parklawn Bldg., Rockville, Md., with regard to operations of the Administrative Services Center, Office of Administrative Management. Guidelines include such subjects as procedures for operation and use of official conference rooms; apportionment and assignment of parking spaces; official hours; and conservation of paper in copying, duplicating, and printing, Parklawn Bldg.	Executive Officer, Administrative Services Center, OAM/PHS, room 5-77, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. 20857. Fees, as prescribed in 45 CFR 5.61, are 10c per page with the charge being made if the total amount exceeds $5. Checks payable to Department of Health, Education, and Welfare, Public Health Service, Office of the Assistant Secretary for Health.	Executive Officer, Administrative Services Center, OAM/PHS, Room 5-77 Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. 20857.

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Department of the Interior, Bureau of Reclamation.	Reclamation Instructions Index—Apr. 1, 1974: Subject listing of current instructions pertaining to Bureau of Reclamation organization and delegations of authority, policy and procedures, and detailed instructions on limited technical subjects.	Division of Management Support, E. & R. Center, Bureau of Reclamation, P.O. Box 25007, Denver, Colo. 80225. No charge.	Division of Management Support, E. & R. Center, Bureau of Reclamation, P.O. Box 25007, Denver, Colo. 80225. Phone: 303-234-2061.
	Guidelines—Task Force Report on Water Marketing Index.	Bureau of Reclamation, Division of Personnel, Branch of Management Systems, Interior Department, Washington, D.C. 20240. No charge.	Bureau of Reclamation, Division of Personnel, Branch of Management Systems, Interior Department, Washington, D.C. 20240.
Department of Transportation, Federal Highway Administration:	Opinions and final orders of the Federal Highway Administration in regard to the regulation of toll bridges- 1969-76; 1 page listing of opinions and final orders regarding regulation of toll bridges; issued by the Federal Highway Administrator, which identifies the case and the date issued.	FOIA Program Officer, Federal Highway Administration, 400 7th St. SW., Washington, D.C. 20590. No charge.	FOIA Program Officer, Federal Highway Administration, 400 7th St. SW., Washington, D.C. 20590.
Do	Cease and desist and driver disqualification final orders by the Federal Highway Administrator; 1969-76; 7-page listing of cease and desist and driver disqualification final orders of the Federal Highway Administrator; items listed are identified by case docket number, name of carrier, and date notice of investigation was mailed.	do	Do.
Do	Cross reference index of current Federal Highway Administration directives as of Mar. 31, 1977. The index is alphabetical by subject. Within each subject applicable Federal Highway Administration orders, notices, and manuals are identified (in some cases manuals may be also identified by the applicable volume or other subordinate breakdown). The index is computerized and updated quarterly.	FOIA Program Officer, Federal Highway Administration, 400 7th St. SW., Washington, D.C. 20590. Shelf stock, $10.44 per copy; reproduced copies, $3.90 per copy; shelf stock will be used while it lasts. Checks payable to: The Treasury of the United States.	FOIA Program Officer, Federal Highway Administration, 400 7th St. SW., Washington, D.C. 20590; Federal Highway Administration Regional Offices. (For location see 49 CFR pt. 7); Federal Highway Administration Division Offices. (For location see 49 CFR pt. 7.)
Department of the Treasury, Customs Service.	CSA (Customs Simplification Act) Index (revised) index to letters and letters relating to Customs Simplification Act, from 1956 forward.	Freedom of Information and Privacy Branch, Office of Regulations and Rulings, U.S. Customs Service, Washington, D.C. 20229; Price: $1.75. Checks payable to: U.S. Customs Service.	Freedom of Information and Privacy Branch, Office of Regulations and Rulings, U.S. Customs Service, Washington, D.C. 20229.
	Synopsis of Decisions on the Duty Assessment Process, 1972; administrative and court decisions and rulings concerning duty assessment process.	Freedom of Information and Privacy Branch, Office of Regulations and Rulings, U.S. Customs Service, Washington, D.C. 20229; Price: $3. Checks payable to: U.S. Customs Service.	Do.
	Customs Forms Catalog; Customs and other agency forms currently available from the Customs Service, July 1975.	Freedom of Information and Privacy Branch, Office of Regulations and Rulings, U.S. Customs Service, Washington, D.C. 20229. Price: Shelf stock, $2.50; reproduced copies $0.10. Shelf stock will be used while supply lasts. Checks payable to: U.S. Customs Service. Also, available at District Offices of the Customs Service.	Do.
	KWIC (Key Word in Context) Index, June 1975; current Customs Service circular letters.	Freedom of Information and Privacy Branch, Office of Regulations and Rulings, U.S. Customs Service, Washington, D.C. 20229. Price: $1. Checks payable to: U.S. Customs Service.	Do.
Do	Legal Keyword Precedent Directory. The directory is a listing by selected keywords of all classification rulings issued since early 1975 that affect a substantial volume of imports or transactions or are otherwise of general interest or importance and of all published classification rulings issued since Aug. 31, 1963, including classification decisions of the Customs Courts, Treasury Decisions, and classification rulings circulated within the Customs Service by the Customs Information Exchange and the Office of Regulations and Rulings. The directory also contains limited information on decisions and rulings pertaining to entry, value, drawback, marking, country of origin, and vessel repairs. The Legal Keyword Precedent Directory is maintained on microfiche and is continually updated.	Freedom of Information and Privacy Branch, Office of Regulations and Rulings, U.S. Customs Service, Washington, D.C. 20229. Price: Duplicate microfiche are available at a cost of $0.15 each and are available only in sets; a set presently contains 20 microfiche. Payable to: U.S. Customs Service.	Freedom of Information and Privacy Branch, Office of Regulations and Rulings, U.S. Customs Service, Washington, D.C. 20229 and at regional offices of the Customs Service.
Department of the Treasury, Office of the Secretary:	Index of Selected Records; July 1967 to March 1977; Listing of current administrative documents, reports, and releases from the Office of the Secretary, Bureau of Engraving and Printing, Bureau of the Mint, U.S. Secret Service, Bureau of the Public Debt, Bureau of Government Financial Operations, Federal Law Enforcement Training Center, U.S. Customs Service.	Treasury Department Library, Room 5010, Treasury Bldg., 15th and Pennsylvania Ave., Washington, D.C. 20220, $1.50, Treasury of the United States.	Treasury Department Library, Room 5010, Treasury Bldg., 15th and Pennsylvania Ave., Washington, D.C. 20220.
(U.S.) Arms Control and Disarmament Agency.	Index to notices, instructions, regulations, and other ACDA records.	Freedom of Information Officer, U.S. Arms Control and Disarmament Agency, Department of State Bldg., Washington, D.C. 20451. No charge.	Freedom of Information Officer, U.S. Arms Control and Disarmament Agency, Department of State Bldg., Washington, D.C. 20451.
Civil Service Commission (CSC):	Index to Civil Service Commission information. Period covered: February 1975 to February 1977. A listing of policy and nonpolicy publications and information systems arranged alphabetically by title and subject.	Distribution Unit, Room B-431, U.S. Civil Service Commission, 1900 E St. NW., Washington, D.C. 20415. Free.	Commission Library or any Commission office, including regional and area offices.
Committee for Purchase from the Blind and Other Severely Handicapped:	Index of additions and deletions to the procurement list. August 1971-March 1977.	Order from: Executive Director, Committee for Purchase from the Blind and Other Severely Handicapped, 2009 N. 14th St., Suite 610, Arlington, Va. 22201. Price: 10¢ per page, per copy. Make checks payable to: Treasurer of the United States.	Committee for Purchase from the Blind and Other Severely Handicapped. Attention: Freedom of Information Officer.
Consumer Product Safety Commission:	Index: Final Opinions and Orders; Statements of Policy and Interpretations; Administrative and Staff Manual and Instructions.	Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207; No charge.	Office of the Secretary, Consumer Product Safety Commission, 1750 K St. NW., Washington, D.C. 20207.

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Council on Environmental Quality	*Memoranda to the heads of all Federal agencies:*		
Do	(i) CEQ memo to heads of agency on revised guidelines, Apr. 23, 1971.	Available from CEQ	Council on Environmental Quality, General Counsel's Office, 722 Jackson Pl., NW., Washington, D.C. 20006; (202) 382-7065.
Do	(ii) CEQ memo to agency NEPA liaison on agency NEPA procedures May 14, 1971.	do	Do.
Do	(iii) CEQ memo to agency NEPA liaison on inclusion of cost-benefit analyses, May 24, 1971.	do	Do.
Do	(iv) CEQ memo to agency NEPA liaison on *Calvert Cliffs* decision, July 30, 1971.	do	Do.
Do	(v) CEQ memo to agency NEPA liaison on extension of deadline on NEPA procedures, Aug. 5, 1971.	do	Do.
Do	(vi) CEQ memo to heads of agencies on agency NEPA procedures, Sept. 23, 1971.	do	Do.
Do	(vii) CEQ memo to heads of agencies on agency NEPA procedures, Nov. 2, 1971.	do	Do.
Do	(viii) CEQ memo to agency NEPA liaison on outline of issues in agency NEPA procedures Dec. 3, 1971.	do	Do.
Do	(ix) CEQ memo to agency NEPA liaison on extracts from leading NEPA court decisions, Dec. 3, 1971.	do	Do.
Do	(x) CEQ memo to agency NEPA liaison on cumulative list of environmental impact statements, Dec. 23, 1971.	do	Do.
Do	(xi) Revised CEQ guidelines on environmental impact statements prepared under section 102(2)(C) of the National Environmental Policy Act, Apr. 23, 1971.	do	Do.
Do	(xii) Recommendations for improving agency NEPA procedures, May 16, 1972.	do	Do.
Do	(xiii) Revision of agency procedures for preparation of environmental impact statements, Aug. 2, 1973.	do	Do.
Do	(xiv) NTIS and the public availability of environmental impact statements under NEPA, Mar. 1, 1974, 102 Monitor vol. 4, No. 2, March 1974. p. 23.	do	Do.
Do	(xv) Council advisory memorandum #1 on delegation by Federal agencies of responsibility for preparation of EIS's. 102 Monitor.	do	Do.
Do	(xvi) CEQ publications list, Apr. 30, 1976	do	Council on Environmental Quality, Attention: Freedom of Information Officer, 722 Jackson Pl. NW., Washington, D.C. 20006; (202) 382-1415.
Do	(xvii) CEQ memo to heads of agencies on SCRAP decision Nov. 26, 1975.	do	Council on Environmental Quality, General Counsel's Office, 722 Jackson Pl. NW., Washington, D.C. 20006; (202) 382-7065.
Do	(xviii) CEQ memo to heads of agencies on environmental impact statements Feb. 10, 1976.	do	Do.
Do	(xix) CEQ position paper "Pollution Control and Employment" February 1976.	do	Council on Environmental Quality, Attention: Dr. E. H. Clark, 722 Jackson Pl. NW., Washington, D.C. 20006; (202) 382-6162.
Do	(xx) CEQ memo to heads of agencies on prime agricultural lands Aug. 30, 1976.	do	Council on Environmental Quality, Attention: General Counsel, 722 Jackson Pl. NW., Washington, D.C. 20006 (202) 382-7065.
Do	(xxi) CEQ memo to heads of agencies on NEPA Supreme Court decisions Sept. 16, 1976.	do	Do.
Do	(xxii) CEQ memo to heads of agencies on NEPA requirement to projects abroad.	do	Do.
Do	(A) Memorandum of implementation of the agreement between the United States and the U.S.S.R. on cooperation in the field of environmental protection, May 1972, 102 Monitor vol. 2, No. 9, October 1972.	Available by Ordering Cited Copy of the 102 Monitor from GPO.	Council on Environmental Quality, General Counsel's Office, 722 Jackson Place NW., Washington, D.C. 20006 (202) 382-7065.
Do	(B) 20 questions and answers explaining NEPA Sec. 102, environmental impact statement process, 102 Monitor, vol. 1, No. 10, November 1971, p. 1.	do	Do.
Do	(C) Coal surface mining and reclamation study, 102 Monitor, vol. 3, No. 2, March 1973 p. 62.	do	Do.
Do	(D) Economic impact of environmental programs, 102 Monitor vol. 4, No. 10, November 1974, p. 3.	do	Do.
Do	(E) Environmental programs and employment, 102 Monitor vol. 5, No. 4, May 1975.	do	Do.
Do	(F) Council advisory memorandum (memo on) 102 Monitor, vol. 5, No. 3, April 1975.	do	Do.
Do	(G) Council advisory memorandum #2 on application of NEPA to enforcement of the antitrust laws by the FTC, 102 Monitor, vol. 5, No. 2, March 1975, p. 13.	do	Do.
Do	(H) CEQ memo to heads of agencies on the Safe Drinking Water Act of 1974, Nov. 19, 1976.	Available from CEQ	Do.
Energy Research and Development Administration.	ERDA headquarters reports: Cumulative index issued monthly starting Jan. 1 1975. Includes report number, corporate author, and subject indexes. Includes reports prepared by individual headquarters authors, task forces and study groups, and environmental statements covering ERDA programs and facilities.	ERDA Library and Public Document Room, Washington, D.C. 20545. Copies made available at $0.08 per page. Payable to: Energy Research and Development Administration.	ERDA Library and Public Document Room; Room 1223, 20 Massachusetts Ave. NW., Washington, D.C. 20545.
Do	ERDA manual table of contents: Covers directives; procurement instructions and regulations; and property management regulations, instructions, and bulletins. A cumulative table of contents is issued semi-annually listing ERDA issuances and those AEC issuances still in effect.	do	Do.

Agency and subagency name	Index title: period covered, brief description of contents	Order from; price; make checks payable to	For inspection, copying, or additional information contact
RDA, Office of t Counsel.	ERDA waiver determinations. Lists of waiver requests on which a final determination was made during 1975 and 1976. Includes determination numbers of advance waivers and identified inventions, and names of firms or inventors.	do	Do.
ERDA, Board of Contract Appeals (BCA).	Decisions and orders for the periods Jan. 19, 1975 to December 1975 and December 1976, including indexes.	do	Do.
Do	Atomic Energy Commission Reports; Oct. 1956-Jan. 1975, Vols. 1-8: Contains the BCA decisions and orders and indexes.	Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.	Do.
Equal Employment Opportunity Commission.	Index to Commission Decisions Unpublished	Librarian, Equal Employment Opportunity Commission, 2401 E St., NW., Washington, D.C. Price: 25¢. Payable to: U.S. Treasurer.	Librarian, Equal Employment Opportunity Commission, 2401 E St., NW., Washington, D.C. 20506.
Do	Index to Commission Decisions, Published		Librarian or district office addresses at 29 C.F.R. 1610.4.
Do	Index to Equal Employment Opportunity Commission Orders.	See above. Price: 15¢; Payable to: U.S. Treasurer.	Do.
Do	Index to Compliance Manual (Table of Contents).	See above. Price: $2. Payable to: U.S. Treasurer.	Do.
Do	Index to General Counsel Manual (Table of Contents).	See above. Price: 45¢; Payable to: U.S. Treasurer.	Librarian, Equal Employment Opportunity Commission, 2401 E St. NW, Washington, D.C. 20506.
Farm Credit Administration.	Index of FCA Information Materials; Jan. 1-Mar. 31, 1977; (1) Publications (these available in supply); (2) news releases—(single copies available free of charge) issued since Jan. 1, 1972; (3) biographies of FCA officials; (4) speeches by FCA officials; (5) FCA regulations and clarification letters; (6) research reports; (7) FCA administrative and Personnel Handbook; (8) Directory of the FCA and Farm Credit Districts; (9) Monthly statistics on farm credit bank lending (list of tables); (10) FCA orders; and (11) FCA organization charts.	Information Division, Farm Credit Administration, 490 L'Enfant Plaza SW., Washington, D.C. 20578. No charge.	Mr. Roland W. Olson, Assistant Director of Information, Farm Credit Administration, Washington, D.C. 20578.
Federal Reserve System, Board of Governors.	Card index to Board actions of the type that are made available to the public under the Freedom of Information Act from July 4, 1967 to date.		May be inspected in Freedom of Information Office, Room B-1118, Main Board Bldg., 20th and C Sts. NW.
Do	Microfilm copies of above index covering period July 4, 1967 to Dec. 31, 1976. Subsequent years to be microfilmed.	Order from Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. Checks payable to Board of Governors of the Federal Reserve System. $13.25 a roll.	Freedom of Information Office, Room B-1118, Main Board Bldg., 20th and C St. NW., (202) 452-3684.
Do	Hard copy bound index for:		
	1967	do.[1]	Do.
	1968-73	do.[2]	Do.
	Copies for additional years in preparation.		
Do	Individual copy of the card index	Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. Charge not to exceed the direct cost of duplication.	Do.
Do	Weekly index published and distributed to the public providing identifying information as to any matter issued, adopted or promulgated by the Board from the first week in January 1975 to date (H.2 release).	Publications Services, Division of Administrative Services, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. (Mailing list maintained; no charge for current copies.)	Do.
Federal Trade Commission (FTC).	Final orders and opinions (duplicated pages of Index): Bound volumes of decisions July 1967, to June 1976.	Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Checks: Superintendent of Documents. $5-17 each.	Public Reference Branch, Federal Trade Commission, Room 130, 6th and Pennsylvania Ave. NW., Washington, D.C. 20580.
Do	Advisory opinions (duplicated pages of Index): Bound volume, July 1967 to December 1968. Index of advisory opinions subsequent to above date is in bound volumes of decisions.	Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Checks: Superintendent of Documents. $2.25 each.	Do.
Do	Final orders and opinions: Supplemental index, July 1973 to March 1977	Public Reference Branch, FTC, Room 130, 6th and Pennsylvania Ave. NW., Washington, D.C. 20580. $0.10 per page.	Do.
Do	Enforcement statement, July 1967 to March 1977.	do	Do.
Do	Trade regulation rules, July 1967 to March 1977.	do	Do.
Do	Manuals—operating administrative	do	Do.
Do	Freedom of Information Act, access requests and responses, March 1973-March 1977.	do	Do.
Do	Closing letters, investigatory material, March 1974-March 1977.	do	Do.
Do	Motions to quash, investigational subpoenas, June 1962-March 1977.	do	Do.
Do	Motions to quash, 6(b) Orders and Orders requiring access, November 1975-March 1977.	do	Do.
Do	Clearance requests, January 1969-March 1977	do	Do.
Do	Commissioners' outside contacts, April 1974-March 1977.	do	Do.
Do	Staff opinion letters, May 1962-March 1977	do	Do.
Do	Freedom of Information Act operating guidelines. December 1976-March 1977.	do	Do.

See footnotes at end of table.

Agency and subagency name	Index title: period covered, brief description of contents	Order from; price; make checks payable to—	For inspection, copying, or additional information contact
General Services Administration (GSA).	GSA Freedom of Information Act index; July 4, 1967 through Mar. 31, 1977. Category A information which is final opinions, including concurring and dissenting opinions and orders, made in the adjudication of cases. Category B information which is those statements of policy and interpretations which have been adopted by GSA and are not published in the FEDERAL REGISTER. Category C information which is administrative staff manuals and instructions to staff that affect a member of the public.	GSA, Director of Information (AV), Washington, D.C. 20405. Price: $4.75. Make checks payable to: General Services Administration.	GSA Central Office Library and the business service centers located in each regional office listed below: Central Office Library, 18 and F Sts. NW., Room 1033, Washington, D.C. 20405. Business service centers: Region 1: John W. McCormack Post Office and Courthouse, Boston, Mass. 02109. Region 2: 26 Federal Plaza, New York, N.Y. 10007. Region 3: 7 and D Sts. SW., Washington, D.C. 20407. Region 4: 1776 Peachtree St. NW., Atlanta, Ga. 30309. Region 5: 230 South Dearborn St., Chicago, Ill. 60604. Region 6: 1500 East Bannister Rd., Kansas City, Mo. 64131. Region 7: 819 Taylor St., Fort Worth, Tex. 76102. Region 8: Building 41, Denver Federal Center, Denver, Colo. 80225. Region 9: 525 Market St., San Francisco, Calif. 94105. Region 10: GSA Center, Auburn, Wash. 98002.
International Boundary and Water Commission, United States and Mexico, U.S. Section.	Brochure: Amistad Dam and Reservoir	Project Engineer, U.S. Section, IBWC, Route 2, Box 37, Highway 90 West, Del Rio, Tex. 78840. No charge.	Project Engineer, U.S. Section, IBWC, Route 2, Box 37, Highway 90 West, Del Rio, Tex. 78840.
Do	Brochure: Falcon Dam and powerplant	Reservoirs Manager, U.S. Section, IBWC, P.O. Box 1, Falcon Village, Tex. 78545. No charge.	Reservoirs Manager, U.S. Section, IBWC, P.O. Box 1, Falcon Village, Tex. 78545.
Do	Water Bulletins: Containing data for 1 yr, covering flow of Rio Grande and related data from Elephant Butte, N. Mex., to Gulf of Mexico, re storage in major reservoirs, sources of river flow, diversions, suspended silt, chemical analyses, sanitary aspects of water quality, meteorologic data, and irrigated areas—for years 1931 through 1974.	Principal Engineer, Water Operations, U.S. Section, IBWC, room 203, IBWC Bldg., 4110 Rio Bravo, El Paso, Tex. 79902. Price: $3 per bulletin (data for 1 yr). Payable to: Treasurer of the United States.	Principal Engineer, Water Operations, U.S. Section, IBWC, Room 203, IBWC Bldg., 4110 Rio Bravo, El Paso, Tex. 79902.
Do	Water Bulletins: Containing data for 1 yr covering flow of Colorado River and other western boundary streams, and related data (including Tijuana, Santa Cruz, and San Pedro Rivers, and Whitewater Draw) for years 1960 through 1973.	Principal Engineer, Water Operations, U.S. Section, IBWC (same address as shown above). Price: $2 per bulletin (data for 1 yr): Payable to: Treasurer of the United States.	Principal Engineer, Water Operations, U.S. Section, IBWC (same address as shown above).
Marine Mammal Commission.	Marine Mammal Commission Recommendations; calendar years 1974-76; list of recommendations made to Federal departments and agencies pursuant to 16 U.S.C. sec. 1402(a), arranged in chronological order, and listing the agency addressed and the subject matter of the recommendation.	Executive Director, Marine Mammal Commission, 1625 I St. NW., Washington, D.C. 20006; no charge.	Executive Director, Marine Mammal Commission, 1625 I St. NW., Washington, D.C. 20006.
National Science Foundation (NSF).	Index of NSF circulars, manuals, and bulletins in effect as of Mar. 31, 1977. A numerical and classification index of agency-wide issuances, encompassing: (a) NSF circulars—convey agency policies, regulations, and procedures of a continuing nature; (b) NSF manuals—provide detailed instructions for implementing operating procedures, requirements, and criteria; and (c) NSF bulletins—used to communicate urgent information concerning changes in policy or procedure prior to its incorporation into a circular or manual, and to communicate other information that is pertinent for a specific period.	NSF Public Information Office, Room 531, 1800 G St. NW., Washington, D.C. 20550. $0.10 per page, per copy. Payable to: National Science Foundation.	NSF Library, Room 219, 1800 G St. NW., Washington, D.C. 20550.
Do	Reviewer/panelist, alphabetical listing for the period of Oct. 1, 1975 to Sept. 30, 1976. Listing contains name, State, and institution of individuals who have reviewed proposals for the National Science Foundation for the period indicated above.	do	Do.
Do	Index of Office of the Director staff memoranda (O/D) in effect, as of Mar. 31, 1977. A numerical index, by calendar year, of issuances used by the Director and Deputy Director of the National Science Foundation to implement policy and to communicate with the staff on subjects of their choice.	do	Do.
Do	Numerical index of NSF important notices in effect as of Mar. 31, 1977. An index of notices serving as the primary means of general communication by the Director, NSF, with organizations receiving or eligible for NSF support. The notices convey important announcements of NSF policies and procedures or concerning other subjects determined to be of interest to the academic community and to other selected audiences.	do	Do.
Do	Reference file of current internal directorate issuances. A listing, by NSF directorate, of pertinent internal issuances of major NSF organizational components conveying policies, criteria, instructions or procedures amplified at a level below the Office of the Director and to communicate information of specific scope.	do	Do.
Do	Index of NSF regulations promulgated in the Code of Federal Regulations under title 41, public contracts, property management; and title 45, public welfare. A listing, by subject title, of current Foundation regulations with a brief description of the content of each.	do	Do.

Agency and subagency name	Index title: period covered, brief description of contents	Order from; price; make checks payable to	For inspection, copying, or additional information contact
Do	Publications of the National Science Foundation. An index by topical classification, as of November 1976, of current NSF publications issued and available to the public. Listings include annual reports, specific program announcements and brochures, science resources studies pamphlets, special studies publications and NSF periodicals. In addition to titles, provides NSF publication numbers and copy prices. (NSF publication 76-43.)	NSF Central Processing Section, 1800 G St. NW., Washington, D.C. 20550. One copy gratis.	For inspection or copying: NSF Library, Room 219, 1800 G St. NW., Washington, D.C. 20550. For additional information: NSF Communications Resource Branch (OGPP) Room 531, 1800 G St. NW., Washington, D.C. 20550.
National Science Foundation (NSF).	NSF guide to programs. A composite listing of summary information about NSF support programs, as of September 1976. Provides general guidance and information describing the principal characteristics and basic purposes of each activity; eligibility requirements; closing dates (where applicable); and the address where more detailed information or applications may be obtained. (NSF publication 76-33.)	NSF Central Processing Section, 1800 G St. NW., Washington, D.C. 20550. One copy gratis; or Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Stock No. 003-000-00294-5. Unit price: $1.35.	For inspection or copying: NSF Library, Room 219, 1800 G St. NW., Washington, D.C. 20550. For additional information: NSF Communications Resource Branch (OGPP) Room 531, 1800 G St. NW., Washington, D.C. 20550.
National Transportation Safety Board (NTSB).	Initial decisions of administrative law judges, Apr. 4, 1967 to Mar. 31, 1977. Chronological listing (by date of service) of decisions after hearings on appeal involving airman or air safety certificates.	Copies of indexes and checklist may be obtained by writing to Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594. (Fees for duplication and instructions for payment will be included in letter of acknowledgment to requester.)	Chief, Public Inquiries Section, Room 806-B, National Transportation Safety Board, 800 Independence Ave. SW., Washington, D.C. 20594. Public Reference Room 806-B.
	Safety enforcement decisions, May 18, 1967 to Mar. 31, 1977. Alphabetical and numerical listings of EA and EM final opinions/orders of the Board on appeal from initial decisions of NTSB administrative law judges or Commandant, U.S. Coast Guard.		
	NTSB directives checklist as of Jan. 3, 1977. Numerical listing (by NTSB order No.) of staff operations directives.	do	Do.
Office of Management and Budget (OMB).	Index to BOB/OMB bulletins, July 4, 1967 to Mar. 31, 1977. Keyword index of OMB bulletins.	Office of Management and Budget. No fee	Velma N. Baldwin, Assistant to the Director for Administration.
Do	Office of Management and Budget circulars Index, 1948 to Mar. 31, 1977. Arranges current OMB circulars by keywords in the titles of the directives and by a limited number of broader captions.	do	Do.
Do	Index to Office of Management and Budget manual. All those sections currently in effect through Mar. 31, 1977. Arranged by keywords in the titles.	do	Do.
Do	Rescinded Office of Management and Budget circulars, through Mar. 31, 1977. Arranged by number, date, subject, rescission date, and circular replacement (if any).	do	Do.
Do	Listing of Federal management circulars transferred from General Services Administration. Arranged by number, subject, and date.	do	Do.
Pension Benefit Guaranty Corporation, Office of the General Counsel.	Index to Pension Benefit Guaranty Corp. Opinion Manual; Sept. 2, 1974 to Mar. 31, 1977; interpretive letters addressing the provisions of title IV of the Employee Retirement Income Security Act—plan termination insurance program.	The Office of Communications, Pension Benefit Guaranty Corp., Room 7100, 2020 K St. NW., Washington, D.C. 20006; Charge $0.10 per page; Payable to The Pension Benefit Guaranty Corp.	The Office of Communications, Attention: Mr. William Fitzgerald, (202) 254-4817, 2020 K St. NW., Washington, D.C. 20006.
Postal Rate Commission	Postal Rate Commission Index, from 1971 to Mar. 31, 1977; Opinions and Recommended Decisions, Advisory Opinions and Orders having a precedential value.	Information Officer of the Commission, Postal Rate Commission, Washington, D.C. 20268. No charge.	Commission's Reading Room, Suite 500, 2000 L St. NW., Washington, D.C. 20268.
Postal Service	USPS Public Index, July 4, 1967—Mar. 31, 1977. List of USPS Directives and Publications; Index of Final Legal Opinions, Orders; Current Information Services Price List.	USPS Headquarters Library, 475 L'Enfant Plaza West SW., Washington, D.C. 20260. Section I—List of USPS Directives and Publications $1 Section II—Index of Final Legal Opinions and Orders $9 Complete Index $10 Checks payable to U.S. Postal Service.	General Manager, Library Division, USPS Headquarters Library, 475 L'Enfant Plaza West SW., Washington, D.C. 20260.
Renegotiation Board	Index of documents, vols. 1, 2, and 3, 1967 to present: Agreements, modification agreements, clearances after assignment, clearances after reassignment, clearances without assignment, clearance agreements, letters not to proceed, final opinions, regional board opinions, orders, modification orders, special accounting agreements, interpretations, general orders, administrative orders that affect the public, memoranda of decision, statements of facts and reasons, summaries of facts and reasons, decisions on applications for stock item exemption, decisions on new durable productive equipment exemption, and decisions on applications for commercial exemption.	Public Information Office, The Renegotiation Board, 2000 M St. NW., Washington, D.C. 20446. $0.15 per page.	Public Information Office, The Renegotiation Board, 2000 M St. NW., Washington, D.C. 20446, Room 4310, Telephone: 254-7019.

Agency and subagency name	Index title: period covered, brief description of contents	Order from; price; make checks payable to	For inspection, copying, or additional inormation contact
Tennessee Valley Authority	Index to general administrative releases; covers period through March 1977; index to TVA organization bulletins, TVA codes, and TVA instructions.	John Van Mol, Director of Information, Tennessee Valley Authority, Knoxville, Tenn. 37902. Price: $2.00. Checks payable to: Tennessee Valley Authority.	John Van Mol, Director of Information, Tennessee Valley Authority, Knoxville, Tenn. 37902.
Veterans Administration	VA Index I-03-1, Index to Veterans Administration Publications, Nov. 1, 1975, annual. Highly technical reference tool by basic classifications subject to current VA directives and annual listing (noncumulative) of rescinded VA directives. Primarily designed for internal use.	Not on sale	Copies may be inspected or copied, and further information obtained at any Veterans Administration field office or Central Office. Not all listed material, however, is maintained at every field station. Visitors to Central Office (810 Vermont Ave. NW., Washington, D.C.) will be received by the Central Office Veterans Assistance Unit in Room 132. Visitors to any VA field station will be assisted and informed where the index may be inspected.
Do	Index and digest of decisions of the Veterans Administration Contract Appeals Board.	do	Inquiries should be directed to the Chairman, Contract Appeals Board (002C), Veterans Administration, 810 Vermont Ave. NW., Washington, D.C. 20420, telephone 202-275-1750.

[1] $5. a copy.
[2] $10. a copy for each year.

[FR Doc.77-12177 Filed 4-28-77;8:45 am]

Federal Register

FRIDAY, APRIL 29, 1977

PART IV

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

■

CERTAIN FLUOROCARBON (CHLOROFLUOROCARBON) PROPELLANTS IN SELF-PRESSURIZED CONTAINERS

Warning Statement Requirement

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[Docket No. 76N-0459]

CERTAIN FLUOROCARBON (CHLOROFLUOROCARBON) PROPELLANTS IN SELF-PRESSURIZED CONTAINERS

Warning Statement Requirement

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This final rule requires a package label warning statement on foods, over-the-counter (OTC) human drugs, animal food, animal drugs, cosmetics, and nonrestricted medical devices in self-pressurized containers propelled by certain fluorocarbons, specifically, fully halogenated chlorofluoroalkanes (chlorofluorocarbons). This warning is established to alert the consumer that chlorofluorocarbons may harm the public health and environment by reducing stratospheric ozone. This warning will not be required on products specified in the regulation in which the use of a chlorofluorocarbon propellant is essential.

EFFECTIVE DATE: All finished products initially introduced into interstate commerce on or after October 31, 1977 shall comply with this regulation.

FOR FURTHER INFORMATION CONTACT:

Buzz L. Hoffmann, Deputy Director, Environmental Impact Staff (HFS-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4502.

RELATED ACTIONS: 1. The Consumer Product Safety Commission (hereafter referred to as the "Safety Commission") has published elsewhere in this issue of the FEDERAL REGISTER a proposed rule to require a warning, similar to the one established by this rule, on all products containing chlorofluorocarbon propellants that are subject to the Consumer Product Safety Act (15 U.S.C. 2051 et seq.) (CPSA) (Ref. 18).

2. The Food and Drug Administration (FDA) will publish shortly in the FEDERAL REGISTER a proposed rule that would prohibit the use of chlorofluorocarbon propellants in all products subject to the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 201 et seq.) (FFDCA), except for specified essential uses. In the same issue of the FEDERAL REGISTER, the Environmental Protection Agency (EPA) will propose a rule that would restrict nonessential propellant uses of chlorofluorocarbons under the Toxic Substance Control Act (15 U.S.C. 2601 et seq.) (TSCA).

SUPPLEMENTARY INFORMATION: The warning established by this rule was proposed in the FEDERAL REGISTER of November 26, 1976 (41 FR 52071). In a notice of intent published in that same issue of the FEDERAL REGISTER (41 FR 52070), the Commissioner stated his intention to phase out nonessential uses of at least chlorofluorocarbons in products subject to the FFDCA. No change has been made in the text of the warning as proposed, but minor revisions have been made in the final regulation. Under these revisions, propellant uses of chlorofluorocarbons are subjected to the regulation, animal food is expressly subject to the regulation, the form of the animal drug regulation is changed, the minimum type size requirement of 1/16 inch is applicable to all products subject to the regulation, and additional drug and device products have been determined to be essential and are exempted from the regulation. The reasons for the changes are discussed below.

APPLICABILITY OF REGULATION

The final regulation contains a provision limiting the applicability of the regulation to the use of chlorofluorocarbons in whole or in part as a propellant to expel other liquid or solid contents under pressure. The propellant uses of chlorofluorocarbons are the easiest uses to judge in terms of essentiality because the use involves simply a means of product delivery. Alternative product delivery systems for almost all products have long existed. The propellant uses are also by far the major uses of chlorofluorocarbons in FDA-regulated products. The nonpropellant uses of chlorofluorocarbons involve various functions, and more analyses of the alternatives are necessary before restricting these uses.

Better Federal coordination is promoted by limiting regulatory action at this time to propellant uses of chlorofluorocarbons. At this time, EPA intends to restrict only propellant uses of chlorofluorocarbons; around June 1978, EPA intends to issue a proposal relating to nonpropellant uses (Ref. 19). FDA has coordinated, and will continue to coordinate, its regulatory action with regard to chlorofluorocarbons with the other Federal agencies having regulatory responsibilities. Accordingly, FDA will proceed with a proposal to prohibit nonessential nonpropellant uses of chlorofluorocarbons after appropriate consultation with other agencies.

The Food and Drug Administration's definition of "propellant" in the final rule and in the phaseout proposal is similar to the definition of "aerosol propellant" that EPA plans to use in its proposed rule. Under the definition, a chlorofluorocarbon is not considered a propellant if the pressurized container contains only chlorofluorocarbons or only gases.

Because only propellant uses are being regulated at this time, the warning and proposed phaseout will not apply to pressurized cylinders of chlorofluorocarbons and ethylene oxide used for sterilization purposes, or to cylinders used simply to transport chlorofluorocarbons for industrial uses, as in the case of cylinders transporting liquid food freezant. Also not covered by the present action are FDA-regulated products containing only chlorofluorocarbons in which the chlorofluorocarbon is the active ingredient.

The warning and proposed phaseout are also not applicable to the use of chlorofluorocarbons as a stabilizer in food toppings and spreads, even though the chlorofluorocarbon has an incidental propellant effect. The data submitted in response to the notice of intent indicate that in these products the chlorofluorocarbon is used in small amounts, usually less than 1 percent of the product, to stabilize the food after dispensing and to prevent waste. The phaseout of this will be considered with the nonpropellant uses.

Generally, the warning is applicable whenever a chlorofluorocarbon is used in whole or in part as a propellant, even though the chlorofluorocarbon has another function, or the product contains another propellant or has a barrier pack to prevent release of the propellant during use. A chlorofluorocarbon propellant could be considered to serve several functions in many instances simply because of its general characteristics, e.g., as a fire retardant, or coolant. If the existence of a dual function generally exempted products from the regulations, the scope would be reduced and the purpose of reducing nonessential product delivery uses would be diluted. Accordingly, the regulation is expressly applicable whenever a chlorofluorocarbon is used in whole or in part as a propellant. The only exceptions are stated in the regulation and, as already discussed, in these products the chlorofluorocarbon has a distinct nonpropellant purpose not generally found in products. These uses of chlorofluorocarbons will be phased out, if not found to be essential, when action is taken later with respect to all the nonpropellant uses of chlorofluorocarbons.

The final regulation is also revised to delete the term "volatile." Chlorofluorocarbon propellants are or become gases after release and pose similar risks of ozone depletion. As used in the proposal, the term "volatile" was intended to be simply descriptive and not to limit the scope of the regulation. Thus, the deletion of this term should have no effect.

COMMENTS ON PROPOSAL

One hundred and sixty-two comments were received in response to the proposal to require the warning established by this rule. One hundred and thirty-three comments endorsed the Commissioner's decision to initiate regulatory action to phase out chlorofluorocarbons, with 79 of these comments expressly endorsing the requirement for a warning. Fifteen comments opposed the initiation of any regulatory action, 13 of which expressed opposition to the warning requirement. Fourteen comments were concerned with exceptions for specific categories of products, or with alternative products, and expressed no clear views for or against regulatory action. The Commissioner's discussion of the comments received and his response to them are set forth below.

All comments received within a week of the close of the comment period have been analyzed and counted with the timely comments. Some comments were

received even later. The final procedural regulations governing FDA rulemaking procedures have only recently been published (see the FEDERAL REGISTER of January 25, 1977 (42 FR 4680) and subsequent recodification published in the FEDERAL REGISTER of March 22, 1977 (42 FR 15553)), and the Commissioner has exercised some leniency in accepting late comments. The comments received more than a week late have been screened, and none presented any new matter significantly different from the issues raised in the timely comments. Their numbers have not been calculated, however, in the description below of the comments received.

To give a comprehensive and orderly discussion of the scientific issues, all the comments raising scientific questions are discussed below irrespective of whether they were submitted in response to the proposal to require the warning (Docket No. 76N-0459) or in response to the notice of intent (Docket No. 76N-0460). Furthermore, the Commissioner has discussed some late comments raising scientific issues because of his continuing efforts to monitor new scientific developments. Similarly, to permit an orderly discussion, all comments relating to the essentiality of products subject to the warning requirement are discussed below irrespective of the docket to which the responses were submitted.

Because the proposed warning was the first step in the overall regulatory action being taken, the Commissioner included in the docket for the warning proposal all comments that related to the general need for regulatory action as well as those that bore the designated docket number. A few comments submitted specifically in response to the notice of intent discussed issues that bore on the warning proposal. The Commissioner recognizes that some persons may have been confused about the proper docket to which they should have submitted their comments. Accordingly, the Commissioner has reviewed the comments in the docket for the notice of intent and, if a comment was timely and dealt expressly with the proposed warning, he has discussed the comment below to the extent pertinent to the warning. Some comments included in the docket for the warning requirement raised issues that related solely to the intended phaseout, and these issues will be discussed in the preamble to the proposed phaseout.

LEGAL ISSUES: STATUTORY AUTHORITY

1. Three comments asserted that the Commissioner lacked statutory authority to require the proposed warning either for cosmetics or for all products. One of the comments argued that section 201(n) of the FFDCA (21 U.S.C. 321(n)) does not authorize the Commissioner to require affirmative disclosures in cosmetic labeling, and that it allows the Commissioner to take account of material omissions in labeling only in the case of express claims made in the labeling. The comments also argued that the Commissioner could require warnings under section 201(n) of the FFDCA only with respect to a "serious hazard" and risks to the immediate user of the product under customary conditions of use, but not risks to the health of other persons who may be indirectly injured as a result of the use of the product. All three comments protested that the Commissioner does not have any authority, either under the FFDCA or under the National Environmental Policy Act (NEPA), to regulate environmental damage caused by products subject to the FFDCA. Another comment stated that FDA has statutory authority, comparable to that of EPA and the Safety Commission, to regulate environmental and health risks posed by products within FDA's jurisdiction.

The Commissioner rejects the comments that he lacks statutory authority to issue this regulation. The Commissioner has relied for the warning requirement not only on section 201(n) of the FFDCA but also on the adulteration and misbranding provisions of the FFDCA, and on NEPA, and has discussed in the preamble to the proposed rule the basis for reliance on these provisions. He agrees that the FFDCA authorizes warnings and affirmative disclosures only with respect to serious hazards but, as more fully described below, unlike the comments, the Commissioner believes that the hazard to which this warning is directed is a serious one. Every product subject to the FFDCA, including a cosmetic, makes an implied claim of safety. Accordingly, section 201(n) of the FFDCA requires an affirmative disclosure of any serious hazard the product poses. The Commissioner has previously explained (see the FEDERAL REGISTER of March 3, 1975 (40 FR 8912)) his basis for believing that section 201(n) of the FFDCA requires affirmative disclosures about safety risks.

The health risks against which the act is directed are not limited solely to risks to the immediate user. Some sections of the FFDCA, such as section 601 (c), expressly refer to risks that may render the product "injurious to health," a phrase that Congress used in the same sense as the term "injurious to users" found in other provisions such as section 601(a). This indicates that Congress used both terms in a broad sense reflecting a general concern for all health risks found in products subject to the FFDCA. Risks to the health of the immediate user under the intended conditions of use are most frequently the focus of regulatory concern. The FFDCA provides authority, however, to protect the public against other risks. The Commissioner has, for example, required warnings about the risk of death from intentional misuse of products, and risks of explosion from improper storage or disposal of self-pressurized containers, a risk which affects other persons besides the intended user, e.g., 21 CFR 101.17 (formerly 1.13 prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)), 369.21, and 740.11. The Commissioner's authority to issue those regulations has been upheld in an initial challenge (*Cosmetic, Toiletry and Fragrance Assn* v. *Schmidt*, 400 Supp. 57 (D.D.C. 1976), appeal pending). The failure to warn householders of substantial risks of injury or illness, such as flammability risks, posed by foods, drugs, and cosmetics may make the product misbranded (16 CFR 1500.81).

The usual condition of use of self-pressurized containers involves a release of chlorofluorocarbons into the atmosphere. Thus, the risks from chlorofluorocarbon release is a hazard associated with customary use of the products.

Recent congressional action reflects a recognition that FDA has authority to regulate unreasonable risks to health or the environment which are directly or indirectly caused by foods, food additives, drugs, cosmetics, and devices. Congress exempted these products from the recently enacted TSCA. By creating the exemption, Congress did not intend to leave any gaps in the regulatory authority to deal with risks posed by chemicals. As stated by the House Committee, in H. Rept. 94-1341, 94th Cong., 2d Sess., page 10 (1976): "The intent of the committee in excluding these items is to exclude from coverage under the bill items which may be regulated under the Federal Food, Drug, and Cosmetic Act. By adopting the definitions given the items by the Act the Committee has made the exclusion of these items from the bill coextensive with the authority to regulate them under the Federal Food, Drug, and Cosmetic Act." In view of Congress' concern with preventing unreasonable direct and indirect health and environmental risks posed by chemicals, Congress would not have created the exemption if it did not accept as the appropriate interpretation of the FFDCA that FDA can regulate these risks when posed by foods, food additives, drugs, cosmetics, and devices.

Furthermore, industry representatives have argued that the States do not have authority to require warnings about environmental and other risks posed by products containing chlorofluorocarbons, in part, because State authority is preempted by FDA's statutory authority to require cautionary labeling. One trade association brought to the attention of a State agency FDA's notice in the FEDERAL REGISTER of July 16, 1975 (40 FR 29914), relating to ozone depletion risks from fluorocarbons, with the comment that "It is clear that the Federal Government not only has jurisdiction over aerosol products, but also is actively exercising that jurisdiction * * *" (Ref. 20). The preemption argument is premised on the existence of statutory authority in FDA to require cautionary labeling with respect to all types of risks posed by products subject to the FFDCA. Thus, at least until FDA initiated this action, many segments of the affected industry have apparently accepted that FDA's authority reaches the risks from ozone depletion posed by the use of chlorofluorocarbons in products subject to the FFDCA.

LEGAL ISSUES: NEED FOR UNIFORM FEDERAL APPROACH

2. One comment contended that the warning was discriminatory, and therefore illegal under the Administrative Procedure Act (5 U.S.C. 706(2)(A)), because FDA did not have a "uniform approach" for regulating the aerosol products under its jurisdiction that was "consistent" with the approach of the other Federal agencies regulating aerosol products containing chlorofluorocarbons. According to the comment, EPA has been asked by FDA and the Safety Commission to be the lead agency in developing a uniform regulatory approach, and EPA has considerable experience and expertise in environmental matters. Therefore, FDA should withdraw the proposed warning and coordinate its actions with EPA in phasing out uses of chlorofluorocarbons. The comment further stated that FDA's proposed warning was inconsistent with the statement required by EPA on pesticides, and that FDA's proposal was developed "apparently" without consultation with EPA. It was also argued that Congress endorsed a postponement of any proposals for regulatory action until January 1978, as evidence by the provisions authorizing EPA to issue regulations in 1978 governing substances that affect the stratosphere, as found in bills to amend the Clean Air Act that passed each House in the last session of Congress. Other comments also criticized FDA for acting differently from EPA, but did not assert that FDA action was illegal simply because it was different from EPA's approach.

The Commissioner believes that coordination among Federal agencies is appropriate and has pursued coordination actively on this matter. Already in the record, as reference 17, is a letter from the then Commissioner to the Council on Environmental Quality (hereafter referred to as "the Council") in which the then Commissioner stated his intention to initiate a phaseout of the use of chlorofluorocarbons in products subject to the FFDCA. He suggested that the Council coordinate Federal regulatory activity through the Interagency Task Force on Inadvertent Modification of the Stratosphere (IMOS Task Force) and that the Council designate EPA as lead agency to coordinate the environmental impact statement. As a result, the Council held meetings with the affected Federal regulatory agencies (Ref. 21). All the agencies agreed to cooperate in preparing the necessary documents relating to the environmental impact of the action being taken, with EPA taking the lead in coordinating the preparation of these documents. EPA has coordinated this effort through the working group responsible for developing the EPA phaseout proposal. FDA personnel have participated in the meetings of the working group which is chaired by EPA. The working group has also served to keep each agency informed of the steps of the other agencies in preparing for the phaseout.

A commitment to coordination, however, does not mean that all agencies will act identically, or that any one agency has the lead responsibility to determine the approach that should be taken by all. The aim of coordination is to explore the possibilities of taking similar action, and to understand the reasons for a different approach if one agency believes it advisable. The Commissioner rejects the argument that the approach of FDA is illegal merely because it is not identical with the approach adopted by another agency. Each agency has the responsibility for administering a distinct statute, and its actions apply to different types of industries and uses. Thus, the particular regulatory situation an agency deals with may warrant different treatment. In addition, judgments may differ on matters of policy. Each agency has the ultimate responsibility to be sure that it has acted appropriately under its particular act.

The Environmental Protection Agency and FDA plan to propose essentially parallel and complementary phaseout actions. The proposals differ in matters of form, but that difference is largely attributable to the differences in terminology and structure of the statutes and existing regulations each administers. The Safety Commission has preliminary found that the use of certain chlorofluorocarbon propellants present an unreasonable risk of injury and has instructed its staff to prepare a draft notice proposing to declare products subject to the CPSA containing the propellants to be banned hazardous products (Ref. 22). The Safety Commission also stated that if EPA proposes a rule under TSCA which renders action by the Safety Commission unnecessary the Safety Commission may terminate its proceeding.

The Federal agencies have differed to some extent in their approach to a labeling requirement about the presence of chlorofluorocarbon propellants. All three agencies have recognized the suitability of imposing some type of labeling requirement, but they have differed in their approach to the text and the applicability of the requirement, in part because of reasons of policy, and in part because of differences in the type of products they regulate.

The Safety Commission has published elsewhere in this issue of the FEDERAL REGISTER a proposed rule that would require a warning on all the aerosol products containing chlorofluorocarbons it regulates. The text of the warning proposed by the Safety Commission will be similar to the one required by FDA in this regulation.

The Environmental Protection Agency has also required labeling but only in the form of a descriptive statement on pesticides that "This product contains chlorofluorocarbon 11 (or 12)." EPA has not required a warning on pesticides, or any labeling on any other products it regulates. The Food and Drug Administration informed the Council, EPA, and the Safety Commission in early October that FDA intended to propose a warning statement as the first step in a phaseout program. The Environmental Protection Agency subsequently issued its notice providing for labeling on pesticides but not a warning. The Food and Drug Administration considered the text of the EPA labeling notice before it issued its proposed regulation; FDA decided that a warning requirement was more appropriate. In the Commissioner's judgment, consumers may not understand the significance of a presence of a chlorofluorocarbon in a product, and the hazard posed, from a statement that simply states that the product contains a chlorofluorocarbon. Some consumers may assume the statement is made to indicate an especially valuable ingredient, and they may interpret the statement as a reason for purchasing the product. Thus, on policy grounds, FDA adheres to the view that a warning statement should be required.

The Environmental Protection Agency has made only pesticides subject to its labeling requirement. Many of the other uses of chlorofluorocarbons regulated by EPA are industrial ones, and labeling on the immediate container of industrial products may have less impact on purchases.

The Commissioner also points out that most nonessential uses of chlorofluorocarbon propellants occur in products subject to FDA's jurisdiction. Eighty percent of the releases of chlorofluorocarbons from self-pressurized containers in the U.S. has been from FDA-regulated products. Thus, the Commissioner believes he has a special responsibility to ensure that action is taken promptly to reduce the risk from these nonessential uses under FDA's jurisdiction. The establishment of the warning requirement, provided for in this document, helps to meet that responsibility.

The Commissioner rejects the argument that FDA should not act because of the timetable for regulatory action found in unenacted bills to amend the Clean Air Act in the last session of Congress. The bills were not enacted and, like all bills, they are not the authoritative expression of congressional intent. Furthermore, the bill reported by the Conference would have allowed EPA to act before 1978 if the Administrator found that regulation was necessary to prevent an effect that might reasonably have been anticipated to endanger the public health or welfare (Ref. 23). Furthermore, the bills did not repeal FDA's existing authority, and the Conference Report indicates that there was no intention to supersede or preempt the authority other Federal agencies might have with respect to the same or similar hazards presented by products within their jurisdiction.

LEGAL ISSUES: INSUFFICIENT BENEFIT AND NEED FOR ENVIRONMENTAL IMPACT STATEMENT

3. Three comments stated that the Commissioner's warning proposal was irrational because it provided too speculative and small a benefit, even under FDA's estimates, to justify the requirement or to warrant the cost of relabel-

ing. Furthermore, the comments argued that the warning would have even less effect on ozone reduction and on health than assumed by FDA. Alternatively, the comments argued, if the proposed warning would have sufficient impact to be justified, any final regulation mandating a warning would be unlawful under NEPA and FDA's environmental regulations in 21 CFR Part 25 (formerly 21 CFR Part 6, prior to recodification published in the FEDERAL REGISTER of March 22, 1977 (42 FR 15553)) unless accompanied by a comprehensive final environmental impact statement.

The Commissioner has discussed below in more detail the reasons why some comments did not view the warning as having a sufficient benefit to be rational. He concludes that, notwithstanding the continued uncertainty about the precise degree of ozone depletion, and the exact extent of adverse health and environmental consequences that may occur, the risk of harm is substantial and is sufficient to warrant taking regulatory action at this time to reduce nonessential uses of chlorofluorocarbons. The requirement is a rational first step in the program to reduce and phase out nonessential uses of chlorofluorocarbons. It can be implemented relatively quickly, and it should discourage nonessential users temporarily. While the warning is in effect, FDA can proceed with the consideration of a phaseout action based upon a comprehensive consideration of the full environmental and inflation impact of a phaseout, coordination of the action with other Federal agencies, and examination of any new information or research developed in this period.

Several comments stated that the remarks of the Commissioner in the preamble to the proposed regulation, referring to the limited and temporary nature of the warning, revealed that the Commissioner recognized that the warning would have no appreciable benefit. The comments misconstrued the Commissioner's views. The Commissioner believes the warning is beneficial and useful as an interim measure. The warning should reduce use of chlorofluorocarbons to some extent, facilitate informed consumer choice, and promote a reasonable transition to a phaseout of nonessential uses.

The remarks of the Commissioner quoted in the comments were made to explain why a separate environmental impact statement need not be prepared for the warning requirement. Important though the warning is, in comparison with the proposed phaseout, the impact of the warning is not significant. The warning will have less effect because it is temporary and it will not ban manufacture or use of any products. It is not possible to know the extent to which the warning itself will reduce use. The effect of the warning, whatever its degree, will be subsumed within the overall regulatory action being taken. This warning is the initial step of the total phaseout action. The environmental effect of the overall action has been evaluated comprehensively in connection with the phaseout of nonessential propellant uses of chlorofluorocarbons in FDA-regulated products which FDA will propose shortly. The draft environmental impact statement relating to the phaseout will be publicly available within a short period. Thus, the Commissioner continues to believe that a separate environmental impact statement for the warning need not be prepared and completed before a final rule requiring a warning is issued.

At the meetings held by the Council to coordinate Federal agency action with respect to fluorocarbons (Ref. 21), FDA described its intent to require a warning as an initial step, propose a phaseout later, and prepare an environmental impact statement only for the phaseout. The Council representatives concurred in the position that a separate environmental impact statement is not necessary for the warning requirement.

The Commissioner notes that he has prepared an environmental impact analysis report and an environmental assessment report on the effects of a warning. The warning is being required for environmental and health reasons. The preamble to the proposed rule discusses the reasons in detail, and this document responds to the comments received from the public on the preamble. Thus, in substance, the Commissioner has already stated the environmental impacts of a warning and the public has had an opportunity to comment. If anyone believes that the overall phaseout action, or the warning which is a part of that action, has an adverse environmental effect that has not been considered, they may comment on the phaseout proposal and the draft environmental impact statement. The Commissioner will monitor comments received, and will act promptly if the comments indicate the need for any changes.

Lastly, the Commissioner points out the time period during which the warning is to be in effect is uncertain. In response to comments, as discussed below, he has extended the effective date for including the warning in the labeling. In the phaseout proposal, he has established the tentative target dates for the phaseout. These dates may be extended, however, in response to comments or to achieve suitable coordination with EPA's actions to phaseout nonessential aerosol propellant uses. Thus, the warning could be in effect for less than 2 years, but it is also possible that the duration of the warning could be longer. The Commissioner views the warning as rational, notwithstanding its temporary duration, because the warning can be implemented promptly and can continue until the phaseout regulation becomes effective.

SCIENCE-RELATED COMMENTS

ESTIMATES OF OZONE DEPLETION AND NEED FOR FURTHER RESEARCH

4. Five comments were received regarding the uncertainties in the predictions of stratospheric ozone depletion resulting from chlorofluorocarbon releases. Some of the comments characterized the risks of ozone depletion and adverse consequences from chlorofluorocarbon release as a "speculative possibility" because of the remaining scientific uncertainties. The comments urged that any regulatory action be delayed at least 2 years, until research was completed to explore the scientific uncertainties. All the comments referred to the report (Ref. 8) on "Halocarbons: Environmental Effects of Chlorofluoromethane Release"[1] of the Committee on Impacts of Stratospheric Change of the National Academy of Sciences (NAS Committee) and criticized the Commissioner for not following the NAS Committee's recommendation that regulatory action be delayed for up to 2 years to permit further research. The uncertainties mentioned in these comments included photochemical reaction coefficients and atmospheric transport rates, the nature and amount of "minor species" in the atmosphere, the processes which may control their abundance, the limitations in the representation of atmospheric dynamics by one-dimensional models, speculation about other possible sources of ozone, discovery of new "sinks," such as hydrochlorofluorocarbon 21, which might lower ozone depletion levels, and the existence of chemical and feedback processes not included in the NAS model. One comment submitted late listed several research projects sponsored by an industry association to resolve uncertainties.

The Commissioner is aware that there are uncertainties, but he stated in the preamble to the proposed rule the reasons why he believed action was warranted at this time despite the existence of some uncertainties and the recommendation for further research by the NAS Committee. The best available information still indicates that chlorofluorocarbon release will affect stratospheric ozone to some extent. The principal uncertainty relates simply to the amount of ozone that will be depleted. The NAS Committee found in its report that selective regulation of chlorofluorocarbon 11 and 12 is "almost certain" to be necessary. The Commissioner believes, based on his continued monitoring of the scientific research, that the NAS estimate of ultimate reduction of stratospheric ozone on the order of 7 percent still has general support among the scientific community as the best estimate based on currently available information.

Further research as recommended by the NAS Committee might serve to establish that the ozone depletion level is around 2 percent. The NAS Committee believed that the consequences of a 2 percent reduction are tolerable, but the Commissioner disagrees, as already

[1] The NAS Committee report and the companion report of the NAS Panel on Atmospheric Chemistry, "Halocarbons: Effects on Stratospheric Ozone" (Ref. 9) have recently been published by NAS and are on sale through the National Academy of Sciences, Printing and Publication Office, 2101 Constitution Ave. NW., Washington, DC 20418. The NAS Committee report is $6.25 (Order No. 2529), and the NAS Panel report is $10.25 (Order No. 2532).

stated in the preamble to the proposal. Thus, further research to establish only that the ozone depletion rate is as low as 2 percent would not provide any justification for delaying regulatory action. A delay in protecting the public is not warranted simply to know the precise degree of unjustified risk to which the public might be exposed.

The further research referred to by NAS and in the comments might also uncover inadequacies in the current estimates or explore unidentified factors that might further neutralize the effect of chlorofluorocarbons and even reduce the estimate of ozone depletion significantly below 1 percent. The NAS Committee recommended waiting for further knowledge to reduce these uncertainties, but it recommended against waiting longer than 2 years before making a decision to regulate. The NAS Committee chairman has testified that he doubts that the NAS Committee would be uncomfortable with the actions so far proposed by the regulatory agencies (Ref. 24). He also indicated that "(w)ithout the (National Aeronautical and Space Administration (NASA)) program directed to stratospheric research the Committee could not have honestly stated that it expected important gains in knowledge over the next two years" (Ref. 24).

NASA has released a preliminary report updating the scientific assessments about chlorofluorocarbons 11 and 12 which was based on workshops conducted by the Goddard Space Flight Center (Ref. 25). The preliminary report states that there is "little doubt" that ozone in the stratosphere will be destroyed by the release of chlorofluorocarbons 11 and 12 and concludes, on the basis of the known information, that the ultimate ozone reduction will be between "5 and 9 percent" if release continues at 1975 production rates. A final report from NASA is expected to be released in September 1977.

The Commissioner recognizes that there are still uncertainties about the estimates made in the NAS reports and the preliminary NASA report. Some of the areas of uncertainty were specifically addressed in the comments on the proposed rule and have been discussed in more detail below. Ongoing and new research could change the best current estimates of ozone depletion attributable to chlorofluorocarbon emissions. Continued research to resolve the remaining scientific uncertainties is desirable, and the Commissioner will continue to monitor the scientific developments and will consider any comments on these matters submitted in response to the proposed phaseout. As he has already indicated, he will revoke the warning requirement if further research shows it is warranted. But precisely because the research is probing into new areas, it is not possible to predict whether and how the research will change current estimates or how long it would take to confirm whatever initial results the research produces. As stated by one of the scienists for DuPont in congressional testimony, "The major surprises are * * * likely to come in the area of unknown chemistry on which one cannot really speculate. The current government and industry research programs should greatly reduce the possibility of surprises of this kind within the next year or two" (Ref. 26).

The fact remains that the best information currently available indicates that chlorofluorocarbon release poses risks that have unacceptable consequences. In view of the nonessentiality of propellant uses of chlorofluorocarbons, the Commissioner does not believe it warranted to delay a warning requirement to await the results of further research because of the "possibility of surprises" that might change the assessment that chlorofluorocarbons pose an unacceptable risk. As one of the comments supporting the Commissioner's action phrased it, in referring to the requests for time to do further research: "By all means perform your study, but do it in a smaller laboratory. Too many people live in this one."

5. A comment disputed the statements in a letter from F. S. Rowland, cited in the preamble to the proposed warning (Ref. 14), that on the basis of scientific developments, ozone depletion from chlorofluorocarbon release could be estimated as roughly 13 to 16 percent. The comment contained statements criticizing the Commissioner for including the letter, and the higher ozone depletion estimates it contained, as part of the basis for issuing the proposed rule.

The letter was cited as one of several recent developments that suggested that the ozone depletion figures might be even higher than the 7.5-percent figure estimated by NAS. The Commissioner believes it was a relevant report and the citation of it permitted the scientific community and the public to comment on it. However, the comments received indicate that the methods at arriving at higher estimates made in the letter are disputed. Accordingly, the Commissioner is taking this action on the basis that the best current estimate of the amount of ozone depletion that will result from continued chlorofluorocarbon release is a range with a median on the order of 7 percent.

MINOR SPECIES AND POSSIBLE "SINKS" FOR CHLOROFLUOROCARBON

6. Several comments referred to the significant effect chlorine nitrate could have on the calculations of ultimate ozone depletion resulting from emissions of chlorofluorocarbons 11 and 12. The inclusion of chlorine nitrate in some computer models measurably reduces the predicted impact of these chlorofluorocarbons on stratospheric ozone.

The preliminary NASA update (Ref. 25) did not use the pressure dependencies for the rate of formation of chlorine nitrate assumed by the NAS Panel and recommended a rate independent of pressure. While this change taken alone would reduce the NAS ultimate ozone depletion estimate by a factor of 2, it has not significantly altered the overall estimate of the amount of ozone depletion in the preliminary NASA update. Furthermore, Professor Gutowsky, head of the NAS Panel on Atmospheric Chemistry, has stated (Ref. 27) that, as far as he had been able to ascertain, the constants recommended by the NASA staff were not intended to be a "complete, definitive reevaluation of the kinetics data" and that the near-maximum constants used for chlorine-nitrate "are not in accord with some of the experimental data."

7. A comment suggested the possibility of an additional stratospheric sink for chlorine radicals, that of hydroxyl chloride. According to the comment, catalytically active chlorine oxides may react with water in the stratosphere to form hydroxyl chloride which will not react readily with ozone.

The Commissioner notes that even if this intermediate compound were formed, it would be much less effective than chlorine nitrate in preventing ozone destruction for two reasons. First, it would not tie up catalytically active nitrogen oxides in addition to catalytically active chlorine, as chlorine nitrate does. In addition, hydroxyl chloride is likely to be more rapidly photodissociated (Ref. 25). Thus, the hydroxyl chloride sink would not appear likely to have a major impact on estimates of ozone depletion, but any further research on this possibility will be monitored by the Commissioner.

8. Three comments discussed the possibility of tropospheric degradation of chlorofluorocarbon 11 to hydrochlorofluorocarbon 21. This claim was based on two independent measurements in the troposphere at levels approximating 10 parts per trillion (ppt). Based on production figures, DuPont could only account for enough hydrochlorofluorocarbon 21 to give a fraction of a ppt in the troposphere. The hypothesis was advanced that the higher levels might be a result of the breakdown of chlorofluorocarbon 11. If so, this would significantly reduce the tropospheric lifetime of chlorofluorocarbon 11. Should a similar conversion of chlorofluorocarbon 12 to hydrochlorofluorocarbon 22 exist, ozone depletion estimates might be lowered by a factor of 3. The comments noted that Professor Gutowsky (Ref. 27) stated that the detection of hydrochlorofluorocarbon 21 in the atmosphere is "an important finding, the details and implications of which should be checked out promptly and thoroughly."

The Commissioner agrees that further research on this hypothesis would be useful. Until these estimates are confirmed, however, they must be viewed with caution. The high level detected might be a result of instrument contamination, and this possibility is currently being considered by the investigators involved. In fact, one of the researchers recently confirmed that his reported measurements were actually the result of instrumental contamination and that he could find no detectible levels of hydrochlorofluorocarbon 21 in the troposphere (Ref. 28).

9. One comment indicated that the reaction of chlorofluorocarbons with stratospheric ions could represent a possible tropospheric sink. A separate comment

and supporting scientific paper concluded, however, that, "At this point atmospheric ion chemistry does not seem to represent a significant tropospheric sink for any of the halocarbon compounds."

The Commissioner concludes that further study is necessary before ion-molecule reactions are considered to be a significant factor in estimates of ozone depletion resulting from chlorofluorocarbon emissions.

TROPOSPHERIC LIFETIMES

10. An unpublished scientific paper was submitted which indicates that chlorofluorocarbons 13, 113, 114, and 115 (all fully halogenated chlorofluoroalkanes like chlorofluorocarbons 11 and 12) have long tropospheric lifetimes and thus if released into the troposphere would be transported into the stratosphere where they would be photolyzed, releasing catalytically active chlorine, in the manner described for chlorofluorocarbons 11 and 12 (Ref. 29).

This paper supports the Commissioner's view that the release of any fully halogenated chlorofluoroalkane poses a threat to stratospheric ozone similar to those documented for chlorofluorocarbons 11 and 12. Thus, the paper provides additional support for the action being taken in this regulation which is applicable to all chlorofluorocarbons.

11. Several papers were submited reporting data on the reaction rates of chlorofluorocarbons and hydrochlorofluorocarbons with the hydroxyl radical (Ref. 30). The faster this reaction rate the more likely the compound is broken down in the troposphere, thus preventing the transport of chlorine into the stratosphere where it could catalytically destroy ozone.

These papers show that chlorofluorocarbons react least rapidly of all halocarbons tested with hydroxyl radical and thus would pose the greatest risk to stratospheric ozone.

STRATOSPHERIC OZONE AND ULTRAVIOLET RADIATION MEASUREMENTS

12. One comment questioned the theory that chlorofluorocarbons may deplete stratospheric ozone because no decrease in ozone has been measured. According to the comment, numerous records show that global ozone has tended to increase over most of the period since 1950, in the fashion predicted by the known cycles of ozone concentrations, and the record appears ample to reveal any contrary trend of detectable magnitude.

The staff of the National Oceanic and Atmospheric Administration (NOAA) confirms that there has been an upward trend in ozone concentrations in the period from 1962 to 1970 (Ref. 31), but a gradual lowering trend has occurred since 1970. Before 1962, the data are too sparse to make any scientifically sound judgment on trends in ozone concentration. If chlorofluorocarbons have depleted stratospheric ozone at a rate that would ultimately reach 7 percent, the present deviation from natural ozone trends would only be in the order of 1 percent (Ref. 4). NOAA estimates that with today's monitoring limitations, one would have to measure changes of 2 to 3 percent to conclude that global ozone levels had deviated from natural trends (Ref. 31). The limitations on human ability to determine changes in global ozone levels depend less on the sensitivity of the method, since existing methods can detect close to 1 percent deviation, than on the uneven distribution of sampling sites throughout the world. Ozone changes over North America and Europe, where most of the monitoring stations are located, may not be representative of ozone changes over the rest of the world. Therefore, even with data showing no detectable changes in stratospheric ozone today, one could not conclude that predicted reductions in global ozone resulting from past chlorofluorocarbon emissions have not occurred.

13. One comment noted that chlorofluorocarbon release is a current concern, even though it has not yet caused measurable ozone depletion, because a decrease could not be detected until further harm is irreversible. The comment suggested, though, that with better and more numerous tracking stations to monitor ozone depletion levels, small decreases in ozone could be detected in time to keep the maximum ozone decrease to only 2.3 percent if uses are ceased immediately upon detection of the decrease.

As noted above, the difficulties in setting up tracking stations are considerable. Moreover, the Commissioner considers the consequences of ozone depletion at the ultimate rate of 2 percent to be intolerable. The detection and identification of an actual ozone reduction if the ultimate depletion rate were 2 percent would take a considerable number of years and require careful calibrations (Ref. 9 at 15–16). The Commissioner will consider any comments submitted on the proposed phaseout relative to the feasibility of more monitoring stations, but will not delay regulatory action to await further exploration of this possibility.

14. One comment stated that a report from the Smithsonian Institution indicated that there has been no increase in the amount of ultraviolet radiation that is hitting the earth, based on studies over the last 5 years.

A communication from the Radiation Biology Laboratory of the Smithsonian Institution indicates that the comment has misinterpreted the data published by the Smithsonian (Ref. 32). The Smithsonian data measurements were of the total ultraviolet radiation band, i.e., all radiation of a wavelength of less than 400 nanometers. The region affected by fluorocarbons is the band of biologically active ultraviolet radiation (UVB) that lies below 320 nanometers, which constitutes only about 2 percent of the total band. The communication from the Smithsonian Institution explained that since UVB is "so much smaller" than the total ultraviolet radiation band "it would be extremely difficult if not impossible to determine any ozone changes or UVB * * * changes using the larger band."

IMPACT OF WARNING OF NONMELANOMA SKIN CANCER INCIDENCE

15. Two comments stated that FDA should focus greater attention on the overall problem of skin cancer rather than on the small contribution of chlorofluorocarbons to this disease. Furthermore, the comments suggested that changes in lifestyle have made such a great contribution to the increased incidence of skin cancer that the risks from chlorofluorocarbon release are trivial in comparison, or at least that the consequences of a further release during the 2-year period that the warning would be in effect are trivial. The argument was made that moving south could result in similar untraviolet radiation exposures as would a 2-year delay in the cessation of U.S. chlorofluorocarbon releases. Following this line of reasoning, the comments stated, would lead to the absurd suggestion that we should warn people about the hazards of moving south, put warning labels on bathing suits and the like.

The comment is similar to some points raised earlier in a letter to FDA (Ref. 33). The writer urged, in particular, that greater emphasis be put on use of more effective sun-screen agents in sunburn preventatives and similar lotions. FDA responded (Ref. 34) that:

> We agree that the increase in incidence of skin cancer resulting from chlorofluorocarbon releases into the atmosphere will only be a part of the total increase in incidence of such cancers (chlorofluorocarbon releases in 1950 are only now beginning to result in observed cancers). We agree that attempts should be made to prevent all cases of skin cancer (all cancers for that matter). For those adverse health effects associated with natural background exposures to ultraviolet radiation, we advocate good public education and information programs so that people are made aware of these associations and can themselves decide the best method of prevention (avoidance, clothing, sun screens, etc.).

The Commissioner recognizes that changes in lifestyle have contributed significantly to the increased incidence of skin cancer. People should be educated about the accompanying hazards of increased exposure to the sun, but these educational efforts should not be made to appear ridiculous, as in the case of warnings on bathing suits. The Commissioner believes in contrast that the warning on aerosols containing chlorofluorocarbons will be taken seriously by the public, and it may lead to an increased general awareness of the risks from exposure to ultraviolet radiation. It also allows the consumer to make an informed-cost versus benefit choice between, on the one hand, health and environmental risks, and, on the other hand, convenience or other satisfactions from the product.

In any event, changes in lifestyle are difficult to achieve, no matter what educational or other efforts are undertaken. Thus, the risks from increase in ultraviolet radiation should, in the Commis-

sioner's judgment, be assessed in relationship to the existing rates of skin cancer, on the assumption that the preference for light dress in summer weather and increased exposure to sunlight will continue. On that basis, the estimates made in the preamble to the proposed rule about the increased incidence of skin cancer that would result from increased ultraviolet radiation continue to be valid, as discussed further below. Those risks should not be discounted in the expectation that people will change their lifestyle. Furthermore, many people might value the opportunity to be directly in the sunshine more highly than whatever benefits are conveyed by self-pressurized containers with chlorofluorocarbons.

The Commissioner rejects the argument that he should ignore the risks of skin cancer from chlorofluorocarbon emissions because the contribution of other factors to the incidents caused is also large. The incidents that may result from chlorofluorocarbon emissions are significant, and it is within the Commissioner's authority and ability to do something to reduce this part of the risk. Most of the factors contributing to this risk are beyond the Commissioner's regulatory authority. But he has authority to examine the effectiveness of sun screens in sunburn preventatives and other sun preparations. The Commissioner agrees with the point that increased attention needs to be given to effective sun screens. The OTC drug review will examine sunburn lotions and other sun preparations, and the Commissioner intends to weigh the concerns expressed about the effectiveness of sun screens in reviewing these products.

16. One comment questioned the statement in FDA's response to the letter, referred to in the previous comment, that "chlorofluorocarbon releases in 1950 are only now beginning to result in observed cancers."

The statement should have indicated that chlorofluorocarbon releases may result in skin cancer, that no actual cases attributable to this cause have yet been identified, and that, because of the latency period of cancer, cases resulting from chlorofluorocarbon emissions in 1950 are likely to be discernible only beginning now.

17. One comment used DuPont's present best estimate of ozone depletion of 3.7 percent to recalculate FDA's estimate in the preamble to the proposed rule of the number of cases of nonmelanoma skin cancer which might be prevented by imposing a warning label requirement. Use of the DuPont estimate would, of course, lower the number of cases of nonmelanoma skin cancer which would be prevented by imposing a warning label requirement, for it would lower the projected number of cases of skin cancer to be expected.

The Commissioner believes that most current estimates of ozone depletion are still generally around 7 percent rather than the 3.7-percent level estimate by DuPont, which is among the lowest estimates currently being made. Furthermore, the Commissioner regards a 3.7-percent ozone depletion level as posing unacceptable risks. In addition, some recent scientific developments indicate that the original FDA estimate may be conservative.

Based on the report of the IMOS Task Force, the NAS Panel report, and an earlier NAS study (Refs. 4, 9, and 10), FDA used a 1:2 overall amplification rate to calculate the relationship between ozone depletion and the incidence of nonmelanoma skin cancer in making the estimates set forth in the preamble to the proposed rule. A study by Fears (Ref. 35) reports that a 20-percent increase in UVB would result in an increase in cases of nonmelanoma skin cancer from about 35 percent in northern latitudes of the United States, e.g., North Dakota, to about 70 percent in southern latitudes, e.g., Florida. According to these researchers, the relationship between ozone depletion and the increased incidence of nonmelanoma skin cancer is in the order of 1:3.5 to 1:7 in the continental United States. Dr. Alex Green has stated that the approach in the Fears study and in a study conducted by him and his associates gives a biological amplification factor, which is one element in determining the overall amplification factor, that is "substantially greater than the unit factor given in the IMOS report" (Ref. 36).

An overall amplification factor considerably greater than 1:2 has been reported by Rundel and Nachtwey using a model described in Appendix A of the FDA draft environmental impact statement for the proposed phaseout (Ref. 37).

Using the modifications in the skin cancer data reported above, the FDA estimate of numbers of new cases of nonmelanoma skin cancer which might be prevented by not delaying 2 years to initiate regulation and which might be reduced by the warning label requirement would be revised upward, rather than downward as suggested by the comment, by at least a factor of 2. Revised estimates, based on the recent developments, of the number of cases that might be affected by a 2-year delay in regulatory action have been included in the draft environmental impact statement relating to the proposed phaseout. Additional studies to determine more definitely the biological amplification of UVB to incidences of nonmelanoma skin cancer are desirable, and a study of this matter is being initiated by the National Cancer Institute.

18. A related comment suggested that the FDA calculation of the amount of nonmelanoma skin cancer that might occur if regulatory action were delayed was in error because not all of the 300,000 annual cases of nonmelanoma skin cancer are necessarily associated with DUV exposure.

Other factors in addition to solar UVB radiation are known to contribute to nonmelanoma skin cancer, among them ionizing radiation from x-ray sources or radioactive materials, polycyclic aromatic hydrocarbons and chronic irritations and burns. Perhaps 10 to 20 percent of nonmelanoma skin cancer occurs on parts of the body not ordinarily exposed to sunlight, thus indicating that other factors play a role. The extent to which these other factors contribute to nonmelanoma three kinds of evidence—latitude these factors appear to be relatively less important than UVB radiation. The NAS Committee has stated that, "For nonmelanoma three kinds of evidence—latitude dependence, body location, and occupational differences—all combine to point closely to the exposure to the sun as a prime cause and to increased incidence as a quite certain consequence of increased [UVB]" (Ref. 8).

IMPACT OF WARNING ON MELANOMA SKIN CANCER INCIDENCE

19. One comment noted that FDA had not made any claim that the incidence of melanoma skin cancer would be affected by the warning label requirement or the proposed phaseout.

Solar ultraviolet radiation may not be as important a contributing factor to melanoma skin cancer as it is for nonmelanoma skin cancer. Melanoma skin cancer occurs with some frequency on parts of the body not exposed to sunlight. Because of these greater uncertainties, FDA did not make an estimate in the preamble to the proposed rule of the number of increased cases of melanoma that might occur if regulatory action is postponed for 2 years. The Commissioner continues to rely on the NAS Committee assessment that malignant melanoma "may well be related to exposures to solar ultraviolet radiation. The relationship which this Committee believes to be likely but yet not completely proven, is not a simple one" (Ref. 8 at 13). A recent report indicates that the incidence of melanoma is increasing (Ref. 38).

NONHUMAN BIOLOGICAL EFFECTS

20. Two comments questioned the potential impact of chlorofluorocarbon releases on plant and animal life. The statement was made that plants and animals are able to tolerate the natural 11-year cycle of variations in the ozone level which are about 7 percent. Another comment urged an immediate ban because of the importance of the ozone layer in protecting the earth from ultraviolet radiation which allows life to form.

The Commissioner notes that NOAA estimates that the variation in the natural 11-year cycle is closer to 5 percent than the 7 percent referred to in the comments (Ref. 31). No data were submitted in the comments to show that these cyclic variations in ozone are not at least in part responsible for well-known cyclic changes, such as those in the distribution of species, reproduction or photosynthesis rates, and migration or behavioral patterns. Thus, perhaps natural fluctuations of ozone do affect plants and animals. Moreover, the existing cyclic variations have resulted in a constant UVB exposure over time. The increase in UVB predicted to result from chlorofluorocarbon emissions would be a

long-term cumulative increase, and it is this kind of exposure which concerns biological scientists. The sensitivity of specific plants and animals to UVB is likely to depend upon many factors, e.g., effectiveness of DNA (Deoxyribonucleic acid) repair mechanisms, avoidance responses, lifespans, and reproductive rates. Plants sensitive to UVB are likely to be the most vulnerable organisms in terrestrial ecosystems because they cannot readily avoid exposure. Depressed rates of photosynthesis and growth are among observed plant responses to high levels of ultraviolet radiation in the vicinity of 300 nanometers (Ref. 39). The broader view of the possible biological impact of cumulative increases of UVB hitting the earth includes the potential impact to ecosystems containing ultraviolet-sensitive plant and/or animal species. Due to the paucity of research in this area, however, UVB effects on ecosystems are uncertain to a considerable degree; the fact remains that, in the judgment of the NAS Committee, the UVB effect on plants and animals are a "strong concern" and a "matter of urgency" for long-term research (Ref. 8). The Commissioner concludes that these risks should be taken into account along with the other risks in judging the need for regulatory action, but they do not warrant an immediate ban without observing the regular procedures for preparing an environmental impact statement and proposing a phaseout.

21. The comment was made that, "Other things equal, there is no plant that cannot be transplanted 150 miles nearer the equator and survive." The comment believed that this indicated a UVB-increase comparable to a move of this distance would have no effect.

Survival of plants is not the only relevant consideration. For example, a reduction in crop yield, particularly agricultural crops, is of considerable significance. The Commissioner concurs with the NAS Committee that additional research is necessary to better understand the effects of UVB on plants and animals.

EFFECTS ON CLIMATE

22. Some comments characterized as merely speculative the possibility that chlorofluorocarbon releases could affect the climate either through ozone depletion or infrared absorption in the troposphere, and they objected to the Commissioner's inclusion of this risk as a basis for the action being taken. The comments also cited Professor Gutowsky's congressional testimony (Ref. 27) that:

> Finally, I am a bit troubled by the inclusion at this time of possible climatic effects of (chlorofluorocarbons) as a reason for their regulation. All environmental changes introduced by man are not necessarily bad * * *.
>
> (A) global warming produced by the greenhouse effect of (chlorofluorocarbons) might extend the growing season further north in Canada and the Soviet Union. Furthermore, the natural trends in global climate span periods ranging from centuries to many thousands of years, and there is some evidence that the natural trend is changing from a warming to a cooling cycle.

Many uncertainties exist about the climate effects. The NAS Committee also recommended further research on these effects as a "matter of urgency" and it recognized that some scientists would emphasize the "possible critical importance of even small effects on climate" and would urge, on this basis, immediate decision to regulate spray can uses. The Commissioner believes the critical importance of climatic effects warrants their being taken into account in assessing regulatory action, notwithstanding the gaps in knowledge about climate. Since regulatory action is justified because of the other risks from chlorofluorocarbons, the Commissioner need not decide now if the climatic risks alone would warrant the initiation of a phaseout or some other type of regulatory action.

The Commissioner rejects the suggestion that chlorofluorocarbon releases should be continued because the releases might have a beneficial climatic effect. We know too little about global weather patterns and long-range climatic cycles at this point to attempt to alter climate and weather on this scale deliberately.

23. One comment said that there was no inherent time delay between chlorofluorocarbon emissions and resulting climate changes. The comment asserted that no climatic changes had occurred recently which could be attributable to chlorofluorocarbons and that any alterations in climate which might occur could rapidly be reversed by decreasing chlorofluorocarbon release at the time such changes were observed.

The basic premise of this comment appears to be incorrect, since the magnitude of the possible climatic effects from chlorofluorocarbon emissions is not known, and since the NAS Committee report indicates that there could be a considerable delay between chlorofluorocarbon release and the cessation of whatever climatic effects it caused. The report stated that if chlorofluorocarbons 11 and 12 releases were to continue at a constant rate, "the amount of direct climatic effect would also flatten out, approaching a steady state, again reaching half of this value in about 50 years. The increase of infrared absorption and emission would similarly reach half of this ultimate value in about 50 years. Resulting climatic effects might be further delayed because of slowness in response in the climatic mechanism" (Ref. 8).

24. Some comments noted that volcanic emissions and other sources of intermittent releases of chlorine have not resulted in climatic alterations.

Again, it must be emphasized that it is the gradual long-term accumulations of chlorine in the troposphere and stratosphere, rather than natural cyclic or intermittent events resulting in ozone reduction, which pose the greatest threats to man directly and through impacts on plants, animals, and climate.

OTHER SCIENCE-RELATED COMMENTS

25. A comment mentioned the formation of chlorine ions in the ionosphere, a region of the atmosphere above the stratosphere, which could affect electron concentrations at this high altitude and lead to changes in global high frequency communication links, since high frequency radio waves are absorbed by electrons in the ionosphere.

This observation indicates that chlorofluorocarbon release could have additional undesirable consequences, but at present this possibility is only speculative. Certainly, further research on the matter would be desirable.

26. One comment questioned the theory underlying the proposed rule because ozone is created by ultraviolet radiation and any ozone destroyed would allow play for more ultraviolet radiation to create additional ozone. Furthermore, ozone exists as a pollutant at the surface of the earth, and, since it is lighter than fluorocarbons, it is more likely than fluorocarbons to rise to the stratosphere to replenish the supply of ozone. The comment hypothesized that an "Upper Air Commission" had misread research results which show that ozone destroys fluorocarbons, not the reverse.

Ozone in the stratosphere is indeed constantly formed by ultraviolet radiation, but, the currently known information indicates that the stratospheric ozone would be destroyed by chlorofluorocarbons faster than it could be replenished by the action of ultraviolet radiation. The other theories advanced in this comment do not have general scientific support. The stability of chlorofluorocarbons, in contrast to ozone, enables them to survive in the troposphere and rise over time to the stratosphere, where, in a catalytic reaction, they can break down the ozone found there. The Commissioner is unaware of any "Upper Air Commission" and finds no basis for accepting the theory advanced in the comment that there has been a mixup in research results.

COMMENTS ON THE TEXT OF AND NEED FOR THE WARNING

27. A few comments objected to the use of the term "warning" in the proposed labeling statement and the identification of the type of risk posed by chlorofluorocarbons. Some urged that, at the most, there be a labeling statement that the product contains a chlorofluorocarbon, or that chlorofluorocarbons "may affect the upper atmosphere." The comments viewed these statements as sufficient to meet the thrust of the NAS Committee's recommendation that "informative labeling" about the presence of chlorofluorocarbons be included on products. In addition, the Commissioner's action in a notice published in the FEDERAL REGISTER of November 26, 1976 (41 FR 52078) proposing to change the nomenclature for cosmetic ingredient labeling, under 21 CFR 701.3, from a propellant designation to a chlorofluorocarbon designation was claimed to be sufficient to inform consumers about chlorofluorocarbons.

A separate label statement that simply states that a product contains a particular ingredient does not inform the con-

sumer of the risks associated with the ingredient, and of the reason for singling out the ingredient for mention. The statement could even be misconstrued as a claim that the presence of a chlorofluorocarbon enhances the value or desirability of the product. A statement that chlorofluorocarbons may affect the upper atmosphere does not apprise the consumer of the terrestrial consequences of the atmospheric effects which are the real cause for concern. Ingredient labeling, even with improved nomenclature, is not sufficient since all consumers may not recognize the ingredient of concern by name or be aware of the risks posed. Furthermore, an ingredient statement does not purport to be a warning.

In addition, a listing of inactive ingredients need not appear on products that are only drugs. Products that are cosmetics, or both cosmetics and drugs, would have to include the new nomenclature for chlorofluorocarbon propellants in the ingredient statement in accordance with a delayed effective date as established in the final rule. No cutoff can be established under the Fair Packaging and Labeling Act (15 U.S.C. 1454 et seq.) pursuant to which cosmetic ingredient labeling has been required, for initial introduction into interstate commerce, thus making the timing of the use of the new nomenclature more uncertain.

The NAS Committee recommended "informative labeling" as "an aid to consumer self-restraint * * * and to consumer preparation for possible later regulation." The Commissioner believes that a warning statement is likely to achieve these purposes more effectively than would a simple change in nomenclature in the statement of ingredients or a descriptive statement that the product contained certain ingredients. Accordingly, the Commissioner concludes that a warning statement is appropriate.

28. A comment suggested that the warning refer specifically to the risk of an increased incidence of skin cancer as a result of the effect of chlorofluorocarbons on the environment.

The suggested revision of the proposed text is not being made. The public is, understandably, exceptionally alarmed by risks of cancer. A reference to a cancer risk on the label should be accompanied by a careful explanation which may require a lengthy text. Furthermore, a reference specifically to cancer, even though stated to be an environmental effect, could without further explanation lead some consumers to believe the risk is greater for the individual user of the product, an implication that is not as likely with the reference to the "public health" in the warning established by this regulation. The public may be concerned about the past uses of self-pressurized containers and the consequences to the health of the immediate user. The brief warning established by this regulation informs the public of the general nature of the consequences of chlorofluorocarbon without alarming the public unwarrantedly about past individual exposures.

29. One comment urged a uniform Federal approach to labeling requirements because it might discourage a proliferation of diverse State labeling requirements about chlorofluorocarbon risks. It would be difficult for manufacturers to comply with diverse State labeling requirements in view of the national distribution of many products. Another comment urges prompt Federal regulatory action on aerosols containing chlorofluorocarbons to avoid a "crazy-quilt" of State laws requiring warnings and/or banning products that may be incongruent.

The Commissioner believes the comments have considerable merit. The Food and Drug Administration strongly encourages uniformity in the labeling requirements of State agencies and the Federal government. The issuance of the FDA warning may be accepted by State governments as adequate to satisfy their concerns. Thus, the interest in uniform labeling requirements provides additional grounds for issuing this regulation.

The Commissioner does not object to State laws or regulations prohibiting the use of chlorofluorocarbons in foods, drugs, devices and cosmetics or establishing an earlier date for the phaseout of the use of chlorofluorocarbons in these products within a State than the dates proposed by the Commissioner. State laws or regulations prohibiting use of chlorofluorocarbons are not in conflict with FDA's general objective of phasing out nonessential uses of chlorofluorocarbons, and these provisions do not pose the same risk of consumer confusion and disruption that may be presented by diverse label warning requirements. States may, however, find it unnecessary to take separate action to prohibit use of chlorofluorocarbons because of the action being taken by FDA.

The Food and Drug Administration agrees that uniformity among Federal labeling requirements is also desirable. As already discussed, however, FDA believes that a warning requirement is necessary rather than a descriptive statement of contents like the one EPA has established for pesticides. Federal labeling requirements apply to different products, and variations among Federal requirements do not increase the burdens on any individual manufacturer. Thus, there is not as great a need for uniformity among Federal requirements as there is between Federal and State requirements. Furthermore, since FDA regulates most of the uses of chlorofluorocarbons in self-pressurized containers, the establishment of a similar approach by FDA and the Safety Commission for the warning requirement may be sufficient to reduce the possibility of diverse State warning requirements with respect to chlorofluorocarbons.

30. Some comments asked that the proposed warning be required even on self-pressurized containers used for essential products containing chlorofluorocarbons. They thought the presence of the warning would give the manufacturer a continuing incentive to find alternatives to the use of chlorofluorocarbons.

The warning has not been required for products in which the presence of the warning might discourage consumers from using products that are essential. The Commissioner agrees that alternatives to the use of chlorofluorocarbons should be sought even for uses that are essential. Whenever alternatives become technically feasible, FDA will reconsider the regulations in effect governing the use of chlorofluorocarbons and all exemptions for essential uses. Furthermore, interested persons may request reconsideration of the exemptions at any time if they become aware of technically feasible alternatives.

31. Some comments suggested that the warning should indicate other risks posed by use of self-pressurized containers, including the risk of death from intentional misuse. One comment suggested that aerosols bear crossbones on the labeling to alert consumers to a risk of death from "irreversible heart action" after breathing fluorocarbons. The comment attributed several deaths of young people to this cause.

The risk of breathing fluorocarbons referred to in the comments appears to be the risk from intentional misuse of self-pressurized containers with hydrocarbon and halocarbon propellants. The FDA has already taken action with respect to this hazard and has required containers with these propellants to bear a warning about the risk of death from intentional misuse, e.g., 21 CFR 740.11.

32. Two comments urged that the warning advise use in a well-ventilated room and caution against use of self-pressurized containers containing chlorofluorocarbons by persons with chronic lung or heart disease. Another comment urged a ban because inhalation of chlorofluorocarbons may cause direct adverse physiological reactions for asthmatics and people who become sensitized.

The comments were directed at issues that are distinct from the concerns that prompted the proposed warning; therefore, those persons commenting should file a citizen's petition to propose a new rule to cover the hazards addressed in the comments, and the petition should include any data or studies they rely on to show that chlorofluorocarbons pose the risks described. The Commissioner points out that he discussed in detail in the document published in the FEDERAL REGISTER of March 3, 1975 (40 FR 8912) the evidence of various risks from aerosols to the immediate users. He gave his basis for concluding that the need for certain other warnings about cardiac toxicity and adverse effects on the pulmonary system had not been sufficiently demonstrated at that time.

33. Three comments argued that no warning should be required with respect to the risks from chlorofluorocarbons because it would dilute the effectiveness of other warnings that are required on products to alert consumers to more imminent hazards.

The Commissioner rejects the comments. The consumer should be alerted

to all the serious hazards posed by a product. While the impact of warnings might be reduced if numerous statements were included, the Commissioner concludes that the warnings on self-pressurized containers are not so numerous as to make the dilution effect an overriding concern at this time.

34. A number of the comments urging a phaseout came from school children. Some expressed concern that the adverse consequences of present uses would occur in the future and would affect them and future generations more than it would affect the adults who use the products now.

The Commissioner recognizes the fact that the ill effects of chlorofluorocarbons may fall more on future generations than on the present generation of users. This confirms the need to proceed with a mandatory phaseout rather than rely completely on voluntary self-restraint coupled with a warning.

HAZARDS FROM ALTERNATIVES

35. In one comment a beautician reported that in her personal experience as a beautician, alternative propellants and product delivery systems used for cosmetics in lieu of chlorofluorocarbons caused eye irritations and other adverse effects. The comment urged FDA to check on the safety of the alternatives and to consider whether the alternative products posed worse hazards than chlorofluorocarbons. The comment asked whether companies have a responsibility to test cosmetics for safety before marketing them. Several other comments expressed concern about the flammability of alternative hydrocarbon propellants.

The Commissioner recognizes that it is possible that alternative products may also pose hazards of various types. The present action relates only to the adverse effects of chlorofluorocarbons upon stratospheric ozone, and the potential physiologic hazards from other products are not within the scope of this regulation. It is the Commissioner's position that manufacturers should substantiate the safety of all their products before marketing, and under 21 CFR 740.10, cosmetic manufacturers are required to warn consumers if they have failed to perform testing to substantiate the safety of products. Furthermore, products must bear warnings necessary or appropriate to prevent a health hazard that may be associated with the product (21 CFR 740.1). If the adverse reactions associated with a product are unreasonable, in number or severity, FDA will take regulatory action. Citizens may petition FDA to take regulatory action with respect to any risk posed by regulated products. It would not be appropriate, however, to leave an unsafe product on the market, because the possible risks of alternatives were not yet fully known and might also be unacceptable. Instead, no unsafe products should be marketed. The Food and Drug Administration endeavors to ensure the safety of all cosmetics and products it regulates; FDA resources are limited, however, and in some instances, including with respect to cosmetics, FDA's statutory authority needs strengthening. Within these constraints, FDA will continue to act to ensure the safety of all the products subject to the FFDCA.

PLACEMENT AND SMALL CONTAINERS

36. Many comments urged the Commissioner to ensure that the warning was prominent by requiring it to appear on the front of the package, rather than on the back, and in type size at least ¼ inch in height. One comment pointed out that no minimum type size requirement exists for warnings on animal drugs.

The Commissioner agrees that the warning should be prominent, but he believes that the proposed requirement is adequate to ensure this result. The warning must be conspicuous at the time of purchase, and ordinarily this requirement could not be satisfied by putting the warning only on the back. The warning need not necessarily appear on the front of the package. For example, it may appear on the top of the cap, on a hang tag, or another place conspicuous at the time of purchase. A minimum 1/16-inch type size is required under the general regulations applicable to certain required labeling on foods and cosmetics, and warnings on OTC drugs in self-pressurized containers (21 CFR 101.15(d) (formerly 21 CFR 1.9(d), prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)), 369.21, and 740.10). If this warning were required to be in a larger minimum type size, it would distract attention from other equally important warnings and information. The minimum type size requirements were fixed with regard to the small size of some containers and the various types of labeling information that is required to appear on packages.

In considering these comments, the Commissioner carefully reviewed the size and placement requirements in the proposal, and noted that, in the case of medical devices and animal drugs, no general minimum type size requirements now exist. Accordingly, he has amended the proposed regulation to make these products subject to the same minimum 1/16-inch type size requirement applicable to other products to which the regulation applies.

37. Two comments requested an exemption for "miniature" self-pressurized containers with 1 ounce or less of contents because of the length of the warning and the difficulties in fitting the warning into the space available on small containers.

The Commissioner anticipated the label space constraints inherent in small packages of self-pressurized containers and specified in the proposed rules that "the warning may appear on a firmly affixed tag, tape, cord, or sticker or similar overlabeling attached to the package." Although these alternatives involve additional expense, it is clear that they are practical means of labeling small self-pressurized containers.

38. A comment urged the Commissioner to require the proposed warning on both the immediate container and the labeling visible at the time of purchase.

The Commissioner adequately discussed in the preamble to the proposed rule his reasons for believing that a warning at the time of purchase would be sufficient. The comment provided no new information to alter the Commissioner's analysis.

GENERAL EXCEPTIONS FROM WARNINGS

39. Some comments expressed support for the Commissioner's decision not to make the warning applicable to prescription drugs and urged a similar exemption from the phaseout regulation.

The Commissioner accepts the comments with respect to the warning, but he is proposing to make the phaseout applicable to prescription drugs unless the use of chlorofluorocarbons in them is essential, as discussed further in the phaseout proposal.

40. One comment suggested that an exemption should be provided for medical uses, irrespective of their essentiality, because as a group the total amount of chlorofluorocarbons used for this purpose was small and would not pose a substantial risk. Other comments suggested that small packages of aerosol products, e.g., those having less than 1 ounce capacity, be exempted from the proposed warning statement requirement and the proposal to phase out nonessential uses of chlorofluorocarbons because the amount of chlorofluorocarbons released in the atmosphere by small aerosol packages amounts to only a fraction of 1 percent of the total amount of chlorofluorocarbons released.

The comments are not accepted. Various minor uses of chlorofluorocarbons may appear to present a minimal risk when considered individually but when cumulated the total becomes significant. Moreover, it would be inequitable to exempt a few uses on this basis apart from the essentiality of the use. The whole class of nonessential uses should be treated the same.

ESSENTIAL USES: GENERAL COMMENTS

41. A number of comments were addressed to the criteria for determining which products are essential and should not be phased out or required to bear a warning. It was suggested that the rule relating to the warning requirement contain a procedure for petitioning to have products exempted from the warning, and that the obligation to include a warning in labeling be stayed at least for OTC drug uses while such petitions were pending.

The final rule establishing the warning requirement indicates the products which are exempt as essential products. No special procedure has been included for obtaining additional exemptions from the warning requirement. The Commissioner has considered all the requests for exemptions received in response to the proposal and has discussed below his disposition of them. Persons who believe additional exemptions are warranted may file a citizen's petition under 21 CFR 10.30 (formerly 21 CFR 2.7, prior to recodification published in

the FEDERAL REGISTER of March 22, 1977 (42 FR 15553)), to amend the regulation. A stay of the regulations will not be granted absent an extraordinary showing that it is warranted. If a stay were routinely granted with the filing of a petition, numerous unwarranted requests might be made merely to obtain the benefit of the stay.

The phaseout proposal indicates that a product will be considered essential only if there is no technically feasible alternative to the use of the chlorofluorocarbon in the product, the product provides a substantial health benefit, environmental benefit, or other public benefit that would not otherwise be obtainable, and the use does not involve a significant release of chlorofluorocarbons into the atmosphere or the release is justified by the benefit. The same criteria guided essentiality determinations with respect to the warning. A procedure for requesting determinations that a product is essential has been included in the phaseout proposal. It is appropriate to include such a procedure in the phaseout regulation, even though it is not in the warning regulation, because of the indefinite long-term effect of the prohibition and the possibility that new products providing life-saving or other essential benefits may be developed. The criteria for essentiality are similar for both the phaseout and the warning. The Commissioner notes, though, that there is less reason to regard products as exempt from the warning, since the warning does not prevent marketing or use of products.

42. One comment criticized the Commissioner's criteria for essentiality, insofar as they applied to the warning and the phaseout, since they did not recognize that a product may be essential because it "confers unique benefits because of its aerosol form." In addition, several comments criticized the Commissioner's determination that most products in self-pressurized containers are nonessential, and mentioned the consumer preference for self-pressurized containers, exactness of dose, and longevity of storage as factors showing essentiality.

The Commissioner believes the essentiality criteria provide for an appropriate recognition of all factors that may make a product essential. A self-pressurized container could be considered essential if the form conveys a substantial benefit not obtainable from alternate means of delivery. The Commissioner still finds that almost all uses of chlorofluorocarbons as propellants in FDA-regulated products are not essential, but serve principally as conveniences. Counterparts to self-pressurized containers exist that perform essentially the same function. The application of the essentiality criteria to specified products raised in the comments is discussed below.

43. Several comments requested that all OTC drug manufacturers using chlorofluorocarbon propellants in their drug products be permitted to continue marketing such products without the necessity of a warning statement until the chlorofluorocarbon ban becomes effective. It was asserted that all OTC drugs in self-pressurized containers confer a benefit which far outweighs the relative risk of environmental harm, especially since the use of chlorofluorocarbons in OTC drug products constitutes such a small percentage of chlorofluorocarbon propellant use. In addition, these comments emphasized the essential part that OTC drugs play in our health-care system. Alternatively, the same comments suggested that all OTC "medicines" containing chlorofluorocarbons that confer a health benefit or that provide more than consumer convenience be exempt from the warning statement. Another comment supported an exemption for medical products in which the dose delivered is significant.

As stated in the preamble to the proposed warning statement, the warning is being proposed for virtually all uses of chlorofluorocarbons in self-pressurized containers because most uses are, in the Commissioner's judgment, not essential. Therefore, the Commissioner cannot accept the suggestion to exclude all OTC drugs from the warning statement because it is obvious that not all chlorofluorocarbon uses in OTC drugs are essential. Antiperspirants, for example, are OTC drugs because of their effect on the structure and function of the body, and a self-pressurized package is not essential for these products. In fact, even the comments acknowledge in their alternative suggestion that the use of a self-pressurized container for some OTC drugs provides merely a convenience and not a health benefit.

The fact that the use of chlorofluorocarbon propellants in OTC "medicines" is estimated by the comments to be small—about 3 percent—of the total amount of chlorofluorocarbon propellants used in FDA-regulated products is not the only criterion to be used in determining whether or not the warning statement should appear on OTC drugs. In addition to the amount of chlorofluorocarbons used, the issues of feasible alternatives to the use of chlorofluorocarbons and the benefit, if any, derived from the use of the chlorofluorocarbons must be considered. If the dose delivered is significant, and other systems cannot provide an equivalent control of the dose, this would be an important factor in establishing that a specific product is essential. If suitable alternatives exist, however, or if there is no significant benefit derived from the use of the chlorofluorocarbon, the warning statement is appropriate despite the fact that the amount of chlorofluorocarbon used in the product is quite small.

Likewise, the inclusion of the warning statement on certain OTC drugs does not imply that these OTC drugs are not an essential part of our health system. It merely means that the use of chlorofluorocarbons in the product containing the warning is nonessential, i.e., that other suitable means of product delivery exist and the products themselves, in a self-pressurized container, serve only as a convenience, providing no special benefits that outweigh the risks posed.

Furthermore, the distinction between OTC drug products that are "medicines" and those that are not, is a distinction suggested by the comments, whose meaning is uncertain. The amount of chlorofluorocarbons in the "medicines" category depends upon the meaning to be given to the term. If a product were to be considered a "medicine," and therefore exempt from the warning and phaseout merely because it made a therapeutic claim, it could lead to a proliferation of questionable claims.

The Commissioner concludes that an OTC drug product should be exempt from the warning statement only if it is determined by FDA that the use of a chlorofluorocarbon propellant in the specific product is essential.

Each comment received requesting an exemption for a specific OTC drug product or class of OTC drug products from the warning statement or the phaseout has been considered and discussed below in determining what OTC drug products should be exempt from the warning statement. The Commissioner has also discussed below comments on the notice of intent that bore on the essentiality of prescription drugs, even though prescription drugs are not subject to the warning, if the essentiality issue for the prescription drug was similar to that for an OTC drug.

ESSENTIAL USES: SPECIFIC PRODUCTS

44. In addition to several comments requesting that all OTC drug products be exempted from the warning statement, many other comments requested that one or more specific OTC drug products, or classes of OTC drug products, be exempted from the warning statement. Many of these same comments also requested that a specific product or class of products, be exempted from the phaseout regulations. Some of the types of drug products covered by these comments include: topical analgesics, sunburn remedies, topical antimicrobial agents, insect bite products, topical antifungal agents, surgical spray dressings, and topical anti-inflammatory agents. The comments argued that the benefits of the products for human health far outweigh the problem of ozone depletion. Many of the comments stressed the unavailability of suitable replacements for the chlorofluorocarbon propellants, the small amount of these propellants used in drug products, and the efficient, nontraumatizing mode of application afforded by aerosols. Some of the comments also pointed out that the possibility of secondary infections, present when an ointment or lotion had to be applied with the fingers, would be greatly reduced.

With respect to many of the products identified in the comments, the Commissioner believes that having the drug in a self-pressurized container is a convenience to the user. For example, it is recognized that using a self-pressurized container is not as messy as applying an ointment or cream. The fact that the drug is available in other delivery forms

indicates, however, that the aerosol dosage form is not necessary for the drug to achieve its desired effect. Even the aerosol drug products used to treat skin infections are available in other dosage forms. Thus, it would appear that manufacturers have not considered the possibility of secondary skin infections to be of such a concern to preclude their marketing of these other dosage forms.

The active ingredients of many of the drug products for which an exemption was requested are currently being sold in other forms, such as ointment, lotions, creams, and powders. Thus, it appears that other forms of product delivery exist. Further, it would seem that for some of these products where the actual amount of active ingredient delivered is not critical, an alternative propellant or a mechanical pump could be used in place of the chlorofluorocarbon. Accordingly, the Commissioner concludes that the essentiality of their use has not been established.

45. Several comments requested that drugs in self-pressurized containers intended for inhalation in the treatment of bronchial asthma be declared essential and thus exempt from both the warning requirement and the proposed phaseout regulations. The products mentioned in the comments were either steroid-containing products or OTC and prescription adrenergic bronchodilator drug products. One comment requested that "all metered-dose medicinal aerosols for inhalation therapy" be exempted from the phaseout regulations. Another comment requested that metered-dose steroid aerosol products intended for application to the nasal mucosa be exempted. One comment urged that the exemption in the proposed rule for drugs intended for "bronchial asthma attacks" be broadened to include a prophylactic inhalant used to prevent asthmatic attacks.

Justifications included in these comments for the continued use of chlorofluorocarbons in products for inhalation centered around several different facts. The first fact was that, unlike other commercially available propellants, the chlorofluorocarbons maintain a constant internal canister pressure throughout the shelf life of the product. As a result, a self-pressurized container containing a chlorofluorocarbon can deliver a potent therapeutic drug in precisely metered doses, with the last dose containing the same quantity of drug as the first dose. Further, these drugs, because of their cholorofluorocarbon propellant, provide a uniform distribution of the therapeutic agent in small particle size to hard-to-reach mucous membranes. Application of these therapeutic agents in this manner achieves the therapeutic objective with lower doses of medication than do systemic doses. Another factor cited in support of these products is that other forms of the product do not produce the same clinical effect.

The Commissioner recognizes the importance of chlorofluorocarbons in providing effective metered doses for use in inhalation therapy of certain diseases and, in general, accepts these comments. He does not, however, believe that an exemption should be worded as broadly as "all metered-dose medicinal aerosols for inhalation therapy." Such a broad exemption would cover products even if another suitable form of product delivery exists for the treatment of the particular disease for which the drug is recommended. The Commissioner believes, therefore, that the proposed exemptions should not be in broad terms but should assure that only essential uses of self-pressurized containers with chlorofluorocarbon propellants are exempted.

Based on the comments received, the Commissioner is proposing that the following metered-dose drug products for inhalation be considered essential: (1) Metered-dose steroid products for nasal inhalation, (2) metered-dose steroid products for oral inhalation for treatment of bronchial asthma, and (3) metered-dose adrenergic bronchodilators for oral inhalation for treatment of bronchial asthma. The first two types of metered-dose aerosols are all prescription drugs. Some products in the third category are OTC products, while others are prescription products, depending upon the active ingredient. The Commissioner is exempting all these products from the proposed phaseout. The warning requirement does not apply to prescription drugs. As proposed, the warning requirement exempted OTC drugs intended for direct inhalation for treatment of bronchial asthma attacks. However, to be more specific, the Commissioner now believes that this class of products should be identified as metered-dose adrenergic bronchodilators for inhalation. The regulation has been revised accordingly.

The prophylactic inhalant to prevent asthma attacks referred to in one of the comments is a prescription drug which would not be subject to the warning requirement. The Commissioner agrees the use is essential and it is covered by an exemption in the proposed phaseout regulation for metered-dose steroid drugs for inhalation.

46. One comment requested that the proposed warning statement exemption for OTC drugs be broadened to include "metered-dose aerosols for medicinal therapy." The comment neither identified any specific product covered by such a phrase nor did it indicate if such products were OTC or prescription products. The comment did, however, refer to the successful use of a metered-dose aerosol drug product containing a decongestant as a substitute for a plastic squeeze bottle. By using the metered-dose aerosol product, the comment indicated that the possibility of contaminating the contents of the squeeze bottle through mucous and associated bacteria being drawn back into the container would be eliminated.

The Commissioner recognizes the essentiality of metered-dose aerosols for delivering certain drugs. As stated above, OTC metered-dose adrenergic bronchodilators for inhalation have been exempted from the warning statement. The Commissioner concludes, however, that not every OTC drug in a metered-dose aerosol would necessarily constitute an essential use of chlorofluorocarbons. Some of these products could be in a metered-dose aerosol form merely for convenience purposes. Therefore, the comment as submitted is not accepted. It is noted, however, that, in addition to being used for OTC drug products, metered-dose aerosols are also used for prescription drugs, and as already discussed, several types are considered to be essential and are exempt from the proposed phaseout.

With respect to the alleged advantage of a self-pressurized container over a squeeze bottle for nasal application, the Commissioner is not aware of any contamination problems associated with squeeze bottles, possibly because most of the nasal sprays in squeeze bottles contain a bacterial preservative. However, if such contamination of nasal sprays in squeeze bottles is presently a problem, comments should be submitted on this issue on the proposed rule to phaseout chlorofluorocarbon propellant uses. Therefore, the comment as submitted is not accepted.

47. Three comments requested that OTC contraceptive vaginal foams be exempt from the phaseout regulations and/or from the warning statement. These comments indicated that the chlorofluorocarbon propellants are currently the only available propellants that achieve foams of proper consistency and stability. It was stated that the foam drug products are dependent upon two characteristics to achieve their contraceptive effect: one the active spermicidal agent, and the other the physical barrier provided to the cervical os due to the consistency of the foam. In addition, it was emphasized that contraceptive foam products are an essential form of birth control for a segment of the population, and the use results in very little release of chlorofluorocarbons to the atmosphere since these products contain 10 percent or less of chlorofluorocarbons.

The Commissioner agrees that contraceptive vaginal foams should be exempted from the proposed phaseout regulations. While other contraceptive methods exist, the contraceptive vaginal foams provide a method, available over the counter, that is found acceptable by a small select population of females. No satisfactory substitute propellant has been found to date according to the submissions, and there is the risk of reduced effectiveness or safety of the product through use of the wrong propellant. In the absence of another suitable delivery system for applying these spermicidal agents, the Commissioner concludes that in view of the benefit of the contraceptive vaginal foams that would not be obtainable without the chlorofluorocarbons and the small amount of propellant used, these products should be exempt from the proposed phaseout regulations and from the warning statement required on nonessential uses of chlorofluorocarbons.

48. Two comments urged the Commissioner to determine that cytology fixa-

tives, medical adhesive sprays and removers, pre-tape sprays and surgical lubricants are essential and that their health benefits far outweigh the ozone depletion risks. One comment indicated that the only available alternative propellants that would function properly in the cytology fixative and other sprays were flammable and introduce a usage hazard in hospital, clinic, and laboratory environments.

The cytology fixative spray results in a superior tissue preparation, especially in the preparation of Pap smears. The Commissioner concludes that this use should be regarded as essential, and it has been exempted from the warning and the proposed phaseout. The comments did not provide sufficient information however, to establish that any of the other devices discussed in these comments are essential. The use of a self-pressurized container to apply medical adhesives, lubricants, and other substances appears to be a convenience and alternative means of application are possible, e.g., liquid adhesives for topical application. Accordingly, these uses of chlorofluorocarbon propellants will be subject to the warning requirements, and are proposed to be phased out, but the Commissioner will consider further information submitted in response to the phaseout proposal that relates to whether these uses are essential.

49. One comment declared that certain personal hygiene aerosol products, including foot powder spray and foot and shoe cooling sprays, are "important in terms of personal comfort, antiperspirant and deodorizing activity for feet." Continuing to market these products was reported as essential to the company's economic well being.

The Commissioner does not disagree with the contention that the personal hygiene products named may be important to some persons for comfort, but alternate delivery systems are available for these products, e.g., powders. No alternatives may exist that provide the equivalent coolant effect, but this effect is a temporary convenience, and interrelated with the propellant use.

50. One comment inquired about the applicability of the warning requirement to prescription animal drugs, and another comment urged that prescription drugs considered essential for human use be deemed essential as animal drugs as well.

The Commissioner intends to make the regulation applicable to all animal drugs. Essentiality requires an examination of alternatives and the benefits of use of products and these factors may vary with the circumstances. No specific information was submitted to show that any particular animal drugs in self-pressurized containers with chlorofluorocarbon propellants were essential, and accordingly, no exceptions have been made for animal drugs. Any person who believes a use is essential should submit comments in response to the proposed phaseout showing why the particular use is believed to be essential under the criteria stated in the proposal.

TIMING OF REGULATORY ACTION; EFFECTIVE DATE

51. Several comments specifically supported the Commissioner's decision to initiate regulatory action at this time without waiting for up to 2 years, as recommended by the NAS Committee, for additional research. As already discussed, other comments urged a delay to await further research. Still other comments expressed a strong preference for immediate regulatory action, with several comments expressly endorsing an immediate ban on use of chlorofluorocarbons. Some comments, favoring an immediate ban, disagreed with the proposal to require a warning on the grounds that a warning would be futile and/or delay a ban.

The Commissioner disagrees with the comments to the extent they urged immediate action without observance of the usual notice-and-comment procedures for issuing rules. Observance of these procedures is consistent with the IMOS Task Force recommendation that agencies initiate regulatory action at present so that thorough and thoughtful action could be given to the action. Furthermore, an immediate ban would not have permitted preparation of a draft environmental impact statement for the phaseout, and coordination of the ban with other Federal agencies. The Commissioner also believes that a reasonable period for a phaseout should be permitted; accordingly, he has not proposed an immediate ban. In the Commissioner's judgment, the warning will be helpful in reducing uses on an interim basis, and it will become effective shortly.

52. A few comments urged that regulatory action be delayed until alternative hydrochlorofluorocarbon propellants are available, or it is definitely known that they are unsafe and would not be marketed in the future for personal care products. They viewed hydrocarbon propellants as undesirable in terms of product performance, consumer preference and the increased risks of flammability. Rather than have aerosol fillers cease to make aerosol products or switch to hydrocarbons, only to switch again at extra cost to hydrochlorofluorocarbons if they became available, FDA was urged to wait "a little more time" for the completion of toxicological testing on hydrochlorofluorocarbon propellants that could be used as substitutes for chlorofluorocarbon propellants. A comment stated without explanation that more information on the toxicity of hydrochlorofluorocarbons would be available within 90 days.

DuPont, a leading producer of hydrochlorofluorocarbons, has reported (Ref. 40) that adverse toxicological findings were found for certain hydrochlorofluorocarbons in initial screening tests for mutagenicity and/or teratogenicity. As a result, long-term inhalation studies were planned and "in all likelihood" the company will not offer certain hydrochlorofluorocarbons for use in personal products until "approximately January 1, 1980." Information was also submitted to show that hydrochlorofluorocarbons do not pose a significant risk of causing ozone depletion or other adverse environmental effects.

A delay to await the availability of alternative hydrochlorofluorocarbon propellants is likely to involve a considerable delay well into 1980, with no assurance that the alternatives would be found to be safe and available. Alternative product delivery systems, such as pumps and nonspray products, already exist for most products in self-pressurized containers using chlorofluorocarbons. Accordingly, the Commissioner concludes that a delay to await further testing of hydrochlorofluorocarbons that may possibly be used as substitutes is not warranted.

53. One comment from an industry association reported that the use of chlorofluorocarbon propellants in self-pressurized containers is declining and that today two-thirds of all aerosols on the market use other propellants. The comment suggested that this decline in use warranted postponement of all regulatory action.

The Commissioner believes that the decline in the use of chlorofluorocarbon propellants is a welcome development. Other reports indicate that there has been a decline in the use of chlorofluorocarbon propellants (Ref. 41). The Commissioner also recognizes that alternative product delivery means are being extensively promoted and as a result, the use of chlorofluorocarbon propellants may decline further. The switch to alternatives by manufacturers may be in anticipation of the issuance of the final rule requiring the warning and the effect a warning will have on consumer purchases. If the Commissioner indicated he would withhold all regulatory action for a considerable period, the decline may cease. Thus, the present decline is not a justification for postponing all action.

The decline in use of chlorofluorocarbon propellants is, however, a development which is relevant in establishing an effective date for the warning requirement. Under the proposed regulation, the warning would have been required on products initially introduced into interstate commerce 30 days after the final rule was issued. This time span was short, and it was recognized that it would necessitate costly overlabeling, and perhaps some distribution difficulties, but it was believed necessary to require fast implementation of the warning requirements so that consumers could become aware of the risk and, through their purchasing decisions, reduce the use of chlorofluorocarbon propellants. At the time the regulation was proposed, it was not possible to foresee the extent to which industry would promote alternative product delivery means, apparently in anticipation of the potential consumer reaction to the warning.

The Commissioner believes that his basic aim of reducing nonessential uses of chlorofluorocarbon propellants is being achieved even before the final rule requiring a warning becomes effective. Accordingly, it is possible, consistent with the overall aim of reducing use, to extend the time for complying with the warning requirement. By extending the effective date, the warning can be implemented

with a lesser amount of costly overlabeling, and with less potential for disruption in distribution, as discussed further below. The establishment of a final rule requiring a warning with a fixed effective date in the relatively near future, will maintain the incentive manufacturers have to develop and promote alternative delivery systems in anticipation of the consumer reaction to the warning. Thus, despite the extended time to comply with the warning, the warning requirement can still be expected to achieve its basic purpose of reducing use in the interim, pending a phaseout.

54. A number of comments strenuously objected to the Commissioner's proposal to require the warning on all products labeled or initially introduced into interstate commerce on or after 30 days from the issuance of a final rule requiring a warning. The effective date was viewed as especially onerous to the extent it would have required additional labeling on fully labeled products in inventory. Some comments asserted that the effect of the proposed 30-day effective date was to deprive companies of their right to comment since the only way to comply with the requirement, if retained, would be to order complying labels even before a final rule was adopted.

The comments also urged that the warning be required only on new permanent labeling ordered after the effective date, and that no requirement be imposed that would necessitate the use of stickers. Stickers were described as impractical because of poor adhesives and expense.

In support of these views, a trade association submitted a survey of its members of the cost of and time needed for compliance with the requirement for warning labeling. The time to label existing inventory with stickers or other overlabeling was estimated to be between 5 and 31 weeks, with most companies requiring more than 11 weeks. The direct cost was estimated at between 6 and 8 million dollars, and it was reported that many companies would have to suspend shipments for a month or more resulting in lost sales. The time estimates were made in relation to "ideal conditions." If all companies were placing rush orders at the same time, the time would be greater, and might even double. Another comment considered anything less than 6 months to sticker existing inventory to be "impossible."

The direct cost of labeling new production with stickers was estimated to be nearly $3 million. The trade association estimated that between 4 and 15 weeks would be needed for companies to be prepared to apply stickers to new production, with most companies being ready in 11 weeks. It was reported that some companies would have especially severe difficulties in complying because they did not have machines on hand to apply overlabeling.

The survey also included estimates of the time needed to include the warning in a permanent labeling change. The total time for processing a permanent labeling change under ideal conditions from art work through initial shipment of a newly labeled product in interstate commerce was estimated as varying from 6 weeks to over 45 weeks, with two-thirds of the companies needing about 6 months. It was noted that the length of time between production and interstate shipment was long in some instances because some manufacturers produce a year's supply at a time and inventory it for shipment.

The comments urged several different schedules for putting the warning requirement into effect, with most supporting a 30-day effective date for ordering labeling, 6 months for labeling products, and 12 months for initial introduction into interstate commerce. It was noted that an early effective date would have a relatively greater impact on smaller companies.

The Commissioner is persuaded that the 30-day effective date would impose unusual practical difficulties particularly with respect to stocks of fully labeled containers on hand. Accordingly, he has changed the effective date provision to minimize the need to overlabel existing inventory. The warning will be required on all products initially introduced into interstate commerce 6 months after the date of publication of this final rule. Most companies can complete a permanent labeling change within 6 months according to the industry survey.

Use of some stickers or other overlabeling may nonetheless still be necessary for some companies. This will particularly affect products, for which a large supply is produced at a single time, to achieve economies of scale, with shipments being made throughout a later period. The entire existing inventory does not, however, have to be overlabeled before the effective date. The companies need only relabel the amount about to be introduced into interstate commerce. The comments did not indicate how much time was needed to meet current distribution requirements and maintain distribution on a continuing basis. The Commissioner believes 6 months should be reasonably adequate for this purpose.

Setting the effective date earlier than 6 months might increase the impact on products with heavier sales in the Christmas season which are ordinarily shipped into interstate commerce several weeks in advance. An earlier date would, though, necessitate increased use of stickers and other overlabeling on these products as well as on many other products that do not have this type of seasonal pattern.

The Commissioner rejects the suggestion that a 12-month effective date for compliance be established for products initially introduced into interstate commerce. The establishment of an effective date for initial introduction into interstate commerce is important to prevent stockpiling of noncomplying products by manufacturers for delayed shipment. While a 1-year effective date would virtually eliminate the need for any overlabeling, it would delay inordinately the appearance of the warning on all newly shipped products. This could reduce the incentive manufacturers presently have to develop alternative products. If the effective date were set at the maximum period the slowest company needed to implement permanent labeling changes, it would delay the warning a considerable time and long past the time most producers would need to include the warning in labeling. Accordingly, the effective date has been set at 6 months since by this date many companies can include the warning in permanent labeling, with no need to overlabel, and those companies who cannot complete a permanent change within 6 months should be able to overlabel their remaining inventory without inordinate difficulty.

The Safety Commission staff has also attempted to minimize the need for overlabeling in developing its recommendations for an effective date for the warning labeling that the Safety Commission proposes to require (Ref. 42).

Initial introduction into interstate commerce of a finished product for purposes of this regulation means the first shipment of the product into interstate commerce by the firm marketing the product. There must be both physical movement in interstate commerce, and passage of title to the product. Thus, mere shipment of a product across State lines from a contract filler to the manufacturer of the product would not constitute initial introduction into interstate commerce. All products initially introduced into interstate commerce before the effective date may continue to be distributed and sold even though they do not bear the warning statement. A finished product is a product which has been completely manufactured, packaged, and labeled.

55. One comment criticized the warning proposal because the time schedule for comments did not allow time for comments on a study being done by International Research and Technology Corporation and Policy Models, Inc., (IRT Study) under contract with EPA, on the economic impact of a phaseout of chlorofluorocarbons propellants. The Commissioner also received two requests that additional time be allowed for the submission of comments on the draft Policy Models, Inc., study. The Commissioner extended the time for submission of comments to the docket for the notice of intent on the draft report done for EPA. One of the associations requesting the extension subsequently submitted a late comment to the docket for the proposed warning stating that "we reserve the right" to submit comments to FDA on the final report assessing the economic impact of a phaseout.

The Food and Drug Administration has prepared an inflation impact statement of the phaseout of chlorofluorocarbon propellants being proposed by FDA. The statement was developed, in large part, on the basis of the data reported in the IRT Study. Comments may be submitted on the FDA inflation impact statement to the docket for the proposed phaseout. In developing its phaseout proposal, FDA considered the comments on the draft IRT Study sub-

mitted in response to the grant of an extension of time to comment. The Commissioner notes that the submissions emphasized the economic impact reported in the IRT Study and the many uncertainties facing the aerosol industry about the safety and feasibility of potential substitute propellants. This information essentially duplicates the timely comments submitted on the warning proposal, which have been discussed above in this document.

The Food and Drug Administration prepared an inflation impact assessment for the warning requirement at the time of the proposal, and considered the relevant comments submitted. Furthermore, the phaseout action being proposed by FDA will subsume whatever inflation impact the warning will have in reducing use of chlorofluorocarbon propellants. The agency's inflation impact statement for the proposed phaseout evaluates the impact comprehensively for the overall action being taken. Thus, the Commissioner concludes that with respect to the warning he has adequately fulfilled his obligations under Executive Order No. 11821, OMB Circular A-107 and HEW guidelines to consider the inflation impact of regulatory actions.

MISCELLANEOUS COMMENTS

56. A few comments urged action to prevent advertising of products containing chlorofluorocarbons.

The Commissioner has no jurisdiction over advertising, except for advertising for prescription drugs, products that are not subject to the warning requirement. He points out that when use is prohibited, advertising to promote the products can be expected to cease.

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41. "Chlorofluorocarbon Aerosols: Will There Be Any to Regulate?", Modern Packaging 50:18-19, January 1977; "Hydrocarbon Aerosols Make it on Merits," Chemical Week, 120(4):23, Jan. 26, 1977; "They're Putting Sweat into Package," Chemical Week, 119 29-32, December 8, 1976; "Likely Fluorocarbon Ban Causes Makers of Aerosols to Promote Other Propellants," Wall Street Journal, Dec. 24, 1976; International Research and Technology Corporation and Policy Models, Inc., "The Economic Impact of Potential Regulation of Fluorocarbon Aerosols," 2-1 to 2-21 (1977).

42. Memorandum dated April 6, 1977, from Walter R. Holsky and Arlen J. Slobodow through Joann Langston to Elaine Besson re Section 27(c) Regulation Requiring Labeling of Chlorofluorocarbon Propellants.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(n), 301, 402, 403, 501, 502, 505, 507, 512, 601, 602, 701(a), 52 Stat. 1041–1043 as amended, 1046–1048 as amended, 1049, 1051–1053 as amended, 1054–1055, 57 Stat. 463 as amended, 82 Stat. 343–351 (21 U.S.C. 321(n)), 331, 342, 343, 351, 352, 355, 357, 360b, 361, 362, and 371(a))) and the National Environmental Policy Act of 1969 (sec. 102(2), 83 Stat. 853 (42 U.S.C. 4332)), and under authority delegated to the Commissioner (21 CFR 5.1), Chapter I of Title 21 of the Code of Federal Regulations is amended as follows:

SUBCHAPTER A—GENERAL

PART 101—REGULATIONS FOR THE ENFORCEMENT OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT AND THE FAIR PACKAGING AND LABELING ACT

1. By adding new paragraph (c) to § 101.17 to read as follows:

§ 101.17 Food labeling warning statements.

* * * * *

(c) *Self-pressurized containers with a chlorofluorocarbon propellant.* (1) In addition to the warning required by paragraphs (a) and (b) of this section, the label on each package of a food in a self-pressurized container in which the propellant consists in whole or in part of a fully halogenated chlorofluoroalkane (chlorofluorocarbon) shall bear the following warning:

Warning—Contains a chlorofluorocarbon that may harm the public health and environment by reducing ozone in the upper atmosphere.

(2) The warning required by paragraph (c) (1) of this section shall appear on an appropriate panel with such prominence and conspicuousness as to render it likely to be read and understood by ordinary individuals under normal conditions of purchase. The warning may appear on a firmly affixed tag, tape, card, or sticker or similar overlabeling attached to the package. The warning shall comply in all other respects with § 101.2, e.g., type-size requirements.

(3) The warning required by paragraph (c) (1) of this section is applicable only to self-pressurized containers that use chlorofluorocarbons in whole or in part as a propellant to expel from the container liquid or solid material different from the propellant, but the warning is not applicable to the use of chlorofluorocarbon as a stabilizer in food toppings and spreads.

SUBCHAPTER D—DRUGS FOR HUMAN USE

PART 369—INTERPRETATIVE STATEMENTS RE WARNINGS ON DRUGS AND DEVICES FOR OVER-THE-COUNTER SALE

Subpart B—Warning and Caution Statements for Drugs

2. By adding to § 369.21 the following new paragraphs at the end of the listing for Drugs in Dispensers Pressurized by Gaseous Propellants to read as follows:

§ 369.21 Drugs: warning and caution statements required by regulations.

* * * * *

DRUGS IN DISPENSERS PRESSURIZED BY GASEOUS PROPELLANTS

* * * * *

In addition to the above warnings, the label on each package of a drug in a self-pressurized container in which the propellant consists in whole or in part of a fully halogenated chlorofluoroalkane (chlorofluorocarbon) shall bear the following warning:

Warning—Contains a chlorofluorocarbon that may harm the public health and environment by reducing the ozone in the upper atmosphere.

This required warning for self-pressurized containers that contain a fully halogenated chlorofluorocarbon shall appear on an appropriate panel with such prominence and conspicuousness as to render it likely to be read and understood by ordinary individuals under normal conditions of purchase. The warning may appear on a firmly affixed tag, tape, card, or sticker or similar overlabeling attached to the package.

The warning for self-pressurized containers that contain a fully halogenated chlorofluorocarbon is not required and should not be used for metered-dose adrenergic bronchodilators for oral inhalation and contraceptive vaginal foams.

The warning is required only on self-pressurized containers that use a chlorofluorocarbon in whole or in part as a propellant to expel from the container liquid or solid material different from the propellant.

* * * * *

PART 501—ANIMAL FOOD LABELING

Subpart A—General Provisions

3. By adding to § 501.17 new paragraph (c) to read as follows:

§ 501.17 Animal food labeling warning statements.

* * * * *

(c) *Self-pressurized containers with a chlorofluorocarbon propellant.* (1) In addition to the warning required by paragraphs (a) and (b) of this section, the label on each package of a food in a self-pressurized container in which the propellant consists in whole or in part of a fully halogenated chlorofluoroalkane (chlorfluorocarbon) shall bear the following warning:

Warning—Contains a chlorofluorocarbon that may harm the public health and environment by reducing the ozone in the upper atmosphere.

(2) The warning required by paragraph (c) (1) of this section shall appear on an appropriate panel with such prominence and conspicuousness as to render it likely to be read and understood by ordinary individuals under normal conditions of purchase. The warning may appear on a firmly affixed tag, tape, card, or sticker or similar overlabeling attached to the package. The warning shall comply in all other respects with § 501.2, e.g., type-size requirements.

(3) The warning required by paragraph (c) (1) of this section is applicable only to self-pressurized containers that use a chlorofluorocarbon in whole or in part as a propellant to expel from the container liquid or solid material different from the propellant.

PART 505—INTERPRETIVE STATEMENTS RE: WARNINGS ON ANIMAL DRUGS FOR OVER-THE-COUNTER SALE

Subpart B—Required Warning and Caution Statements

4. By adding to § 505.10 the following new listing for Dispensers Pressurized by Gaseous Propellants for Drugs, to read as follows:

§ 505.10 Animal drug warning and caution statements required by regulations.

* * * * *

DISPENSERS PRESSURIZED BY GASEOUS PROPELLANTS FOR DRUGS

The label on each package of a drug in a self-pressurized container in which the propellant consists in whole or in part of a fully halogenated chlorofluoroalkane (chlorofluorocarbon) shall bear the following warning:

Warning—Contains a chlorofluorocarbon that may harm the public health and environment by reducing ozone in the upper atmosphere.

This required warning for self-pressurized containers that contain a fully halogenated chlorofluorocarbon shall appear on an appropriate panel with such prominence and conspicuousness as to render it likely to be read and understood by ordinary individuals under normal conditions of purchase. The warning may appear on a firmly affixed tag, tape, card, or sticker or similar overlabeling attached to the package. The warning shall appear prominently and conspicuously as compared to other words, statements, designs, or devices and in bold type on contrasting background, but in no case may the letters be less than 1/16 inch in height.

The warning is required only on a self-pressurized container that uses a chlorofluorocarbon in whole or in part as a propellant to expel from the container liquid or solid material different from the propellant.

* * * * *

SUBCHAPTER G—COSMETICS

PART 740—COSMETIC PRODUCT WARNING STATEMENTS

Subpart B—Warning Statements

5. By adding to § 740.11 new paragraph (c) to read as follows:

§ 740.11 Cosmetics in self-pressurized containers.

* * * * *

(c) (1) In addition to the warnings required by paragraphs (a) (1) and (b) (1) of this section, the label on each package of a cosmetic in a self-pressurized

container in which the propellant consists in whole or in part of a fully halogenated chlorofluoroalkane (chlorofluorocarbon) shall bear the following warning:

Warning—Contains a chlorofluorocarbon that may harm the public health and environment by reducing ozone in the upper atmosphere.

(2) The warning required by paragraph (c)(1) of this section shall appear on an appropriate panel with such prominence and conspicuousness as to render it likely to be read and understood by ordinary individuals under normal conditions of purchase. The warning may appear on a firmly affixed tag, tape, card, or sticker or similar overlabeling attached to the package. The warning shall comply in all other respects with § 740.2, e.g., type-size requirements.

(3) The warning required by paragraph (c)(1) of this section is applicable only to self-pressurized containers that use a chlorofluorocarbon in whole or in part as a propellant to expel from the container liquid or solid material different from the propellant.

SUBCHAPTER H—MEDICAL DEVICES

PART 801—LABELING

Subpart H—Special Requirements for Specific Devices

5. By adding to Part 801 new § 801.425 to read as follows:

§ 801.425 Nonrestricted devices in self-pressurized containers with chlorofluorocarbon propellants.

(a) The label on each package of a nonrestricted device in a self-pressurized container in which the propellant consists in whole or in part of a fully halogenated chlorofluoroalkane (chlorofluorocarbon) shall bear the following warning:

Warning—Contains a chlorofluorocarbon that may harm the public health and environment by reducing ozone in the upper atmosphere.

(b) The warning required by paragraph (a) of this section shall appear on an appropriate panel with such prominence and conspicuousness as to render it likely to be read and understood by ordinary individuals under normal conditions of purchase. The warning may appear on a firmly affixed tag, tape, card, sticker or similar overlabeling attached to the package. The warning shall appear prominently and conspicuously as compared to other words, statements, designs, or devices and in bold type on contrasting background, but in no case may the letter be less than 1/16 inch in height.

(c) The warning in paragraph (a) of this section is not required and should not be used for products intended for metered-dose adrenergic bronchodilators for oral inhalation, and for cytology fixative uses.

(d) The warning required by paragraph (a) of this section is applicable only to self-pressurized containers that use a chlorofluorocarbon in whole or in part as a propellant to expel from the container liquid or solid material different from the propellant.

Effective date: These regulations shall be effective October 31, 1977 for finished products initially introduced into interstate commerce on or after that date.

(Secs. 201(n), 301, 402, 403, 501, 502, 505, 507, 512, 601, 602, 701(a), 52 Stat. 1041–1043 as amended, 1046–1048 as amended, 1049, 1051–1053 as amended, 1054–1055, 57 Stat. 463 as amended, 82 Stat. 343–351 (21 U.S.C. 321(n), 331, 342, 343, 351, 352, 355, 357, 360b, 361, 362, and 371(a)); sec. 101(2), 83 Stat. 853 (42 U.S.C. 4332).)

Dated: April 25, 1977.

SHERWIN GARDNER,
Acting Commissioner of Food and Drugs.

[FR Doc.77-12210 Filed 4-26-77;8:45 am]

federal register

FRIDAY, APRIL 29, 1977

PART V

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

■

COASTAL ZONE MANAGEMENT PROGRAM DEVELOPMENT GRANTS

Title 15—Commerce and Foreign Trade

CHAPTER IX—NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

PART 920—COASTAL ZONE MANAGEMENT PROGRAM DEVELOPMENT GRANTS

Revised Regulations

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Final Rule.

SUMMARY: These final regulations amend existing program development grant regulations to define procedures by which Coastal States can meet the new planning requirements and the requirements for preliminary approval contained in the 1976 amendments to the Coastal Zone Management Act of 1972.

EFFECTIVE DATE: May 30, 1977.

FOR FURTHER INFORMATION CONTACT:

Carol Sondheimer, Chief Program Planning, State Programs Division, Office of Coastal Zone Management, 202-634-1672.

SUPPLEMENTARY INFORMATION: Pub. L. 94-370, signed on July 26, 1976, amended the Coastal Zone Management Act of 1972, as amended. (16 U.S.C. 1451, et seq.), hereinafter referred to as the "Act." As a result of amendments made to section 305 of the Act it is necessary to issue these regulations on the new subsections 305(b) (7), (8) and (9) and new subsection 305(d), to insure that coastal States understand the new requirements for development and subsequent approval of coastal management programs.

On December 6, 1976, the National Oceanic and Atmospheric Administration (NOAA) published proposed amendments (41 FR 53418) to existing Part 920 regulations which cover requirements for the development of coastal zone management programs, pursuant to section 305 of the Act. The proposed amendments contained guidance to coastal States as to the requirements for meeting a new planning element on shorefront access and protection (subsection 305(b) (7) of the Act), a new planning element on energy facility (subsection 305(b) (8)), and a new planning element on shoreline erosion (subsection 305(b) (9)). The proposed regulations also detailed the requirements for preliminary approval (subsection 305(d)).

Written comments were requested by February 7, 1977. As of that date, substantive comments had been received from twenty-seven reviewers. Twelve reviewers addressed the shorefront access planning requirement. Twenty-one commented on the energy facility planning process, nine on the shoreline erosion planning element, and eleven on the preliminary approval process. These comments have been considered in preparing these final regulations. Major comments and NOAA responses are discussed below.

DISCUSSION OF MAJOR COMMENTS AND NOAA RESPONSE

SHOREFRONT ACCESS PLANNING

(a) *Definition of "Beach":* Two commentators felt the term "beach" was not defined sufficiently. One of these commentators felt that the term should be expanded to include dunes. The other felt the regulations should define "beach." Conversely, one commentator felt that defining "beach" in terms of physical and public characteristics was too complex and that the regulations emphasized unnecessarily the process of defining the term.

NOAA Response: NOAA feels that a definition of beach should not be part of these regulations as the physical characteristics of a beach vary widely among different geographic regions. The danger of providing a definition is in overlooking certain types of areas, or of limiting a State's ability to take a more comprehensive or creative approach than that provided for in the regulations. NOAA has revised § 920.17(b) (6) to permit States to define beach in terms of either physical or public characteristics. NOAA has added the word "dunes" to § 920.17 (b) (6) as a physical characteristic to be considered in defining beaches. It is not the intent of these regulations to emphasize the process of defining the term "beach" at the expense of developing a process for identifying and responding to shorefront access and protection needs. Accordingly, the discussion of defining the term "beach" has been de-emphasized by shifting that discussion to § 920.17(b) (6), instead of retaining that discussions as § 920.17(b) (1) as it appeared in the proposed regulations.

(b) *Definition of "Public":* Three reviewers had comments addressed to what should be considered "public" beach and other "public" shorefront areas. One commentator felt that NOAA regulations should mandate the definition of "public." Another commentator did not support the concept of "public" being considered in terms of other than public ownership, particularly as no examples were provided of what was meant by "other demonstrated public interest." Conversely, a third commentator recommended that States use a definition of "public" as comprehensive as existing State law allows.

NOAA Response: NOAA does not feel it appropriate to define, and thereby possibly to limit, the term "public," given variations among State laws. NOAA accepts the recommendation that States use as comprehensive a definition of "public" as existing State laws allow. This has been incorporated into § 920.17 (b) (6) as a minimum requirement.

NOAA believes that ownership is not the sole determinant of a beach or shorefront area being "public." Examples of "other demonstrated public interest" include, but are not limited to, easements, leases, licenses or traditional and habitual usage. These examples have been added to § 920.17(b) (6).

(c) *Definition of "other public coastal areas":* One commentator asked whether the planning process for other public coastal areas could be applied to areas inland from the shoreline but within the coastal zone. Another commentator requested discussion of what constitutes other public coastal areas and recommended inclusion of barrier islands, wetlands, bluffs, wildlife refuges and urban waterfronts.

NOAA Response: NOAA feels that the appropriate emphasis for the subsection 305(b) (7) planning process is on shorefront public coastal areas. Other public areas inland from the shoreline but in the coastal zone can be addressed under other aspects of the basic program development, in particular the requirements having to do with geographic areas of particular concern. Similarly, while § 920.17(b) (5) now includes wetlands, bluffs, etc., as examples of other public coastal areas, it is anticipated that preservation requirements for these types of areas will already have been addressed as part of basic program development, especially in addressing the requirements for areas for preservation and/or restoration. Accordingly, it is anticipated that the primary focus under this specific planning requirement will be on the need for increased access to other public coastal areas, except in the case of islands which may not have been considered for preservation or access purposes as part of previous basic program development.

(d) *Definition of "Access":* Three commentators expressed approval of the concept of "access" contained in the proposed regulations. One of these commentators was concerned, however, that "access" not be read to encourage excessive construction of highways or parking facilities. A fourth commentator suggested that recognition be given to the need for access by public transportation, especially for urban areas. This same reviewer felt the term "lateral access" was sufficiently explained. Another reviewer questioned whether a broader interpretation was intended for "access" under subsection 305(b) (7) of the Act than that intended for subsection 315(2) of the Act.

NOAA Response: NOAA does not feel that the discussion of physical access encourages construction of highways or parking facilities. If anything, the emphasis is on small scale, public access ways and transport. It should be further noted that the language of subsection 315(2) of the Act restricts the use of those funds to acquisition of lands or interest in lands and therefore can not be used for highway construction. In response to the comment that attention should be given to access needs of urban residents, language recommending this as a special consideration has been added to § 920.17(b) (2). "Lateral access" is intended to refer to areas above mean high tide, or the ordinary high water mark in the Great Lakes, which could be considered as a means for increasing

access to the shorefront only where a State does not have a reasonable amount of public shorefront areas above mean high tide or the ordinary high water mark. Finally, NOAA believes the term "access" was intended to be interpreted more broadly for planning purposes under subsection 305(b)(7) of the Act than for acquisition purposes under subsection 315(2). NOAA believes that a coastal management program, which is developed pursuant to section 305 of the Act, may consist of more than those elements which are specifically fundable pursuant to other sections of the Act.

(e) *Comments on "Development of State Policies":* One commentator indicated that requiring "development" of state policies for access and/or protection does not take into account that existing State policies may be adequate. Conversely, another commentator suggested the proposed regulations did not provide adequate recognition for the possibility of States having to adopt additional authorities for access or preservation purposes.

NOAA Response: In response to both comments, § 920.17(a)(3) has been changed to refer to "articulation of State policies . . ."

(f) *General Comments on the Planning Process Requirements:* One commentator misinterpreted the intent of the requirements as not permitting use of section 305 funds for developing a planning process for protecting and/or providing access to other public coastal areas. This is, in fact, one of the purposes of this new section 305 planning requirement. The same commentator misunderstood that the general planning process (beyond defining the term "beach") does in fact apply to other public coastal areas as well as public beaches.

Another reviewer did not realize that the planning process required by a new subsection 305(b)(7) of the Act is a part of basic, overall coastal program development. As such, this element is subject to all the requirements for program approval as part of the overall program. Finally, one commentator was concerned that provisions for providing access not be read to apply to private individuals. There is nothing in these regulations that can be read to require private individuals to provide access. However, the matter of how best to provide additional shoreline access, if there is a need for such access, is a matter that will be decided by States in the development of their management programs. Thus, there also is nothing in these regulations to preclude States from requiring private individuals to provide shorefront access if that is an appropriate technique for assuring such access, and if State constitutions and laws do not prohibit such a requirement.

(g) *Miscellaneous Comments:* One commentator suggested that reference to "mean high tide" be expanded to read "or the ordinary high water mark in the Great Lakes." This suggestion has been accepted and is reflected in § 920.17 (b)(3) and (b)(6).

(h) *Comments beyond the Scope:* A number of comments were received which are beyond the scope of this specific planning requirement. These include:

(1) Comments addressed primarily to requirements of subsection 315(2) of the Act. These comments will be addressed at the time regulations for subsection 315(2) are promulgated;

(2) Comments suggesting any major Federal actions resulting from this planning process would be subject to the National Environmental Policy Act of 1969 (NEPA, Pub. L. 91-190, as amended).

ENERGY FACILITY PLANNING PROCESS

(a) *Definition of "Energy Facilities":* Three commentators objected to the definition of energy facilities (taken from the definition in subsection 304(5) of the Act) as being too broad. Conversely, three commentators recommended broadening the definition of energy facilities or, at least, leaving the State the option of including more than those facilities listed in subsection 304(5). Two commentators recommended that the emphasis in the planning process be on new (as contrasted to existing) facilities.

NOAA Response: Given the fact that "energy facilities" are defined in the Act in subsection 304(5), NOAA does not feel justified in adopting a less comprehensive definition of the term. Further, since the definition in subsection 304(5) uses the phrase "includes at a minimum, but is not limited to," NOAA does feel justified in leaving an option for the State to adopt a more comprehensive definition of energy facilities to be included in the planning process. This option and examples of additional energy facilities or activities that are not included in the subsection 304(d) definition but could be included for planning purposes are now contained in § 920.18 (b)(2). Finally, it is anticipated that the primary focus of the planning process will be on new and expanded energy facilities, given the language of the Act which speaks to "anticipating" impacts. This focus on new and expanded facilities represents a minimum requirement. The option again is left to the States to focus also on existing facilities.

(b) *Definition of "Significantly Affect":* Four commentators objected to the definition of "significantly affect" (within the context of NEPA) as being either too broad or too unworkable. One commentator supported the definition of "significantly affect" within the context of NEPA.

NOAA Response: Section 920.18(b)(2) now includes a minimum definition of "significantly affect" in terms of substantial or potentially substantial changes in land, air, water, minerals, flora, fauna, noise, and objects of historic, cultural, archaeological or aesthetic significance in the coastal zone. States still have the option of using the NEPA definition of "significantly affect" if they prefer.

(c) *Relationship of subsection 305(b)(8)/Planning Requirement to subsection 306(c)(8)/Consideration of the National Interest Requirement:* Five commentators suggested that this planning process should be tied more closely to the national interest requirements of subsection 306(c)(8) of the Act. In effect, these commentators suggested that provision of energy is in the national interest, and therefore that the subsection 305(b)(8) planning process should be interpreted as requiring coastal management programs to provide for the siting of energy facilities. Several of these commentators suggested specific language changes to various paragraphs of § 920.18. In contrast, one commentator suggested a stronger emphasis on the goal of not locating energy facilities in the coastal zone that could be located elsewhere with a lesser impact on the environment.

NOAA Response: While there is a relationship between the energy facility planning process called for in subsection 305(b)(8) of the Act and the national interest requirements of subsection 306(c)(8), there is also a relationship between this planning process and all other section 306 requirements. Further, there is nothing in subsections 305(b)(8) and 306(c)(8) that can be read to require State management programs to provide sites for energy facilities within the coastal zone. Subsection 306(c)(8) requires only that States provide for "adequate consideration of the national interest involved in planning for, and in siting of facilities (including energy facilities * * *) which are necessary to meet requirements which are other than local in nature." (Emphasis added). Pursuant to the related subsection 306(e)(2) requirement of the Act, a State must demonstrate only that there are not arbitrary restrictions on or exclusions of uses of regional benefit (which can include uses of national interest) by local governments. This does not mean, however, that a coastal management program must make site designations for such uses. Finally, and perhaps most importantly, the commentators have overlooked the point that energy production and transport are not the only national interests to be considered and incorporated into a management program. The essence of coastal zone management, in general, and this planning requirement, in particular, is to develop and implement a process for considering and trading off various, often competing national interests. In response to comments, a new § 920.18 (b)(1) has been added which (i) gives greater mention to national energy needs while, at the same time, putting these needs in the context of balancing various other national interests, and (ii) speaks to the issue of a specific siting requirement and provides some acceptable alternatives for meeting the subsection 305(b)(8) planning process requirements.

(d) *Definition of "Impacts":* Four commentators suggested changes as to what should be included for consideration as an "impact." Two commentators suggested that the impact required to be analyzed for the Coastal Energy Im-

pact Program (CEIP, section 308 of the Act) also be required for the subsection 305(b)(8) planning process.

NOAA Response: Most of the suggested changes, such as considering wetlands, dunes and beaches, increased storm erosion, and population changes, already are contained in § 920.18(b)(4). With respect to mandating consideration of CEIP required impacts for the subsection 305(b)(8) planning process, NOAA does not feel this is appropriate as not all states may participate in the CEIP program and other impacts may be more appropriate for consideration in those cases. Section 920.18(b)(4), however, does encourage those States that anticipate a large involvement in CEIP to design their planning process to include those impacts that will be required for consideration under CEIP.

(e) *General comments on the Planning Process Requirements:* (i) Two reviewers provided general comments having to do with (1) providing more detailed guidance in the regulations as to the planning process required, (2) building on basic program development requirements, and (3) emphasizing requirements for State control over energy facilities in or affecting the coastal zone.

(ii) One commentator suggested the planning requirements be expanded to require an identification of State and local authorities and responsibilities with respect to energy facility planning.

(iii) One commentator suggested that State and local agencies involved in facilities planning for coastal areas must be part of the coastal zone management program, and that the planning undertaken by these agencies must be consistent with the criteria and standards of the coastal zone management program.

(iv) Two commentators suggested an additional planning requirement for criteria by which the suitability and capability of particular coastal sites for different energy facilities can be judged.

(v) One commentator suggested an additional requirement for procedures and criteria to identify areas qualifying as areas of unavoidable recreational or environmental loss due to coastal energy activity.

(vi) Two commentators suggested adding specific reference to coordination requirements with the Energy Policy and Conservation Act of 1975 and the Energy Conservation and Production Act of 1976. Another commentator made the general recommendation that reference to full coordination with, and participation by, Federal agencies be highlighted.

NOAA Response: With respect to the first (i) set of comments, NOAA feels that its responsibility extends to providing the minimum outcomes expected as a result of the planning process. In this vein, NOAA does not feel it necessary or appropriate to specify the detailed process by which States arrive at the desired outcomes. The planning process required by the new subsection 305(b)(8) of the Act is part of basic, overall program development. Accordingly, NOAA does not feel it is necessary to incorporate specific consultation or authorities requirements into this section of the regulations as this planning element is subject, in any case, to all section 306 requirements as part of the overall management programs. In response to the comment recommending greater emphasis on the need for assuring that energy facilities or their impacts are managed in compliance with a States management program, § 920.18(a)(4) has been revised to require "conformity of siting programs, where they exist, with the coastal zone management program."

With respect to the second (ii) set of comments, § 920.18(b)(5) includes a requirements for States to list relevant constitutional provisions, legislative enactments, regulations, and judicial decisions that relate specifically to anticipating and managing energy facilities and/or impacts.

With respect to the third (iii) comment, NOAA believes § 920.18(a)(4), as revised, addresses adequately the concerns of the commentator.

With respect to the fourth (iv) set of comments, NOAA has revised § 920.18(a)(2) to require a procedure for assessing the suitability of sites for energy facilities. This assessment procedure can be developed as part of the requirements of § 920.12 or as a separate suitability assessment procedure.

With respect to the fifth (v) comment, NOAA regards the identification of areas of environmental or recreational loss to be tied directly to the Coastal Energy Impact Program (section 308 of the Act). Funds are provided out of that program for such identification. Accordingly, such identification need not be a part of the subsection 305(b)(8) planning requirement.

Finally, with respect to the sixth (vi) set of comments, NOAA does not feel it necessary or appropriate to make reference to coordination with specific Federal legislation for two reasons. One, NOAA is concerned that listing only those Acts recommended by commentators will overlook other pieces of equally relevant legislation that then should be mentioned. Second, NOAA feels that coordination requirements are covered adequately by the 15 CFR Part 923 consultation and coordination requirements.

SHORELINE EROSION PLANNING PROCESS

(a) *Relationship to Federal Insurance Administration (FIA) Program:* Three commentators recommended a more specific reference be made to the FIA program, particularly to the mapped flood hazard areas, and to the erosion prone areas which will be mapped in the future.

NOAA Response: More specific reference to the FIA program has been added to § 920.19(b)(2).

(b) *Structural v. Non-Structural Control Techniques:* Three commentators were concerned that the draft regulations appeared to overemphasize structural controls at the expense of non-structural management techniques.

NOAA Response: It is not the intent of these regulations to imply that structural controls are preferred over non-structural management techniques. Neither is it the intent of these regulations to imply that an appropriate State response to erosion necessarily requires controls (of a structural or non-structural nature). In some locations along a State's coastline, it may be appropriate, given certain conditions and considerations, to articulate a policy of noncontrol. Section 920.19(a)(2) and (3) and (b)(2) has been revised to reflect the above statements.

(c) *General comments on the Planning Process Requirements:* (i) One commentator suggested that identification of causes of erosion be a required element of the planning process.

(ii) One commentator suggested two additional planning requirements: (1) Development of a procedure for continuing review of shoreline conditions to detect changes due to erosion, and (2) identification of legal and financial means available to implement erosion mitigation or restoration measures.

(iii) Another commentator suggested the following additional requirements: (1) Identification of appropriate controls based on assessment of economic, social and environmental costs, assessment of capital and maintenance costs, and identification of benefits and their duration, and (2) designation of areas requiring control as geographic areas of particular concern.

(iv) Another commentator suggested the erosion planning element be coordinated with EPA 208 water quality management programs.

NOAA Response: While NOAA agrees that identifying causes of erosion may be useful in determining appropriate responses. NOAA is equally concerned that States not get involved in long, drawn-out and highly technical investigations of such causes when it is rather obvious that an area is eroding and a decision on how to respond to that fact is necessary.

With respect to the second (ii) comment, NOAA does not feel development of a procedure for assessment of shoreline changes needs to be a mandatory requirement. Again, NOAA is concerned about overly long involvement in planning and technical studies at the expense of management. The second suggestion—for identifying means of implementing control or restoration measures—is addressed in a new § 920.19(a)(6).

With respect to the third (iii) set of comments, NOAA feels the specific factors used to determine appropriate erosion control responses is best left to each State. However, NOAA does think the considerations suggested by the commentator are valid and States may well want to take these factors into account. With regard to the commentator's second suggestion that erosion control areas must be designated as geographic areas of particular concern, NOAA has provided for such designation, in § 920.19(a)(4), if appropriate. In some cases, erosion control may be more appropriately handled through use controls pursuant to § 920.12 rather than through specific area designations pursuant to § 920.13.

Finally, with respect to the fourth (iv) comment, NOAA does not feel it necessary or appropriate to reference coordination with specific Federal legislation

for the same reasons cited in response to similar comments on the Energy Facility planning requirements.

Miscellaneous Comments: One commentator asked whether the planning process could be applied broadly to estuaries, rivers, streams or lakes anywhere in the coastal zone.

NOAA response: NOAA feels the appropriate emphasis for the subsection 305(b)(9) planning process is on shoreline and estuarine erosion. Other areas of erosion can be addressed under other aspects of basic program development, if the State considers these other areas critical coastal management issues.

Comments beyond the Scope: A number of comments were received which are beyond the scope of this particular planning requirement:

(1) Questions concerning eligible and ineligible restoration funding items pursuant to section 306 of the Act; and

(2) Comments that coordination requirements, pursuant to section 306, and consistency requirements, pursuant to section 307, be included as part of the erosion planning requirements.

PRELIMINARY APPROVAL

(a) *Purpose of Preliminary Approval:* Three commentators questioned whether the primary purpose of preliminary approval should be to allow for initial implementation of selected aspects of a State's management program as opposed to allowing the State additional time to complete its program for section 306 approval purposes.

NOAA Response: NOAA agrees that the emphasis of the legislative history indicates that the primary purpose of preliminary approval should be to allow additional time to complete a management program which is acceptable in its overall design and description. Subsection 305(a)(2) of the Act provides for selective implementation as another purpose of preliminary approval. Sections 920.40 (b) and (c) have been revised accordingly.

(b) *Content of Legislation:* Two reviewers commented on the requirement in subsection 920.42(b)(1) that legislation contain the substantive as well as the procedural aspects of a State's coastal management program in order to qualify for preliminary approval. One of these commentators suggested a State should be able to qualify for preliminary approval if the substantive section 305 elements of the program have been determined by the designated State agency and the legislation provides procedures for implementation of these elements within a specified timeframe.

NOAA Response: The discussion of legislative content has been dropped given the requirement that all subsection 305(b)(1)–(6) requirements must be completed at the time of a subsection 305(d) submission.

(c) *EIA/EIS Requirements:* One commentator felt the Environmental Impact Assessment (EIA) required with a subsection 305(d) submission should address only those parts of a management program to be implemented as a result of preliminary approval. Another commentator expressed concern that a case-by-case assessment by NOAA to determine if an Environmental Impact Statement (EIS) would be required prior to preliminary approval would create potential funding hardships and uncertainties for applicants.

NOAA Response: NOAA feels it appropriate to require an EIA on the whole program at the time a document is submitted for preliminary approval as it will allow for a case-by-case determination as to the necessity of preparing an EIS. The EIA submitted at this time should satisfy the EIA requirements which apply to a section 306 submission. With respect to the uncertainties created by a case-by-case EIS determination, one of the purposes of consultation with the Associate Administrator, six months in advance of the desired approval date, is to determine whether an EIS will be necessary. This should allow a State sufficient time to plan and budget accordingly.

(d) *Review/Approval Procedures:* (i) Four commentators indicated that Federal review of subsection 305(d) programs should precede preliminary approval. All these commentators also suggested an EIA or EIS accompany the review document. Conversely one commentator felt Federal review should not be a necessary part of preliminary approval as Federal involvement should be presumed as it is required as part of the program development process.

(ii) Four commentators requested details as to the timing and nature of consultation with the Associate Administrator called for in § 920.43(a).

NOAA Response: With respect to the first (i) set of comments, NOAA agrees that Federal review and comment should be an integral part of program development and assumes consultation will occur naturally as a State moves towards submission of a subsection 305(d) program. However, to assure further that consultation with Federal agencies occurs prior to submission of a subsection 305(d) document, this requirement has been made explicit in § 920.42(b)(4)(ii). Further, in those cases where NOAA determines that an EIS is appropriate prior to approving a subsection 305(d) submission, both the program document and the EIS will be distributed to Federal and other reviewers, according to the normal EIS review procedures. In those cases where the EIS is more appropriately prepared prior to approving a section 306 submission, the subsection 305(d) program document which includes an EIA will be distributed to Federal agencies so that their comments can be incorporated prior to the section 306 submission. In any case, States will be required to devote a portion of their subsection 305 (d) grant to resolving serious deficiencies identified by Federal agencies who have reviewed the subsection 305(d) program submission. Section 920.43(b) has been revised and a new § 920.43(c) has been added to reflect this discussion.

With respect to the second (ii) set of comments, § 920.43 (a) has been revised to indicate the nature, purpose and timing of consultation with the Associate Administrator.

(e) *Relationship of Subsection 305(d)/Preliminary Approval to Section 306 Approval:* (i) One commentator was concerned that there is no assurance that preliminary approval would not serve as an uncoordinated extension under which funds would continue to be invested in programs that would never meet the section 306 program approval requirements. This commentator suggested the regulations specifically indicate the type of deficiencies that can be funded pursuant to subsection 305(d) of the Act.

(ii) Another reviewer suggested that it be made explicit that transition from preliminary to full approval is not automatic.

NOAA Response: NOAA is satisfied that the regulations will prevent uncoordinated extensions of time for unending program development efforts. This is because the regulations require (1) that the design and description of the program as submitted for preliminary approval satisfy the requirements for full approval, and (2) that the submission specify the time necessary to resolve any deficiencies. Finally, subsection 305(d) money is authorized only through fiscal year 1979 and the regulations stipulate that subsection 305(d) grants will not be made after that time. With respect to the type of activities that can be funded to remedy deficiencies, guidance already is contained in § 920.42(b)(3). The preamble to the proposed regulations indicated that transition from preliminary to full approval was not automatic. Similar language has been added to section 920.40(e) of the final regulations.

(f) *Eligible Costs:* One commentator suggested updating of coastal programs should be an eligible subsection 305(d) cost if such updating would be an allowable cost for a section 306 program.

NOAA Response: NOAA has added this into the regulations as § 920.42(b)(3)(iv).

(g) *Miscellaneous Comments:* One commentator requested clarification as to why § 920.42(b)(2) refers to "consultation with the Secretary" while all other sections in Subpart E refer to consultation with the Associate Administrator.

NOAA Response: The reference in § 920.42(b)(2) to the Secretary is a direct quote from the Act. Since Secretarial responsibilities under this section of the Act have been delegated, reference is made to the Associate Administrator whenever a direct quote from the Act is not involved.

(h) *Comments beyond the Scope:* A number of comments were received which are beyond the scope of this particular subpart:

(1) Questions regarding NOAA's ability to make preliminary approvals without clear standards for approval pursuant to section 306 of the Act;

(2) Recommendations that the Part 920 regulations be amended to provide procedures for reviewing program prog-

ress at the completion of each subsection 305(c) program development grant.

OTHER CHANGES

In addition to the changes made in response to comments on the proposed regulations, NOAA has made a number of minor changes to other parts of existing regulations in 15 CFR Part 920. The majority of these changes are for purposes of updating references or for clarifying phrases or sections that have been subject to questioning since the issuance of the regulations in 15 CFR Part 920 on November 29, 1973. A discussion of section-by-section changes follows:

SUBPART A

(a) *Section 920.1: Policy and Objectives.* (i) Establishing criteria for making preliminary approvals is added as one of the general purposes for issuing regulations in 15 CFR Part 920.

(ii) The need for States to identify issues and problems and to articulate specific goals, objectives, policies, standards, guidelines and/or regulations to address these issues is emphasized.

(b) *Section 920.2: Definitions.* (i) "Islands" have been added to the definition of coastal zone as a result of the 1976 amendments to the Act.

(ii) Reference to the U.S. Assistant Attorney General's opinion on excluded Federal lands has been added to the definition of the term "coastal zone."

(iii) The term "Secretary" has been revised to note delegations of authority to the Administrator of NOAA and to the Associate Administrator for Coastal Zone Management.

(iv) A definition of the term "Associate Administrator" has been added.

SUBPART B

(a) *Section 920.10: General.* Information has been added to paragraph (b) to explain the effect of the new planning requirements on States seeking section 306 approval prior to or after October 1, 1978.

(b) *Section 920.12: Land and Water Uses Subject to the Management Program.* (i) Because of confusion over the meaning of "permissible uses," that term has been dropped.

(ii) Reference to "indices" for determining environmental and economic impacts has been changed to "criteria."

(iii) Reference to subsection 306(c)(8) in paragraph (b)(2) has been updated to reflect the amended language of that section of the Act.

(c) *Section 920.13: Geographic Areas of Particular Concern.* In response to numerous inquiries, this section has been revised to indicate that designation may be site-specific or generic. Further guidance on the requirements of this section will be contained in proposed revisions to the regulations in 15 CFR Part 923. These proposed revisions will be published shortly.

(d) *Section 920.14: Means of Exerting State Control.* A statement has been added regarding the interrelationship of this section with subsections 305(b)(7), 306(d) and 306(e) of the Act.

(e) *Section 920.15: Designation of Priority Use Guidelines.* (i) Because of confusion about the meaning of "particular areas" in subsection 305(b)(5) of the Act, the regulations clarify that these words are meant to apply the priority use requirement to geographic areas of particular concern. This is the minimum requirement; States have the option of developing coastwide priority use guidelines.

(ii) Section 920.15(b)(2) has been added to describe the purpose of providing guidelines on uses of lowest priority.

(f) *Section 920.16: Organizational Structure.* A statement has been added regarding the interrelationship of this section with subsections 306(c)(1), (2), (5) and (6) of the Act.

SUBPART C

(a) *Section 920.20: General.* This section has been substantially rewritten in light of the recent addition of section 310 of the Act which provides for a separate program of assistance related to national and State coastal management issues.

(b) *Section 920.21: Approaches to Research Activities.* This section has been dropped as the listing of Federal research agencies was outdated and incomplete.

SUBPART F

(a) *Section 920.50: General.* (i) Reference to the Secretary has been changed to the Associate Administrator, based on duly executed delegations of authority.

(ii) The maximum Federal share of the grant has been changed to "eighty per cent" in accord with the provisions of the 1976 amendments.

(b) *Section 920.51: Administration of the Program.* Reference to the Office of Coastal Environment has been dropped and OCZM has been substituted. OCZM's mailing address has been updated.

(c) *Section 920.52: State Responsibility.* (i) Sex-related terminology has been removed. (ii) A new paragraph (d) has been added to clarify the designated State agency's fiscal responsibility for all expenditures made under the grant.

(d) *Section 920.53: Allocation.* Reference to Part IV, OMB Circular A-95 is clarified to indicate that those provisions apply to any areawide or regional agency with planning responsibilities for any portion of a State's designated coastal planning area.

(e) *Section 920.54: Geographic Segmentation.* This section has been rewritten to indicate that that portion of a State's coastal zone not awarded segment approval remains eligible for section 305 grants.

(f) *Section 920.55: Application for the Initial Grant.* Reference to "Form CD-292" has been dropped. Reference is now made to "Form SF-424."

(g) *Section 920.59: Application for Third and Fourth Year Grants.* (i) This section has been expanded to cover application requirements for fourth year grants, which now are authorized as a result of the 1976 amendments.

(ii) A new paragraph (a)(1) has been added requiring third and fourth year grant applications to contain a description of the anticipated design and content of management programs.

(h) *Section 920.60: Application for Three New Planning Elements.* Paragraph (b) has been revised to indicate that States with approved management programs prior to October 1, 1978 may apply for their section 306 administrative funds and section 305 new planning element funds using a single application form.

(i) *Section 920.61: Applications for Preliminary Approval Grants.* Reference to "Form CD-292" has been dropped. Reference is now made to "Form SF-424."

GENERAL BACKGROUND ON PART 920

The guidelines contained in this Part are for grants made pursuant to section 305 to develop a coastal zone management program that will meet the requirements for program approval of section 306 of the Act. These guidelines are to insure that management programs developed by participating States will meet the requirements for program approval. These latter requirements are contained in 15 CFR Part 923. The requirements contained in 15 CFR Part 920 are incorporated into and expanded upon in 15 CFR Part 923. Accordingly, the two sets of regulations should be read together to assure State coastal management programs will be developed in such a way as to meet the approval criteria of section 306. Where there are differences in the Part 920 and Part 923 regulations, the Part 923 requirements control.

In general terms, section 305 requires a management program to include (1) the boundaries of a State's coastal zone, (2) a definition of land and water uses that have direct and significant impacts on coastal waters and thereby are subject to the terms of the management program, (3) criteria for and designation of geographic areas within the coastal zone which are of particular concern to the State, (4) guidelines for priorities of uses within geographic areas of particular concern, including specifically those uses of lowest priority, (5) an identification of the means by which the State, together with other governmental entities, if appropriate, shall exert control over land and water uses subject to the management program, (6) a description of the organizational structure and intergovernmental arrangements sufficient to develop and maintain an effective and coordinated management process, (7) a planning process for the protection of and access to public beaches, including a definition of the term "beach," and other public coastal areas of environmental, recreational, historical, esthetic, ecological or cultural value, (8) a planning process that, at a minimum, provides for the anticipation and management of impacts from energy facilities likely to locate in, or which may significantly affect, the State's coastal zone, and (9) a planning process for assessing the effects of shoreline erosion and evaluating methods to mitigate the impact of such erosion and/or to restore areas adversely affected by such erosion.

Basic to this whole process is an identification of the issues and problems that confront or will confront a State's coastal zone and, relatedly, an articulation of specific goals, objectives, policies, standards, guidelines and/or regulations to address these issues.

States may have up to four years of program development grants, pursuant to subsection 305(c) of the Act, to develop approvable coastal management programs, if the Associate Administrator for Coastal Zone Management determines at the completion of each grant that satisfactory progress is being made towards program approval. A State may submit a management program for preliminary approval, pursuant to subsection 305(d) of the Act, at any point in the program development process when the State's program is sufficiently well developed and described to allow the Associate Administrator to make a determination that the program would be fully approvable when submitted for section 306 approval.

Following consideration of comments received and other relevant information, there are adopted below revised final regulations describing the procedures for applying for program development grants pursuant to section 305 of the Act.

Dated: April 25, 1977.

T. P. GLEITER,
Assistant Administrator for Administration.

For the sake of clarity and ease of reference, the entire 15 CFR Part 920 is reprinted below. New additions made final as a result of issuance of these regulations are §§ 920.17, 920.18, 920.19, Subpart E, and §§ 920.60 and 920.61. Accordingly, 15 CFR Part 920 is revised as follows:

Subpart A—General

Sec.
920.1 Policy and objectives.
920.2 Definitions.
920.3 Applicability of air and water pollution control requirements.

Subpart B—Content of Management Programs

920.10 General.
920.11 Boundaries of the costal zone.
920.12 Land and water uses subject to the management program.
920.13 Geographic areas of particular concern.
920.14 Means of exerting State control over land and water uses.
920.15 Designation of priority use guidelines.
920.16 Organizational structure to implement the management program.
920.17 Shorefront access planning.
920.18 Energy facility planning.
920.19 Shoreline erosion/mitigation planning.

Subpart C—Research and Technical Support

920.20 General.

Subpart D—Public Participation

920.30 General.
920.31 Public hearings.
920.32 Additional means of public participation.

Subpart E—Preliminary Approval

Sec.
920.40 General.
920.41 Eligibility for consideration.
920.42 Approval criteria.
920.43 Review/approval procedures.

Subpart F—Applications for Development Grants

920.50 General.
920.51 Administration of the program.
920.52 State responsibility.
920.53 Allocation.
920.54 Geographic segmentation.
920.55 Application for initial grant.
920.56 Approval of applications.
920.57 Amendments.
920.58 Application for second year grants.
920.59 Application for third and fourth year grants.
920.60 Application for three new planning elements.
920.61 Applications for preliminary approval.

AUTHORITY: (Sec. 305, Coastal Zone Management Act of 1972, Pub. L. 92-583, 86 Stat. 1280, as amended by Pub. L. 94-370, 90 Stat. 1013).

Subpart A—General

§ 920.1 Policy and objectives.

(a) This part establishes guidelines on the procedures to be utilized by coastal States to obtain program development grants pursuant to section 305 of the Act, sets forth policies for the development of coastal zone management programs, and sets forth criteria for preliminary approval of State management programs.

(b) Coastal management programs developed by participating States shall comply with that policy of the Act which requires States to give full consideration to ecological, cultural, historic, and esthetic values as well as to needs for economic development. As a result of consideration of these values and needs, States will identify issues and problems that confront or will confront their coastal zone and, relatedly, will articulate specific goals, objectives, policies, standards, guidelines and/or regulations to address these issues within the context provided by these regulations.

(c) *Comment.* Statutory Citation, section 303:

> The Congress finds and declares that it is the national policy * * * (t)o encourage and assist the States to exercise effectively their responsibilities in the coastal zone through the development and implementation of management programs to achieve the wise use of land and water resources of the coastal zone giving full consideration to ecological, cultural, historic, and esthetic values as well as to needs for economic development.

§ 920.2 Definitions.

As used in this part, the following terms shall have the meanings indicated below:

(a) The term "Act" means the Coastal Zone Management Act of 1972, as amended.

(b) The term "coastal zone" means the coastal waters (including the lands therein and thereunder) and the adjacent shorelands (including the waters therein and thereunder), strongly influenced by each other and in proximity to the shorelines of the several coastal States, and includes transitional and intertidal areas, salt marshes, wetlands, beaches, and islands. The zone extends, in Great Lakes waters, to the international boundary between the United States and Canada and, in other areas, seaward to the 3 mile limit of the U.S. territorial sea. The zone extends inland from the shoreline only to the extent necessary to control shorelands, the uses of which have a direct and significant impact on the coastal waters. Excluded from the coastal zone are lands the use of which is by law subject solely to the discretion of or which is held in trust by the Federal Government, its officers or agents. By letter of August 10, 1976 the Assistant Attorney General, Office of Legal Counsel, U.S. Department of Justice, has advised that, in his opinion, the above clause excludes all lands owned by the United States from the definition of the coastal zone. This exclusion does not apply, however, to lands which are leased or otherwise used by the United States in a capacity other than ownership or trusteeship.

(c) The term "coastal waters" means (1) those waters adjacent to the shorelines, which contain a measurable quantity or percentage of seawater, including but not limited to, sounds, bays, lagoons, bayous, ponds, and estuaries; and (2) in the Great Lakes area, the waters within the territorial jurisdiction of the United States consisting of the Great Lakes, their connecting waters, harbors, roadsteads, and estuary-type areas such as bays, shallows, and marshes.

(d) The term "coastal State" means a State of the United States in, or bordering on, the Atlantic, Pacific, or Arctic Ocean, the Gulf of Mexico, Long Island Sound, or one or more of the Great Lakes. The term also includes Puerto Rico, the Virgin Islands, Guam, and American Samoa.

(e) The term "estuary" means that part of a river or stream or other body of water having unimpaired connection with the open sea, where the seawater is measurably diluted with freshwater derived from land drainage. The term includes estuary-type areas of the Great Lakes.

(f) The term "Secretary" means the Secretary of Commerce or his/her designee, including especially the Associate Administrator for Coastal Zone Management based on duly executed delegations of authority from the Secretary to the Administrator of NOAA, by Amendment 5 of the Department of Commerce Organizational Order 25-5A, dated October 13, 1976; and from the Administrator to the Associate Administrator for Coastal Zone Management by NOAA Circular 76-82, effective October 13, 1976.

(g) The term "management program" includes, but is not limited to, a comprehensive statement in words, maps, illustrations, or other permanent media of communication, prepared and adopted by the State in accordance with the

provisions of these guidelines, setting forth objectives, policies, laws, standards and/or regulations to guide and regulate public and private uses of lands and waters in the coastal zone.

(h) The term "water use" means activities which are conducted in or on the water within the coastal zone.

(i) The term "land use" means activities which are conducted in or on the shorelands within the coastal zone.

(j) The term "Associate Administrator" means the Associate Administrator for Coastal Zone Management, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

§ 920.3 Applicability of air and water pollution control requirements.

Notwithstanding any other provisions of this part, nothing in this part shall in any way affect any requirement (a) established by the Federal Water Pollution Control Act, as amended, or the Clean Air Act, as amended, or (b) established by the Federal Government or by any State or local government pursuant to such Acts. Such requirements shall be incorporated in any program developed pursuant to these guidelines and shall be the water pollution control and air pollution control requirements applicable to such program.

Subpart B—Content of Management Programs

§ 920.10 General.

(a) These guidelines for section 305 of the Act have been structured to parallel the language and sequence of requirements of the Act. This has been done to facilitate reference to the Act. It is not required that this sequence be followed in developing the management program and in carrying out the specific tasks contained therein. It is anticipated and acceptable that the approach taken for development of programs will vary. These guidelines should not be interpreted as limiting State approaches or the content of their program development grant applications.

(b) Subsection 305(b) requires the inclusion of nine elements in the development of State coastal zone management programs. These minimum requirements are set forth below with accompanying commentary that is designed to guide State response to these key provisions of the program development effort. Prior to October 1, 1978, States may seek approval for their management programs (pursuant to section 306) even if three of these elements—those relating to the planning processes for shorefront access, energy facilities, and shoreline erosion/mitigation—are not yet completed. However, such States must be able to fulfill these requirements by October 1, 1978 and submit same by that date for review and approval, as amendments to their programs. Programs submitted after October 1, 1978 must include all nine elements in order to be approved pursuant to section 306.

(c) It is anticipated that an environmental impact statement will be prepared and circulated on a State's management program prior to its approval by the Associate Administrator, in accordance with the terms of the National Environmental Policy Act of 1969, as amended. The Associate Administrator will prepare and circulate an environmental impact statement on the basis of an environmental impact assessment and other relevant data prepared and submitted by the individual States.

§ 920.11 Boundaries of the coastal zone.

(a) *Requirement.* In order to fulfill the requirement of subsection 305(b)(1) of the Act, States must identify the boundaries of the coastal zone subject to the management program.

(b) *Comment.* Statutory Citation, Subsection 305(b)(1):

> The management program for each coastal State shall include * * * (a)n identification of the boundaries of the coastal zone subject to the management program.

(1) The definition of the coastal zone in the Act recognizes that no single geographic definition will satisfy the management needs of all coastal States because designation of the coastal zone for management purposes must take into account diverse natural, institutional, and legal characteristics. Determination by a State of the extent of its coastal zone landward from the shoreline presents a very important conceptual and operational issue for State study, analysis, and decision. The following factors should be considered:

(i) In order to develop an orderly and effective management program, States may wish to delineate initially a planning area which generally is larger than, and encompasses, the area ultimately identified as the coastal zone. Such a two-step procedure would enable a State to undertake planning studies and policy development for a relatively broad region aimed at a later determination of the smaller coastal zone where specific land and water use controls, regulations, and active management activities will be applied. Analysis of demographic, economic, developmental, and biophysical factors which will largely determine State management activities in coastal waters and the landward and seaward areas and uses affecting them, are likely to be based upon data, programs, and institutional boundaries (such as counties or areawide agencies) that encompass geographic areas larger than the coastal zone designation. Specific coastal zone programming and regulation must take into account current developmental, political, and administrative realities, as well as biophysical processes, that may be external to the restricted zone eventually selected for direct management control.

(ii) The coastal zone management boundary extends inland only "to the extent necessary to control shorelands, the uses of which have a direct and significant impact on the coastal waters." However, States are encouraged to take early and continuing account of existing Federal and State land/water use and resource planning programs. Examples of some related statewide policies and programs which will affect and should be considered in making determinations under the Act include: energy policy, siting of power plants and other major water-dependent facilities, surface and subsurface mineral extraction controls, and overall land and water conservation policies.

(iii) Lands which are owned by or are held in trust by the Federal Government, its officers or agents are excluded from the coastal zone. However, subsection 307(c) of the Act requires Federal agencies conducting or supporting activities which directly affect the coastal zone to conduct or support those activities in a manner which is, to the maximum extent practicable, consistent with approved State management programs. Accordingly, this requirement extends to activities on excluded Federal lands when such activities directly affect a State's coastal zone.

§ 920.12 Land and water uses subject to the management program.

(a) *Requirement.* In order to fulfill the requirements of subsection 305(b)(2) of the Act, States must identify land and water uses which have direct and significant impacts on coastal waters. Uses so identified are subject to the terms of the management program. Further, to meet the requirements of this subsection, States must define those uses which will be permitted in various areas of the coastal zone, and/or the process by which such determinations of permissability will be made.

(b) *Comment.* Statutory Citation, Subsection 305(b)(2):

> The management program for each coastal state shall include * * * (a) definition of what shall constitute permissible land uses and water uses within the coastal zone which have a direct and significant impact on the coastal waters.

(1) In determining uses to be subject to the management program, States should develop criteria for determining impacts—beneficial, benign, tolerable, adverse—as a first step in determining those uses which require management. Some of the factors involved in this determination include location, magnitude, the nature of an impact upon existing natural or man-made environments, economic, commercial, and other "triggering" impacts, and land and water uses of regional benefit. In responding to this requirement, therefore, the following general types of study and evaluation should be undertaken, utilizing existing data where possible:

(i) Determining criteria and measures to assess the impacts of existing, projected, or proposed uses or classes of uses on the identified coastal environments;

(ii) Categorizing the nature, location, scope, and conflicts of current and anticipated coastal land and water uses or classes of uses;

(iii) A continuing compilation, verification, and assessment of the general characteristics, values, and interrelationships within coastal land and water environments.

(2) In establishing permitted uses, States must be cognizant of the requirement in subsection 306(c)(8) of the Act that the management program must

provide "for adequate consideration of the national interest involved in planning for, and the siting of, facilities (including energy facilities in, or which significantly affect, such states' coastal zone) which are necessary to meet requirements which are other than local in nature." States must have sufficient processes for providing such consideration.

§ 920.13 Geographic areas of particular concern.

(a) *Requirement.* In order to fulfill the requirements of subsection 305 (b) (3) of the Act, geographic areas of particular concern to the State must be inventoried. Designation may be site specific or generic (e.g. all wetlands, all wildlife refuges, etc.).

(b) *Comment.* Statutory Citation, Subsection 305(b) (3):

The management program for each coastal state shall include * * * (a) n inventory and designation of areas of particular concern within the coastal zone.

(1) The analysis of a State's coastal zone required by § 920.12 should provide the basic data and criteria necessary to identify geographic areas of particular concern. Such areas are likely to encompass not only the more-often cited areas of significant natural value or importance, but also: (a) transitional or intensely developed areas where reclamation, restoration, public access and other actions are especially needed, and (b) those areas especially suited for intensive use or development. In addition, immediacy of need should be a major consideration in determining particular concern. While the States will vary in their perceptions of what areas are of particular concern, criteria derived from assessing the following representative factors will assist in these designations:

(i) Areas of unique, scarce, fragile, or vulnerable natural habitat, physical feature, historical significance, cultural value, and scenic importance;

(ii) Areas of high natural productivity or essential habitat for living resources, including fish, wildlife, and the various trophic levels in the food web critical to their well-being;

(iii) Areas of substantial recreational value and/or opportunity;

(iv) Areas where developments and facilities are dependent upon the utilization of, or access to, coastal waters;

(v) Areas of unique geologic or topographic significance to industrial or commercial development;

(vi) Areas of significant hazard if developed, due to storms, slides, floods, erosion, settlement, etc.; and

(vii) Areas needed to protect, maintain or replenish coastal lands or resources, including such areas as coastal flood plains, aquifer recharge areas, sand dunes, coral and other reefs, beaches, offshore sand deposits, and mangrove stands.

(3) This inventory and designation of geographic areas of particular concern will be of assistance in meeting the requirements of subsection 306(c) (9) of the Act that the management program "make provision for procedures whereby specific areas may be designated for the purpose of preserving or restoring them for their conservation, recreational, ecological, or esthetic values."

§ 920.14 Means of exerting State control over land and water uses.

(a) *Requirement.* In order to fulfill the requirements of subsection 305(b) (4) of the Act, States must identify the means by which they will exert control over land and water uses subject to the management program. This identification must include a listing of relevant constitutional provisions, legislative enactments, regulations and judicial decisions.

(b) *Comment. Statutory Citation, Subsection 305(b) (4):*

The management program for each coastal State shall include * * * (a) n identification of the means by which the State proposes to exert control over the land uses and water uses referred to in paragraph (2), including a listing of relevant constitutional provisions, laws, regulations and judicial decisions.

(1) The requirements of subsection 305(b) (4) should be read in close conjunction with the provisions of subsections 306 (c) (7), (d) and (e) of the Act, the requirements for which are contained in Part 923 of this chapter.

(2) A fundamental purpose of this legislation is to broaden the perspective by which decisions affecting the coastal zone are made to incorporate a statewide view. Subsection 306(e) provides three methods—or a combination of these—by which a State may control land and water uses subject to the management program. Subsection 306(e) of the Act provides:

(i) Prior to granting approval, the Secretary shall also find that the program provides:

(A) For any one or a combination of the following general techniques for control of land water uses within the coastal zone;

(B) State establishment of criteria and standards for local implementation, subject to administrative review and enforcement of compliance;

(C) Direct State land and water use planning and regulation; or

(D) State administrative review for consistency with the management program of all development plans, projects, or land and water use regulations, including exceptions and variances thereto, proposed by any State or local authority or private developer, with power to approve or disapprove after public notice and an opportunity for hearings.

(3) It is for States to determine the appropriate role of local governments in administering its coastal zone program. The Act recognizes that local governments are closest to those who will be most affected by a management program, and that local governments can make useful contributions to the development of a program. Subsections 306(c) (1) and (2) require that: local governments and other interested public and private parties must have an opportunity for full participation in the development of the management program; the State has coordinated with local, areawide, and interstate plans; and the State has established an effective mechanism for continuing consultation and coordination with local governments and other units to insure their full participation in carrying out the management program.

(4) Some of the issues to be addressed in identifying the means by which a State will propose to exert its control include:

(i) Whether existing State powers and authority are sufficient to exert one—or a combination—of the three alternative means of control specified in subsection 306(e);

(ii) What specific modifications or strengthened mandates would be needed to qualify the State under subsections 306 (d) and (e); and

(iii) Whether a shared State-local or State-regional consolidated regulatory system should be established.

(5) It is important that the States determine at an early stage whether legislation is needed, and identify the elements of that legislation to meet the requirements in subsections 306 (d) and (e). These subsections require that the State, acting through its chosen agency or agencies, including local governments, area-wide agencies designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, regional agencies, or interstate agencies, has authority for the management of the coastal zone in accordance with the management program. Such authority shall include power:

(i) To administer land and water use regulations; control development in order to insure compliance with the management program; and to resolve conflicts among competing uses; and

(ii) To acquire fee simple and less than fee simple interests in lands, waters, and other property through condemnation or other means, where necessary to achieve conformance with the management program. The required listing of relevant constitutional provisions, legislative enactments, regulations and judicial decisions will, of course, be one foundation for analyzing and making decisions concerning the above issues and alternatives. In order to undertake the kinds of work outlined above, however, it will be necessary to go beyond a mere listing by preparing an assessment of current laws, needed executive or legislative initiatives and, where required, to prepare the elements of any legislative program needed to establish a comprehensive and enforceable management program.

§ 920.15 Designation of priority use guidelines.

(a) *Requirement.* In order to fulfill the requirements of subsection 305(b) (5) of the Act, States must develop broad guidelines on priorities of uses within geographic areas of particular concern, including guidelines regarding those uses of lowest priority. States may also develop such broad priority use guidelines for the entire coastal zone.

(b) *Comment. Statutory Citation, Subsection 305(b)(5):*

The management program for each coastal state shall include * * * (b) road guidelines on priorities of uses in particular areas, including specifically those uses of lowest priority.

(1) This requirement should be read in conjunction with the requirements of § 920.13 and should build upon States' findings and conclusions reached concerning geographic areas of particular concern. Priority guidelines will serve three essential purposes:

(i) To provide a basis for management in geographic areas of particular concern;

(ii) to provide the State and local governments, areawide and regional agencies, and citizens with a common reference point for resolving conflicts, and

(iii) to articulate the nature of the State's interest, be it preservation, conservation, and/or development, in geographic areas of particular concern.

(2) One of the purposes in providing guidelines regarding uses of lowest priority is to guide resolution of conflicts when two or more uses are competing for the same area. Where States are concerned about prohibiting or strictly controlling particular uses or types of uses, such uses should not be included as uses of lowest priority but should be restricted or prohibited. The requirements of this section are separate from and not a substitute for the requirements for resolving conflicts contained in subsection 306(d)(1) of the Act. Guidance for meeting the subsection 306(d)(1) requirements is contained in Part 923 of this chapter.

§ 920.16 Organizational structure to implement the management program.

(a) *Requirement.* In order to fulfill the requirements of subsection 305(b)(6) of the Act, States must describe the organizational structure that will be used to implement the management program. This description must include a discussion of those State and other agencies that will have responsibility for administering the authorities required in section 920.14, and the relationship of these entities to the State management agency designated pursuant to subsection 306(c)(5) of the Act.

(b) *Comment.* Statutory Citation, sections 305(b)(6):

The management program for each coastal State shall include * * * (a) description of the organizational structure proposed to implement such management program, including the responsibilities and interrelationships of local, areawide, state, regional, and interstate agencies in the management process.

(1) The requirements of this section should be read in conjunction with subsections 306(c)(1), (2), (5) and (6) of the Act, the requirements of which are contained in Part 923 of this chapter.

(2) Based on policies, management approaches, technical data, priorities and existing or potential powers and authorities developed by the State in response to the requirements of §§ 920.11 through 920.15, the critical issues of organizational structure, administrative responsibilities and institutional arrangements must be resolved. While a detailed institutional structure for achieving the Act's objectives cannot be specified in advance of development of the management program, the agency designated, or to be designated, by the Governor to receive and administer management grants should have:

(i) Authority to monitor the activities of all State, local, areawide/regional or other entities in the coastal zone; and

(ii) Appropriate access to the Governor.

(3) States should strengthen cooperative mechanisms for State-Federal consultation in key areas of mutual concern, particularly where Federal activities affect the coastal zone. Subsection 306(e)(2) requires that the management program provide for a method of assuring that local land and water use regulations within the coastal zone do not unreasonably restrict or exclude land and water uses of regional benefit.

§ 920.17 Shorefront access planning.

(a) *Requirement.* In order to fulfill the requirements of subsection 305(b)(7) of the Act, the management program must include a planning process that can identify public shorefront areas appropriate for increased access and/or protection. This process must include:

(1) a procedure for assessing public areas requiring access or protection;

(2) a definition of the term "beach" and an identification of public areas that meet that definition;

(3) articulation of State policies pertaining to shorefront access and/or protection;

(4) a method for designation of shorefront areas as areas of particular concern (either as a class or as specific sites) for protection and/or access purposes, if appropriate;

(5) a mechanism for continuing refinement and implementation of necessary management techniques, if appropriate; and

(6) an identification of funding programs and other techniques that can be used to meet management needs.

(b) *Comment.* Statutory Citation, Subsection 305(b)(7):

The management program for each coastal state shall include * * * (a) definition of the term "beach" and a planning process for the protection of, and access to, public beaches and other public coastal areas of environmental, recreational, historical, esthetic, ecological, or cultural value.

(1) The requirements of this section should be read in conjunction with subsection 305(b)(3) of the Act, dealing with geographic areas of particular concern, the requirements for which are contained in § 920.13 and § 923.13 of this chapter. In developing a procedure for identifying access and/or protection requirements for public beaches and other public coastal areas of environmental, recreational, historical, esthetic, ecological, or cultural value, States should make use of the analyses and considerations of statewide concern developed to meet the requirements of § 920.13. It is also recommended that information contained in completed State Comprehensive Outdoor Recreation Plans be considered. If islands have not been included in the areas considered under § 920.13, then their preservation needs should be considered under this subsection. Preservation should be considered broadly, in terms of ecological, environmental, recreational, historical, esthetic or cultural values.

(2) In developing a procedure for identifying access and/or protection needs, States should take into account (a) the supply of existing public facilities and areas, (b) the anticipated demand for future use of these facilities, and (c) the capability/suitability of existing areas to support increased access. Based on these and other considerations, as appropriate, the State's planning process shall include a description of appropriate types of access and/or protection, taking into account governmental and public preferences, resource capabilities and priorities.

(3) In determining access requirements, States should consider both physical and visual access. The emphasis, however, should be on the provision of increased physical access. Special attention should be given to recreational needs of urban residents for increased shorefront access. Physical access may include, but need not be limited to, footpaths, bikepaths, boardwalks, jitneys, rickshaws, parking facilities, ferry services and other public transport. To the extent that the provision of perpendicular access to public shorefront areas is insufficient to meet the purposes intended by this subsection, it is appropriate for States to consider lateral access. What this means is that where a State does not have a reasonable amount of public shorefront area above mean high tide or above the ordinary high water mark in the Great Lakes, then provision of perpendicular access may not serve a sufficient range of purposes in terms of increasing or enhancing the publics' ability to get to and to enjoy shorefront amenities. In such cases, consideration of the need for areas above mean high tide, or the ordinary high water mark in the Great Lakes, is appropriate. Visual access may involve, but need not be limited to, viewpoints, setback lines, building height restrictions, and light requirements.

(4) As part of this general planning process, States should develop a procedure which will allow for the eventual identification of specific areas for which provision of access through acquisition will be appropriate during program implementation. In conjunction with developing this procedure, States shall identify local, State or Federal sources for accomplishing particular access proposals. Particular attention should be given to coordination of management objectives with funding programs pursuant to subsection 315(2) of the Act, and pursuant to the Land and Water

Conservation Fund (16 U.S.C. 460 et seq.) and other statutes as may be appropriate. It should be noted that the access referred to in this subsection is broader than the types of access that may be acquired using subsection 315(2) funds which is limited to the acquisition of lands or interests in lands for purposes of providing access to public shorefront and/or for the preservation of islands.

(5) In determining the needs for protection of public coastal areas, States should consider such factors as (a) environmental, esthetic or ecological preservation (including protection from overuse and mitigation of erosion or natural hazards), (b) protection for public use benefits (including recreational, historic or cultural uses), (c) preservation of islands, and (d) such other protection as may be necessary to insure the maintenance of environmental, recreational, historic, esthetic, ecological or cultural values of existing public shorefront attractions. Existing public shorefront attractions may be broadly construed to include, but need not be limited to: public recreation areas, scenic natural areas, threatened or endangered floral or faunal habitat, wetlands, bluffs, historic, cultural or archaeological artifacts, and urban waterfronts.

(6) The purpose of defining the term "beach" is to aid in the identification of those existing public beach areas requiring further access and/or protection as a part of the State's management program. States should define "beach" in terms of characteristic physical elements (e.g., submerged lands, tidelands, foreshore, dry sand area, line of vegetation, dunes) or in terms of public characteristics (e.g., local, State or Federal ownership, or other demonstrated public interest such as easements, leases, licenses, or traditional and habitual usage). At a minimum, the definition of what constitutes a public beach shall be as broad as that allowed under existing State law or constitutional provisions. States should take into account special features such as composition (e.g., non-sand beaches), location (e.g., urban or riverine beaches), origin (e.g., manmade beaches) and fragility (e.g., areas of shifting dunes). Where access may be complicated by questions of ownership and use of the foreshore or dry sand beach, States are encouraged to define beach in terms of its component parts, especially at the mean high tide line, or the ordinary high water mark in the Great Lakes. Finally, in defining the term "beach," States shall provide a rationale explaining the relationship between the definition developed and access and protection needs.

§ 920.18 Energy facility planning.

(a) *Requirement.* In order to fulfill the requirements contained in subsection 305(b)(8) of the Act, the management program must include a planning process that can anticipate and manage the impacts from energy facilities in or significantly affecting the State's coastal zone. This process must include:

(1) An identification of energy facilities which are likely to locate in, or which may significantly affect, the coastal zone;

(2) A procedure for assessing the suitability of sites for such facilities;

(3) Articulation of State policies and other techniques for the management of energy facilities and/or their impacts;

(4) A mechanism for coordination and/or cooperative working arrangements, as appropriate, between the State coastal planning or management agency and other relevant State, Federal, and local agencies involved in energy facility planning and/or siting, including conformity of siting programs, where they exist, with the coastal zone management program; and

(5) An identification of legal and other techniques that can be used to meet management needs.

(b) *Comment.* Statutory Citation, Subsection 305(b)(8):

The management program for each coastal State shall include * * * (8) planning process for energy facilities likely to locate in, or which may significantly affect the coastal zone, including, but not limited to, a process for anticipating and managing the impacts from such facilities.

(1) In meeting these requirements, there are a number of approaches a State might use. The State could designate/reserve specific sites in or near the coastal zone for particular types of energy facilities. Alternately, the State could develop performance standards or other regulations that particular types of energy facilities would have to meet irrespective of their coastal zone location. Under this approach, no sites would be specifically reserved, but neither would any be specifically excluded. A third option, a variant of the second, would combine a performance standard approach with specific exclusions of all or particular types of facilities in selected coastal zone locations. These exclusions/restrictions could be based on: the anticipated adverse environmental impacts in particular locations due to sensitivity of particular resources (e.g., exclusion due to thermal pollution of nuclear power plants in particular wetlands which are especially productive fish spawning/nursery grounds); the safety problems associated with the operation of specific facilities in particular locations (e.g., exclusion of LNG terminals in densely populated areas because of safety problems, e.g., requirement for oil transfer by off-shore pipeline rather than on-shore tanker unloading); State policy determinations that certain types of energy facilities are not coastal dependent (e.g., requirement for petrochemical processing plants to be located inland from the coastal zone). There are numerous variations and mixes of the above approaches that can be used in developing an acceptable energy facility planning process and associated coastal zone management program policies. For example, a State could reserve sites for a number of specific types of energy facilities (e.g., electric power plants, deep-water terminals), restrict or exclude others from the coastal zone (e.g., nuclear power plants), and require still other types of facilities to meet certain performance criteria (e.g., pipeline siting, drilling techniques). Whatever approach is taken, it is critical to tie the outcome of the planning process to what may sometimes be two conflicting considerations: resource preservation/conservation and the need for energy production and transportation. This latter consideration may involve being responsive to not only the needs of energy users in the coastal zone but also the energy needs in the State, region and the Nation. At the same time, other facilities and uses of regional benefit and national interest, such as recreation areas, commercial fishery facilities, and animal habitat protection must be provided for in the coastal zone. The relative importance of energy facilities in the coastal zone should reflect the importance of these other interests as well as the availability of energy resources and potential sites in—or outside of—the coastal zone. Essentially, a balancing of national interests between resource preservation and conservation, on the one hand, and energy needs, on the other hand, must be achieved in order to avoid arbitrary restrictions or exclusions of either interest. Particularly in determining greater than local and coastal zone energy needs, consideration must be given to (1) national and other projections of energy needs, (2) assessments of the best mix of energy sources (e.g., coal v. gas v. oil) to meet these needs and (3) techniques for reducing demands for energy (e.g., impact of energy conservation measures). Further, determination of whether the coastal zone or resources therein are required to serve greater than local needs should be based, in part, on consultation with relevant Federal agencies.

(2) The purpose of identifying energy facilities which may significantly affect the coastal zone is to assure the consideration of these facilities as land or water uses having a direct and significant impact on coastal waters and subject to the management program. In determining which energy facilities may significantly affect the coastal zone, States must consider, at a minimum, those facilities listed in subsection 304(5) of the Act. These facilities include any equipment or facility which will be used or expanded primarily (a) in the exploration for, or the development, production, conversion, storage, transfer, processing, or transportation of any energy resource, or (b) for the manufacture, production, or assembly of equipment, machinery, products or devices which are involved in any activity described in (a). Accordingly, this includes, at a minimum, but is not limited to (i) electric generating power plants, (ii) petroleum refineries and associated facilities, (iii) gasification plants, (iv) facilities used for the transportation, conversion, treatment, transfer or storage of liquefied natural gas, (v) uranium enrichment or nuclear fuel processing fa-

cilities, (vi) oil and gas facilities, including platforms, assembly plants, storage depots, tank farms, crew and supply bases and refining complexes, (vii) facilities, including deepwater ports, for the transfer of petroleum, (viii) pipelines and transmission facilities, and (ix) terminals which are associated with the foregoing. States have the option of expanding this list for planning and management purposes to include any related or secondary energy activities, which a State feels may significantly affect its coastal zone.

(3) At a minimum, "significantly affect" shall be defined in terms of substantial or potentially substantial changes in coastal zone resources which could be affected by a proposed energy facility. These include changes in land, air, water, minerals, flora, fauna, noise, and objects of historic, cultural, archeological or aesthetic significance. States have the option of using a more expansive definition of "significantly affect" which could include any or all of the concepts in the National Environmental Policy Act of 1969 (Pub. L. 91–190, as amended). These concepts include the following:

(i) Effects which are noteworthy in an overall, cumulative way, considering the impacts of a given energy facility and related facilities, either existing or contemplated;

(ii) Effects which may be positive, negative or both;

(iii) Effects which may come about or increase in magnitude because of the particular location of an energy facility; and

(iv) Effects which cover a broad range of environmental, social and economic impacts.

(4) In developing a procedure for assessing the suitability or sites for energy facilities, it will be important to create a planning process that takes adequate account of all the potential changes noted in paragraph (d)(3) of this section, as well as any other economic, social or environmental indices the State chooses to consider as significant effects. This procedure must also include a capability to evaluate alternative sites and to determine if a potential site is appropriate given these assessments.

(5) States, particularly those which anticipate a large involvement in the Coastal Energy Impact Program (CEIP, Section 308 of the Act, Part 931 of this chapter) should design their planning process to include those impacts from energy facilities that will be considered under the CEIP.

(6) In developing State policies and other techniques for the management of energy facilities and/or their impacts (through siting programs, performance standards or other approaches suggested in (1) above), State coastal planning or management agencies are encouraged to develop these policies and management techniques in consultation and cooperation with other State, local and Federal agencies. General consultation requirements for program development, of which this consultation should be considered a part, are discussed more fully in Part 923 of this chapter. Depending on the approach taken to energy facilities management, this consultation and coordination should include, but need not be limited, to procedures for: (1) Assessing need/demand projections; (2) allocating these needs among coastal and inland locations; (3) identifying potential coastal impacts; and (4) determining site suitability of alternative locations for particular facilities. The actual analysis of particular sites for suitability may be accomplished using planning funds authorized under subsection 308(c) of the Act. The nature of State policies and management techniques that will be articulated as part of the overall management program will vary, depending on (1) the approach taken to planning and management of energy facilities and/or their impacts, (2) the extent and type of energy facility siting procedures and/or impact management techniques already existing in a particular State, and (3) existing Federal and local authorities. Accordingly, as part of meeting requirements in § 920.14, States must include, as part of their listing of relevant constitutional provisions, laws, regulations, judicial decisions and other appropriate official documents or actions, those items specifically relating to planning for, anticipating and managing energy facilities and/or impacts, including licensing or permitting procedures.

(7) In assuring the coordination of relevant agencies involved in energy facility planning, States should give particular attention to State and Federal agencies already involved in various aspects of energy planning. At a minimum, where interstate plans exists, as referred to in subsection 306(c)(8) of the Act, these plans should be taken into consideration. Cooperative arrangements, whenever possible, should extend to use of energy data, projections, estimates of facility needs, and policies that have been developed by others. Sources for such information include State and Federal energy agencies, energy industries, and State utility commissions.

§ 920.19 Shoreline erosion/mitigation planning.

(a) *Requirement.* In order to fulfill the requirements contained in subsection 305(b)(9), the management program must include a planning process that can assess the effects of shoreline erosion, and can evaluate management policies and techniques for addressing shoreline erosion. Evaluation can include assessment of ways to mitigate, control or restore areas adversely affected by erosion. This process must include:

(1) A method for assessing the effects of shoreline erosion;

(2) Procedures for handling erosion effects, including non-structural procedures;

(3) Articulation of State policies pertaining to erosion, including policies regarding preferences for non-structural or structural controls and/or no controls;

(4) A method for designation of areas for erosion control, mitigation and/or restoration as areas of particular concern or areas for preservation/restoration; if appropriate;

(5) A mechanism for continuing refinement and implementation of necessary management policies and techniques, if appropriate; and

(6) An identification of funding programs and other techniques that can be used to meet management needs.

(b) *Comment.* Statutory Citation, Subsection 305(b)(9):

> The management program for each coastal state shall include * * * (a) planning process for (A) assessing the effects of shoreline erosion (however caused), and (B) studying and evaluating ways to control, or lessen the impact of, such erosion, and to restore areas adversely affected by such erosion.

(1) In developing a method for assessing the effects of shoreline erosion, States should consider loss of land along the shoreline or along estuarine banks, whether this loss is caused by actions of man or by natural forces, and whether these actions are regularly occurring, cyclical, or one-time events. In assessing the effects of erosion, States should consider the cause of these effects (e.g., man-made v. natural forces), examine the major effects of erosion and make some judgments as to their relative as well as collective importance. The purpose of such assessment will be to determine how, if at all, states will want to handle erosion control, mitigation and/or restoration. States may want to include effects of accretion as part of this assessment procedure.

(2) In developing policies and management techniques for dealing with effects of erosion, States will want to consider, as appropriate, non-structural and structural options as well as the possibility of allowing erosion/accretion to continue to occur. It is not the intent of these planning requirements to imply that an appropriate State response to erosion necessarily requires control (either of a structural or non-structural nature). In some locations along a State's coast, it may be appropriate to articulate a policy of non-control, given the cause of erosion, the configuration of the coastline, the adverse impacts that may result from control techniques, etc. An example of where a policy of non-control may be appropriate is along barrier islands where there is substantial natural erosion due to littoral drift. In cases where State policy is not to control erosion, either in selected locations or along the entire coastline, the rationale for such policy should be stated explicitly. In evaluating ways to control/lessen erosion impacts either through non-structural or structural management techniques, States should take into account such considerations as shoreline configuration, extent of the problem, costs of alternative solutions, and incorporation of existing management techniques. States also should take particular account of the National Flood Insurance Program (24 CFR 1909 et seq.), and regulations of the Federal

Insurance Administration on flood-related erosion-prone areas (24 CFR 910.5).

(3) In developing a procedure, if appropriate, for designating areas for restoration, pursuant to section 923.16 of this chapter. States may consider complete re-establishment of the pre-erosion shoreline or other more limited rebuilding of an eroded area. Both natural and developed areas may be considered for restoration purposes. Due to restrictions on the use of section 306 funds with respect to construction and acquisition projects, not all means of restoration proposed by States may be eligible for section 306 funding, or funding under other sections of the Act. Despite this restriction on the use of section 306 funds, States should not feel restricted as to the means restoration proposed as part of the management program and should give particular attention to coordination of shoreline erosion management objectives with funding programs pursuant to the U.S. Army Corps of Engineers Beach Erosion Control Program (33 U.S.C. 426 et seq.) and the Hurricane Protection Program (33 U.S.C. 701 et seq.) and other statutes as may be appropriate.

Subpart C—Research and Technical Support

§ 920.20 General.

(a) States should try to distinguish between research and technical studies that are appropriately funded pursuant to subsection 310(b) which is a program of grants to States to support research, study and training activities designed to improve State capability to develop and/or administer coastal zone management programs. It should be pointed out that the primary emphasis of the coastal zone management program is to create the mechanism for States to exert appropriate control over land and water uses and to begin the management process, not to engage in long-term research projects. While it may be difficult sometimes to distinguish the most appropriate section of the Act to provide funds, a general guideline is that those research, study or technical support activities which are essential to meeting the criteria for program approval should be funded pursuant to section 305 of the Act. Those activities which enhance or improve a State's ability to meet the criteria for approval should be funded pursuant to subsection 310(b) (Part 933 of this chapter). Moreover, it is anticipated that research and studies funded pursuant to subsection 310(b) will be more technical in nature and/or more geographically specific than those activities typically funded pursuant to section 305. Applications for management program development grants which contain substantial research elements will be carefully reviewed to assure that these elements are essential to the successful development of a State's management program; are an integral part of a comprehensive review of existing information relating to the management program; and are not more appropriately funded under the State research and technical assistance program pursuant to subsection 310(b).

(b) In developing their management programs, States should endeavor to use existing information and research sources to the extent applicable and available rather than undertaking unnecessary independent research or information gathering as part of program development. In this respect, OCZM ordinarily should be contacted to ascertain what information and assistance it can provide.

(c) A substantial number of sources for technical information exist within Federal agencies, in universities, in State and Federal laboratories and research centers, and in the private sector. OCZM will endeavor to serve as a general clearinghouse for specialized information, and will issue pertinent publications on technical support available from NOAA and other Federal sources. In addition, as part of the National Research and Technical Assistance Program authorized by subsection 310(a) of the Act (Part 933 of this chapter), OCZM intends to identify unresolved coastal research problems of national and regional scope, and will seek to facilitate their solutions.

Subpart D—Public Participation

§ 920.30 General.

Public participation is an essential element of development and administration of a coastal management program. Through citizen involvement in the development of a management program, public needs and aspirations can be reflected in use decisions for the coastal zone, and public support for the management program can be generated. Participating States, therefore, should seek to obtain extensive public participation in the development and administration of a coastal management program.

§ 920.31 Public hearings.

(a) *Requirement.* In order to meet the requirements of subsection 306(c)(3) and section 311 of the Act with respect to public hearings, States shall:

(1) Hold at least two public hearings, at least one of which will be on the total coastal management program;

(2) Provide a minimum of 30 days public notice of hearing dates and locations; and

(3) Make available, at the time of public notice, all agency materials pertinent to the hearings.

(b) *Comment.* Statutory Citation, Subsection 306(c)(3):

> Prior to granting approval of a management program submitted by a coastal state, the Secretary shall find that • • • (t)he state has held public hearings in the development of the management program.

(c) *Comment.* Statutory Citation, Section 311:

> All public hearings required under this title must be announced at least thirty days prior to the hearing date. At the time of the announcement, all agency materials pertinent to the hearings, including documents, studies, and other data, must be made available to the public for review and study. As similar materials are subsequently developed, they shall be made available to the public as they become available to the agency.

(1) Notification of public hearings should provide the public the longest period of notice practical, but in no event should notice be less than the 30 day statutory minimum. Announcement of the hearings should be through media designed to inform the public—not merely to provide "technical notice." Therefore, in addition to any publication of legal notice as required by State law, reasonably informative news releases should be made available to the news media in the affected communities.

(2) At the time of the announcement, all agency materials pertinent to the hearings, including documents, studies, the agenda for the hearings, and other data, must be made available to the public for review and study in the locale where the hearings are to be conducted.

(3) Hearings on the total management program do not have to be held per se on the document submitted to the Associate Administrator for section 306 approval. However, such hearing(s) must cover the substance and content of the proposed management program in such a manner that the general public, and particularly affected parties, have a reasonable opportunity to understand the impacts of the management program.

(4) Hearings should be held in those geographic areas which would be most affected by the issues under consideration at the hearing (e.g., establishment of priority uses for a given geographic area). Hearings on the total management program should be held in places within the State where all citizens of the State may have an opportunity to comment.

(5) In many cases, the population of the coastal zone fluctuates significantly with the seasons of the year. Efforts should be made to insure that hearings are held when those populations most likely to be affected are present.

(6) A verbatim transcript of the hearings need not be prepared but a comprehensive summary should be made available to the public within 45 days after the conclusion of the hearings. A copy of these summaries shall accompany the management program when it is submitted to the Associate Administrator for approval.

§ 920.32 Additional means of public participation.

(a) Formal public hearings may not provide an adequate opportunity for information exchange. To insure that the public is heard during the development of the program, efforts should be made to encourage discussion in various forums and to take other steps to insure that the public can participate in the process in a meaningful manner. The following are suggested to accommodate increased public participation:

(1) Establish arrangements for exchanging information, data, and reports among State and local government

agencies, citizen groups, special interest groups, and the public at large;

(2) Provide opportunity for participation by relevant Federal agencies, State agencies, local organizations, port authorities and other interested parties, both public and private;

(3) Develop mechanisms, in addition to public hearings, to allow citizens and the public at large to effectively participate in the coastal zone program. The following are examples that might be used:

(i) Citizen involvement in the development of goals and objectives,

(ii) Establishment of a Citizen Advisory Committee, and

(iii) Establishment of processes to review component elements of the management program by selected citizen groups and the general public.

Subpart E—Preliminary Approval

§ 920.40 General.

(a) This section establishes criteria to be employed in receiving, reviewing and providing preliminary approval of State coastal management programs, and for awarding grants pursuant to subsection 305(d) of the Act.

(b) The basic purpose of preliminary approval is to allow a State additional time to implement fully a coastal management program which, in its design and description, meets the requirements of section 306 of the Act. In granting preliminary approval, recognition is given to the need to include, in a subsection 305(d) work program, those deficiencies precluding section 306 approval, the specifics for remedying those deficiencies, and a timetable within which this is to occur.

(c) Another objective is to provide funding to support initial implementation of selected elements of a State's coastal management program, provided that the overall design and description of the program meets the section 306 requirements. For selected elements to be initially implemented, necessary section 306 legal authorities and administrative capabilities must be in place.

(d) A third objective is to provide a State with additional time to resolve problems, uncovered during Federal and/or DEIS review of a program submitted for section 306 approval, when such problems would preclude full approval.

(e) The following are examples of situations under which States may apply for preliminary approval:

(1) A State may be able to describe the legislative authority it needs in order to meet the requirements under section 306 to have an approvable program, and to draft a bill carrying this out, but not be able to enact same within the time period pursuant to subsection 305(c). This could be because the legislature meets only every two years, or because the process is too complicated to accomplish in a matter of months.

(2) A State program may call on local units of government to prepare their own coastal plans in accordance with State guidelines. However, one or even two years may be required for these units to carry out their work. Under this example, it should be noted that, depending on the nature of the State-local relationships and existing legal authorities, this activity also can be accomplished as part of a State's subsection 305(c) program development grant and/or as part of a section 306 program administrative grant.

(3) A State may need to reorganize within the Executive branch before a program can gain approval and funding under section 306.

(4) A State may be encountering problems resolving differences with one or a number of Federal agencies with respect to specific aspects of its coastal management program.

(f) Preliminary approval is not seen as a necessary continuum from section 305 to section 306 status. States may move directly from subsection 305(c) (program development) grants to section 306 (program implementation) grants. Progression from subsection 305(c) status to subsection 305(d) (preliminary approval) status is not automatic, nor is progression from preliminary approval status to section 306 status automatic. Application for preliminary approval requires consultation with the Associate Administrator to insure that the State meets the eligibility conditions and approval criteria.

(g) Preliminary approval is meant to apply to a fully described coastal management program for a State's entire coastal zone. Accordingly, segments are not eligible for approval pursuant to this subsection but shall continue to be considered under provisions of section 306 of the Act and related requirements of Part 923 of this chapter dealing specifically with segmentation.

§ 920.41 Eligibility for consideration.

(a) *Requirement.* In order to be eligible for consideration for preliminary approval, pursuant to subsection 305(d), a State must be in one of the following situations:

(1) After all subsection 305(c) program development grants have been expended and the State can describe a program that meets the basic approval criteria but there are still aspects of the program which must be instituted before section 306 approval can be given; or

(2) At any time during section 305 program development when a State has elements of its coastal management program to implement and meets the basic approval requirement (that the overall program as described would be approvable when fully implemented); or

(3) During the course of section 306 review, problems are uncovered that preclude section 306 approval but do not preclude preliminary approval.

§ 920.42 Approval criteria.

(a) *Requirement.* For a State's coastal management program to receive preliminary approval pursuant to subsection 305(d)(2) of the Act, the State must demonstrate that:

(1) The management program fulfills the requirements of section 305(b) of the Act and implementing regulations;

(2) Deficiencies that prohibit achievement of section 306 program approval are identified, after consultation with the Associate Administrator, and the means and timetable for remedying these deficiencies are specified;

(3) The purposes for which the subsection 305(d) grant are to be used are specified;

(4) Adequate steps have been or are being taken to meet the requirements under section 306 or 307 of the Act, which involve Federal officials or agencies;

(5) The program as described and proposed for implementation would be fully approvable when submitted for section 306 approval; and

(6) For those elements to be implemented under subsection 305(d), the necessary legal authorities and organizational structures are adequate and in place.

(b) *Comment.* (1) Pursuant to subsection 305(d)(2)(A) of the Act, "(a) coastal state is eligible to receive grants under this subsection if it has * * * (d)eveloped a management program which * * * (i) is in compliance with rules and regulations promulgated to carry out subsection (b), but (ii) has not yet been approved by the Secretary under section 306." The rules and regulations referred to above are contained in the original Part 920 published on November 29, 1973, and incorporated into Part 923 of this chapter which was published on January 9, 1975. Where there are differences in these sets of regulations, the Part 923 requirements should be held to be controlling. In order to satisfy this paragraph, all the requirements of subsection 305(b)(1)–(6) of the Act shall be completed in accordance with the provisions and procedures set forth in corresponding regulations of Part 923 of this chapter.

(2) Pursuant to paragraph 305(d)(2)(B) of the Act, "(a) coastal State is eligible to receive grants under this subsection if it has * * * (s)pecifically identified, after consultation with the Secretary, any deficiency in such program which makes it ineligible for approval * * * (p)ursuant to section 306, and has established a reasonable time schedule during which it can remedy any such deficiency." The only deficiencies that a State may remedy after preliminary approval are those that relate to implementing capability. In other words, an acceptable subsection 305(d) program can be deficient only in its lack of having translated fully described but pending implementing actions into accomplished fact. Deficiencies bearing on the adequacy of program design, description, or implementation strategy cannot be addressed as part of a subsection 305(d) program but rather should continue to be addressed as part of the basic subsection 305(c) program development process. To meet the requirements of subsection 305(d)(2)(B) of the Act, States should describe the nature of the deficiency, the reason for it, and the specific means and timetable by which the deficiency shall be overcome. The schedule for remedying deficiencies should be sufficiently long to be realistic, given the nature and num-

ber of deficiencies and the particulars of a State's situation. At the same time it should be sufficiently tight to insure an enhanced and expeditious State effort. In no case shall the timetable for remedying section 306 deficiencies extend beyond fiscal year 1979.

(3) Pursuant to subsection 305(d)(2)(C) of the Act, "(a) coastal State is eligible to receive grants under this subsection if it has * * * (s)pecified the purposes for which grants shall be used."

(i) In specifying the purposes for which grants shall be used, States are advised that the following represent allowable subsection 305(d) costs:

(A) Resolving section 306 deficiencies;

(B) Meeting the new planning requirements of subsections 305(b) (7), (8) and (9);

(C) Implementing those portions of a State's coastal management program for which sufficient authorities and organizational structures are in place; and

(D) Updating coastal management programs if this updating would be an allowable cost after section 306 approval.

(ii) Examples of fundable items to remedy section 306 deficiencies include, but are not limited to:

(A) Pass-throughs to local or regional units of government to develop master programs and/or local ordinances conforming to State guidelines;

(B) Efforts necessary to enact or refine needed legislation;

(C) Federal coordination efforts, including establishment of procedures for determining Federal consistency once a costal management program is fully approved under section 306; and

(D) Negotiation of memoranda of understanding and instituting other arrangements for interactions among State agencies.

(iii) Examples of fundable items to meet the new planning requirements include:

(A) Development of a shorefront access and protection planning process;

(B) Development of an energy facility planning process; and

(C) Development of a shoreline erosion/mitigation planning process.

(iv) Examples of fundable items to initiate implementation of selected aspects of a State's coastal management program include, but are not limited to:

(A) Personnel or equipment necessary to administer approved permit and other authorities;

(B) Signs, publications, etc., relative to approved management practices;

(C) General maintenance/resource mangement activities; and

(D) Personnel for establishing consistency procedures.

(v) Example of fundable items for updating the management program include, but are not limited to:

(A) Site-specific studies on appropriate management techniques for areas for preservation/restoration;

(B) Opinion surveys to determine public understanding/acceptance of various elements of the management program;

(C) Studies of ways to improve intergovernmental coordination techniques approved as part of the management program.

(4) Pursuant to subsection 305(d)(2)(D) of the Act, "(a) coastal State is eligible to receive grants under this subsection if it has * * * (t)aken or is taking adequate steps to meet any requirement under section 306 or 307 which involves any Federal official or agency." For purposes of this paragraph, the particular sections of 306 and 307 are:

(i) Subsection 306(a)(1)—identification of excluded Federal lands;

(ii) Subsection 306(c)(1)—opportunity for full participation by relevant Federal agencies. This shall include advising Federal agencies (especially at the regional level) of the State's intent to apply for preliminary approval;

(iii) Subsection 306(c)(8)—adequate consideration of the national interest involved in planning for, and in the siting of, facilities necessary to meet requirements which are other than local in nature;

(iv) Subsection 307(c)—development of procedures for certifying Federal consistency with respect to Federal activities or development projects, and with respect to activities subject to Federal licenses or permits;

(v) Subsection 307(d)—development of procedures for certifying Federal consistency with respect to Federal assistance to State and local governments; and

(vi) Subsection 307(h)(1)—participation in mediation procedures, if appropriate.

(5) Pursuant to subsection 305(d)(2)(E) of the Act, "(a) coastal State is eligible to receive grants under this subsection if it has * * * (c)omplied with any other requirement which the Secretary, by rules and regulations, prescribes as being necessary and appropriate to carry out the purposes of this subsection." By virtue of these rules and regulations, the following are prescribed as necessary and appropriate for States to complete in order to merit preliminary approval under this paragraph:

(i) A description of the overall management program of sufficient detail and addressing all necessary section 306 findings to allow a determination that, when implemented, these elements will constitute an approvable section 306 management program.

(ii) For those aspects to be implemented under subsection 305(d), a demonstration that the legal authorities and organizational capability necessary for implementation exist at time of preliminary approval.

(iii) An Environmental Impact Assessment (EIA) on the over-all management program proposed for eventual implementation, with particular emphasis on those elements, if any, which will be funded for implementation purposes pursuant to subsection 305(d).

Submission of the EIA will enable NOAA to make a case-by-case determination as to the necessity of issuing an Environmental Impact Statement (EIS) prior to preliminary approval. In those cases where NOAA determines that an EIS is appropriate prior to approving a section 3305(d) submission, both the program document and the EIS will be distributed to Federal and other reviewers, according to normal EIS review procedures. In those cases where the EIS is more appropriately prepared prior to approving the section 306 submission, the section 305(d) program document which includes the EIA, will be distributed, to Federal agencies so that their comments can be addressed prior to the section 306 submission.

§ 920.43 Review/approval procedures.

(a) States interested in preliminary approval should consult with the Associate Administrator well in advance of the point at which they would like to receive such approval. As a general rule, such consultatioon should begin six months before approval is desired. The purpose of this consultation is to determine:

(1) If the program will be sufficiently developed, designed and described to warrant consideration for preliminary approval at the time desired;

(2) If there are any elements of the State's management program eligible for implementation funding as part of preliminary approval;

(3) The content and detail of the EIA which must accompany the State's preliminary approval submission; and

(4) If an EIS will be necessary prior to granting preliminary approval.

If the Associate Administrator indicates that the program appears to meet the subsection 305(d) approval criteria, and if a determination is made that an EIS will not be necessary prior to preliminary approval, States should plan on submitting the subsection 305(d) program document, including an EIA, two to three months prior to the desired date of approval. If the Associate Administrator determines an EIS will be necessary prior to granting preliminary approval, States should plan on submitting the program document, including the EIA, shortly after this determination is made. The subsection 305(d) program document should follow the general format recommended by OCZM for section 306 submissions plus such additional information as is required by sections 920.42 (b)(2) and (b)(3) with respect to describing deficiencies, timetable for remedying, and purposes for which the grant will be used. The application for grant funds and the accompanying work program is a separate document that may be submitted in conjunction with or subsequent to submission of the subsection 305(d) program document. The requirements for the grant application are contained in Subpart F, section 920.61.

(b) Upon submission by a State of a subsection 305(d) program document, the Associate Administrator shall review the document for compliance with the approval criteria contained in section 920.42. At his/her discretion, the Associate Administrator may consult with

relevant Federal agencies regarding the proposed management program and deficiencies thereof. If a State meets the approval criteria, the Associate Administrator may award a subsection 305(d) grant and will issue a set of findings with respect to deficiencies and the timetable for their resolution.

(c) Copies of the subsection 305(d) program document and the Associate Administrator's findings of deficiencies will be distributed to relevant Federal agencies. This will provide Federal agencies with any early opportunity to review and comment on the proposed management program and EIA prior to a formal section 306 submission. To insure consideration of deficiencies identified by Federal agencies, as a result of consultation and review of a State's subsection 305(d) program document, during the subsection 305(d) grant award period, a State is required to include a work item in its subsection 305(d) grant application specifically devoted to addressing Federal comments on the proposed management program.

(d) If a State applies for preliminary approval after formal section 306 program review has begun, preliminary approval will be issued at that point in the section 306 review process when the formal Federal agency review and corresponding DEIS review reveal problems that preclude full program approval and implementation but do not preclude preliminary approval. States will be required to take into consideration those items raised by the Federal agency/DEIS reviews as part of the subsection 305(d) work program.

Subpart F—Applications for Development Grants

§ 920.50 General.

(a) The primary purpose of development grants made under section 305 of the Act is to assist a State in developing a comprehensive coastal management program that can be approved by the Associate Administrator. The purpose of these guidelines is to define the procedures by which grantees apply for and administer grants under the Act. These guidelines shall be used and interpreted in conjunction with the Grants Management Manual for Grants under the Coastal Zone Management Act, hereinafter referred to as the "Manual" which contains procedures and guidelines for the administration of program development grants. The Manual incorporates a wide range of Federal requirements, including those established by the Office of Management and Budget, the General Services Administration, the Department of the Treasury, the General Accounting Office, and the Department of Commerce. In addition to specific policy requirements of these agencies, the Manual includes recommended policies and procedures for a grantee to use in submitting a grant application. Inclusion of recommended policies and procedures for grantees does not limit their choice in selecting those most useful and applicable to local requirements and conditions. Grants given to the State must be expended for the development of a management program that meets the requirements of the Act. Grants shall not exceed eighty per cent of the total cost of the development programs. Federal funds received from other sources cannot be used to match OCZM grants. No more than four annual program development grants pursuant to subsection 305(c) can be awarded to a State.

(b) *Comment.* Statutory Citation, Subsection 305(c):

> The Secretary may make a grant annually to any coastal State for the purposes described in subsection (a)(1) if such state reasonably demonstrates to the satisfaction of the Secretary that such grant will be used to develop a management program consistent with the requirements set forth in section 306. The amount of any such grant shall not exceed 80 per centum of such state's cost for such purposes in any one year. No coastal state is eligible to receive more than four grants pursuant to this subsection. After the initial grant is made to any coastal state pursuant to this subsection, no subsequent grant shall be made to such state pursuant to this subsection unless the Secretary finds that such state is satisfactory developing its management program.

§ 920.51 Administration of the program.

The Congress assigned the responsibility for the administration of the Coastal Zone Management Act of 1972, as amended, to the Secretary of Commerce, who has designated the National Oceanic and Atmospheric Administration as the agency in the Department of Commerce to manage the program. NOAA has established the Office of Coastal Zone Management for this purpose. Requests for information on grant applications and the applications themselves should be directed to:

Associate Administrator for Coastal Zone Management, National Oceanic and Atmospheric Administration, Page Building 1, 3300 Whitehaven Street NW., Washington, D.C. 20235.

§ 920.52 State responsibility.

(a) Applications for initial development grants must be submitted by the Governor of a coastal state or her/his designee.

(b) The application shall designate a single State official, agency or entity to receive development grants and have responsibility for the development of the State's coastal zone management program. The designee need not necessarily be that agency designated by the Governor under the provisions of subsection 306(c)(5) of the Act as the single agency to receive and administer the grants for implementing the management program.

(c) One State application will cover all program development activities, whether carried out by State agencies, areawide/regional agencies, local governments, regional or interstate entities.

(d) The designated State entity will be fiscally responsible for all expenditures made under the grant, including expenditures by sub-contractors.

§ 920.53 Allocation.

(a) Subsection 305(g) allows a State to allocate a portion of its development grant to sub-State or multi-State entities. If the State intends to allocate a portion of its grant, the application shall set forth the manner in which a State plans to allocate any portion of its grant to sub-State units, multi-State units, or any other authorized entity. Requests for allocation will not be approved unless it is clearly demonstrated that the work to be accomplished as the result of such allocations is integrated into the State's program development effort.

(b) Areawide/Regional agencies. Should the State wish to allocate a portion of its program development grant to an areawide/regional agency under the provisions of subsection 305(g) of the Act, and in the absence of State law to the contrary, preference shall be given to those agencies recognized or designated as areawide/regional comprehensive planning and development agencies under the provisions of Office of Management and Budget Circular No. A-95, under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 or Title IV of the Intergovernmental Cooperation Act of 1968. The provisions of part IV, OMB Circular No. A-95 dealing with the "Coordination of Planning in Multijurisdictional Areas" apply to all areawide or regional agencies that have jurisdiction for any portion or all of the designated planning area.

(c) Local government. Should the State desire to allocate a portion of its program development grant to a local government under the provisions of subsection 305(g) of the Act, units of general-purpose local government are preferred over special-purpose units of local government, as provided in section 402 of the Intergovernmental Cooperation Act of 1968.

§ 920.54 Geographic segmentation.

When a State has a program for a geographical segment of its coastal zone approved pursuant to subsection 306(h) of the Act, that portion of a State's program not awarded segment approval will continue to be eligible for section 305 program development grants, subject to all the administrative requirements of this subpart.

§ 920.55 Application for initial grant.

(a) The Form SF-424, Preapplication for Federal Assistance, required only for the initial grant, should be submitted 120 days prior to the beginning date of the requested grant. The preapplication shall include documentation, signed by the Governor, designating the State office, agency or entity to apply for and administer the grant.

(b) All applications are subject to the provisions of OMB Circular A-95 (revised). The Form SF-424, Preapplication for Federal Assistance, will be transmitted to the appropriate clearinghouses at the time it is submitted to the Office of Coastal Zone Management (OCZM). If the application is determined to be

statewide or broader in nature, a statement to the effect shall be attached to the Preapplication form submitted to OCZM. Such a determination does not preclude the State clearinghouse from involving areawide clearinghouses in the review. In any event, whether the application is considered to be Statewide or not, the Preapplication form shall include an attachment indicating the date copies of the Preapplication form were transmitted to the State clearinghouse and, if applicable, the identity of the areawide clearinghouse(s) receiving copies of the Preapplication form and the date(s) transmitted. The Preapplication form may be used to meet the project notification and review requirement of OMB Circular A-95 with the concurrence of the appropriate clearinghouses. In the absence of such concurrence, the project notification and review procedures established by State and areawide clearinghouses should be implemented simultaneously with the distribution of the Preapplication form.

(c) Costs claimed as charges to the grant project must be beneficial and necessary to the objectives of the grant project. As used herein the terms cost and grant project pertain to both the Federal grant and the matching share. Allowability of costs will be determined in accordance with the provisions of FMC 74-4: Cost Principles Applicable to Grants and Contracts with State and Local Governments.

(d) The Form SF-424, Application for Federal Assistance (Non-Construction Programs), constitutes the formal application and must be submitted 60 days prior to the desired grant beginning date. The application must be accompanied by evidence of compliance with A-95 requirements including the resolution of any problems raised by the proposed project. The OCZM will not accept applications substantially deficient in adherence to A-95 requirements.

(e) In Part IV, Program Narrative, of the Form SF-424, the applicant should respond to the following requirements. Applicants are urged to be clear and brief:

(1) Summarize the State's past and current activities in its coastal zone and describe the current status of coastal management and related activities.

(2) Discuss and rank by general order of importance the major coastal zone related problems and issues facing the State.

(3) Identify the goals the State expects to achieve by development of its coastal zone management program, and the objectives it has set to meet those goals.

(4) Describe the overall program design for developing the management program. This should be an outline of the State's plan of action, identifying the work to be accomplished for developing an approvable management program. Briefly and generally describe how the overall program design is intended to meet the requirements set forth in Subpart B of these regulations. In developing the overall program design the applicant should also give early consideration to the more specific requirements for approval of a management program as set forth in Part 923 of this chapter. The program design should specifically include:

(i) An identification of existing information and sources of information;

(ii) A projection as to additional information that must be required;

(iii) A description of methods to insure public participation;

(iv) A description of the intergovernmental process by which the State intends to involve various levels of government in the development of the management program;

(v) A mechanism for coordination with agencies administering excluded Federal lands;

(vi) A tentative approximation of the boundaries of the State's coastal zone;

(vii) Identification of any other Federal and State planning, programming or activity which may have a significant impact on the State's coastal zone. Such planning, programming or activities includes work accomplished or to be undertaken by any Federal, State, areawide, local, regional or interstate agencies, regardless of source of funding. Additionally, the application shall reflect, and the coastal zone management as it is developed will provide, methods to integrate Federally assisted programs.

(5) Set forth a work program describing the work to be accomplished during the grant period. The work program should be consistent with the phasing of the overall program design and should include:

(i) A precise description of each major task to be undertaken, how it will be accomplished and who will do it.

(ii) For each task, identify any "Other Entities," as defined in the "Manual," that will be allocated responsibility for carrying out all or portions of the task, and indicate the estimated cost of the subcontract grant for each allocation. Identify, if any, that portion of the task that will be carried out under contract with consultants and indicate the estimated cost of such contract(s).

(iii) For each task indicate the estimated total cost. Also indicate the estimated total months of effort, if any, allocated to the task from the applicant's staff.

(iv) For each task indicate the percent estimated to be completed during the grant period.

(6) The sum of all task costs in subparagraph (5) of this paragraph should equal the total estimated grant project cost.

(7) Using two categories, Professional and Clerical, indicate the total number of personnel in each category on the applicant's staff that will be assigned to the grant project. Also indicate the number assigned full time and the number assigned less than full time in the two categories. Additionally, indicate the number of new positions created in the two categories, as a result of the grant project.

(f) States may elect to utilize only two annual grants in developing a management program. In such cases the overall program design must encompass the requirements set forth in §§ 920.55, 920.58 and 920.59 within a two year time frame. States should consult with the Associate Administrator early in the design stage of such programs for advice and guidance relative to meeting all requirements.

§ 920.56 Approval of applications.

(a) The application for a development grant of any coastal State which complies with the policies and requirements of the Act and these guidelines shall be approved by the Associate Administrator, assuming available funding.

(b) Should an application be found deficient, the Associate Administrator will notify the applicant in writing, setting forth in detail the manner in which the application fails to conform to the requirements of the Act or these regulations. Conferences may be held on these matters. Corrections or adjustments to the application will provide the basis for resubmittal of the application for further consideration and review.

(c) The Associate Administrator may, upon finding of extenuating circumstances relating to applications for assistance, waive appropriate administrative requirements contained in this subpart.

§ 920.57 Amendments.

Amendments to an approved application must be submitted to, and approved by, the Associate Administrator prior to initiation of the contemplated change. Requests for substantial changes should be discussed with the Associate Administrator well in advance. While all amendments to the grant must be approved in writing by the NOAA Grants Officer, approval may be presumed for minor amendments if the grantee has not been notified of objections within 30 working days of date of postmark of the request.

§ 920.58 Application for second year grants.

(a) Second year development grant applications will follow the procedures set forth in § 920.55 (a), (b), (d), (e) (4), (5), (6) and (7) with the exception that the preapplication form may be used at the option of the applicant. If used, the procedures set forth in § 920.55(b) will be followed. In any event, the A-95 project notification and review procedures established by State and areawide clearinghouses should be followed. Additionally, the program design (section 920.55(e)(4)) shall be updated to:

(1) Describe how the past year's work and products contributed to accomplishing the overall program design and to meeting the requirements set forth in § 920.55(e). Clearly establish and identify the relationship between the tasks set out in the overall program design and the criteria established for management program approval as set forth in Part 923 of this chapter.

(2) Examine and assess the need, if any, to modify the overall program de-

sign or the program development goals and objectives or both in view of the above or of any emerging opportunities or problems.

(b) In evaluating whether a State is making satisfactory progress in the development of a management program to determine eligibility for the second year grant, the Associate Administrator will consider among other things:

(1) The progress made towards meeting management program goals and objectives;

(2) The progress demonstrated in completing the first year work program:

(3) The relationship identified between the program design and meeting the criteria required for preliminary or final approval of a coastal zone management program.

(4) The effectiveness of mechanisms for insuring public participation and consultation with affected Federal, State, regional and local agencies.

(c) If the overall program design provides for developing a management program in two years, the application for a second year grant should be prepared in accordance with § 920.59.

§ 920.59 Application for third and fourth year grants.

(a) Third and fourth year development grant applications will follow the procedures set forth in § 920.55 (a), (b), (d), (e) (4), (5), (6) and (7) except that the preapplication form may be used at the option of the applicant. If used, the procedures set forth in § 920.55(b) will be followed. In any event, the A-95 project notification and review procedures established by State and areawide clearinghouses should be followed. Additionally, the program design (Section 920.55(e) (4)) shall be updated to:

(1) Describe the anticipated design and content of the management program, including the goals and objectives of the program; the major issues the program will address; and the policies and management techniques that will be proposed to address these issues.

(2) Describe how the past year's work and products contributed to the accomplishment to the overall program design and specifically to meeting the criteria established for approval of a coastal zone management program as set forth in Part 923 of this chapter.

(3) Examine and assess the need, if any, to modify the overall program design or the management program development goals and objectives or both in view of the above or of any emerging opportunities or problems.

(4) Indicate when the State will submit a management program to the Associate Administrator for review and final approval pursuant to section 306 or will submit a management program for preliminary approval pursuant to subsection 305(d) of the Act.

(b) In evaluating whether a State is making satisfactory progress towards completion of a management program to determine eligibility for a third or fourth year grant, the Associate Administrator will consider, among other things:

(1) The progress made toward meeting management program goals and objectives;

(2) The progress demonstrated in completing the past year's work program:

(3) The cumulative progress towards meeting the criteria required for preliminary or final approval of a coastal zone management program;

(4) The applicability of the proposed work program to the achievement of all criteria required for final approval of a coastal zone management program; and

(5) The effectiveness of mechanisms for insuring public participation and consultation with affected Federal, State, regional and local agencies.

§ 920.60 Application for three new planning elements.

(a) For those States receiving program development grants up to October 1, 1979 pursuant to subsections 305(c) or 305(d), the work program and funding request for the subsection 305(b) (7), (8) and (9) planning elements should be developed as part of the overall work program and grant application pursuant to the procedures contained in section 920.55 for subsection 305(c) grants or pursuant to § 920.61 for subsection 305 (d) grants.

(b) For States that have an approved management program or will have an approved management program by October 1, 1978, those States may receive program development grants for the express purpose only of fulfilling the subsection 305(b) (7), (8) and (9) requirements prior to October 1, 1978. States with program approved prior to or by October 1, 1978, must fulfill these three requirements by that date. States with program implementation grants which also wish to receive the program development grants for the specified purpose and within the specified time limit may make application for section 305 planning funds and section 306 implementation funds using a single application form. The work tasks and costs associated with the new planning elements must be clearly and separately identified. States should consult with the Associated Administrator for detailed guidance on the preparation and content of a combined application. Alternatively, States may make two separate applications—one following the requirements set forth in section 920.55 for section 305 new planning element funds and one following the application requirements in Part 923 of this chapter for section 306 administrative grants.

(c) *Comment.* Statutory Citation, Subsection 305(h):

> Whenever the Secretary approves the management program of any coastal State under section 306, such State thereafter (1) shall not be eligible for grants under this section except that such State may receive grants under subsection (c) in order to comply with the requirements of paragraphs (7), (8) and (9) of subsection (b) * * *.

§ 920.61 Applications for preliminary approval.

(a) The primary purposes of preliminary approval grants are to assist a State in insuring ultimate implementation of a fully developed program design and to provide for initial implementation of approved management elements. Additionally, subsection 305(d) funding may be used to meet the requirements of subsection 305(b) (7), (8) and (9). The purpose of these guidelines is to define the procedures by which grantees apply for and administer grants under the Act. The guidelines contained herein shall be used and interpreted in conjunction with the Grants Management Manual for Grants under the Coastal Zone Management Act, hereinafter referred to as the "Manual." The Manual incorporates a wide range of Federal requirements, including those established by the Office of Management and Budget, the General Services Administration, the Department of the Treasury, the General Accounting Office, and the Department of Commerce.

(b) Grants shall not exceed eighty percent of the total cost of subsection 305(d) programs. Federal funds received from other sources cannot be used to match grants under subsection 305(d) of the Act.

(c) No subsection 305(d) grant will be made after September 30, 1979.

(d) All applications are subject to the provisions of OMB Circular A-95 (revised).

(e) Costs claimed as charges to the grant project must be beneficial and necessary to the objectives of the grant project. As used herein the terms "cost" and "grant project" pertain to both the Federal grant and the matching share. The allowability of costs will be determined in accordance with the provisions of FMC 74-4: Cost Principles Applicable to Grants and Contracts with State and Local Governments, and with the guidance contained in section 920.42(b)(3).

(f) The Form SF-424, Application for Federal Assistance (Non-Construction Programs), constitutes the formal application and must be submitted 60 days prior to the desired grant beginning date. The application must be accompanied by evidence of compliance with A-95 requirements including the resolution of any problems raised by the proposed project. The Associate Administrator will not accept applications substantially deficient in adherence to A-95 requirements.

(g) In Part IV, Program Narrative of the Form SF 424, the applicant should respond to the following requirements:

(1) Set forth a work program describing the activities to be undertaken during the grant period. This work program shall include:

(i) A precise description of each major task to be undertaken to resolve section 306 deficiencies, and a specific timetable for remedying these deficiencies;

(ii) A precise description of implementation activities for approved management components, including a dem-

onstration that these implementation funds will not be applied outside the approved coastal management boundaries;

(iii) A precise description of any other tasks necessary for and allowable under subsection 305(d);

(iv) For each task, identify any "Other Entities," as defined in the "Manual," that will be allocated responsibility for carrying out all or portions of the task, and indicate the estimated cost of the subcontract for each allocation. Identify, if any, that portion of the task that will be carried out under contract with consultants and indicate the estimated cost of such contract(s); and

(v) For each task, indicate the estimated total cost. Also, indicate the estimated total months of effort, if any, allocated to the task from the applicant's staff.

(2) The sum of all task costs in the above paragraph should equal the total estimated grant project cost.

(3) Using two categories, Professional and Clerical, indicate the total number of personnel in each category on the applicant's staff that will be assigned to the grant project. Also indicate the number assigned full time and the number assigned less than full time in the two categories. Additionally, indicate the number of new positions created in the two categories as a result of the grant project.

[FR Doc.77-12280 Filed 4-28-77;8:45 am]

federal register

FRIDAY, APRIL 29, 1977

PART VI

DEPARTMENT OF LABOR

Pension and Welfare Benefit Programs

DEPARTMENT OF THE TREASURY

Internal Revenue Service

■

NORTH PENN EMPLOYEES' SAVINGS PLAN AND PENCO SAVINGS AND PROFIT SHARING PLAN

Exemption From Prohibitions

DEPARTMENT OF THE TREASURY

Internal Revenue Service

DEPARTMENT OF LABOR

Pension and Welfare Benefit Programs

EMPLOYEE BENEFIT PLANS

[Prohibited Transaction Exemption No. 77-5]

Exemption Relating to a Transaction Involving North Penn Employees' Savings Plan (Application No. D-150) and the Penco Savings and Profit Sharing Plan (Application No. D-381)

Notice is hereby given of the granting of exemption under the authority of section 4975(c)(2) of the Internal Revenue Code of 1954 (the Code) and section 408(a) of the Employee Retirement Income Security Act of 1974 (the Act) relating to the exchange of certain assets between a disqualified person and party in interest and the North Penn Employees' Savings Plan (North Penn Plan) and the Penco Savings and Profit Sharing Plan (Penco Plan).

Background. On December 21, 1976, notice was published in the FEDERAL REGISTER (41 FR 55664) of the pendency of an exemption from the taxes imposed by section 4975 (a) and (b) of the Code by reason of section 4975(c)(1) (A) through (E) of the Code, and from the restrictions of sections 406(a), 406(b) (1) and (2), and 407(a) of the Act. The pending exemption was requested in applications filed by the trustee of the North Penn Plan and the trustees of the Penco Plan. The notice set forth a summary of the facts and representations contained in the applications and referred interested persons to the applications for a complete statement of the facts and representations. The notice also invited interested persons to submit comments on the requested exemption to the Internal Revenue Service (the Service). In addition, the notice stated that any interested person might submit a written request that a hearing be held relating to the exemption.

The applications have been available for public inspection at the Service and at the Department of Labor (the Department in Washington. No public comments have been received, nor have any requests for a public hearing. Based upon the applications, the Service and the Department have decided to grant the requested exemption for the transaction described in such applications.

The Administrative Committees of the North Penn Plan and the Penco Plan sent letters by first class mail on December 30, 1976, to all Plan participants to be affected by the transaction, informing them of the pending applications before the Service and the Department. The letters included copies of the notice of pendency as published in the FEDERAL REGISTER, and the recipients of the letters were informed of their right to comment on the pending exemption.

General Information. 1. The fact that a transaction is the subject of an exemption granted under section 4975(c)(2) of the Code and section 408(a) of the Act does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Code and the Act, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act which, among other things, require a fiduciary to discharge his duties respecting the plan solely in the interest of the plan's participants and beneficiaries and in a prudent fashion in accordance with subsection (a)(1)(B) of section 404 of the Act; nor does it affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

2. The exemption contained herein does not extend to transactions prohibited under section 4975(c)(1)(F) of the Code or section 406(b)(3) of the Act; and

3. This exemption is supplemental to, and not in derogation of, any other provisions of the Code and the Act, including statutory or administrative exemptions and transitional rules. Further, the fact that a transaction is the subject of an exemption is not dispositive of whether the transaction would have been a prohibited transaction in the absence of such exemption or, though it would have been a prohibited transaction, is exempt by operation of a statutory or administrative exemption or a transitional rule.

Exemption. Pursuant to section 4975 (c)(2) of the Code and section 408(a) of the Act and the procedures set forth in Rev. Proc. 75-26, 1975-1 C.B. 722 and ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the facts and representations contained in the applications for exemption submitted by the applicants, the Service and the Department find that it is administratively feasible, in the interests of the Plans and of their participants and beneficiaries, and protective of the rights of participants and beneficiaries of Plans to grant, and hereby grant, an exemption effective this date so that the taxes imposed by section 4975 (a) and (b) of the Code by reason of section 4975(c)(1) (A) through (E) of the Code and the restrictions of section 406(a), 406(b) (1) and (2), and 407(a) of the Act shall not apply to the exchange by the North Penn and Penco Plans of North Penn stock for cash and notes of Penn Fuel System, pursuant to the terms, conditions and representations set forth in the applications.

The availability of this exemption is subject to the express conditions that the material facts and representations contained in the applications are true and complete, and that the applications accurately describe all material terms of the transaction when consummated pursuant to the exemption.

Signed at Washington, D.C., this 21st day of April, 1977.

WILLIAM E. WILLIAMS,
Acting Commissioner of Internal Revenue.

J. VERNON BALLARD,
Acting Administrator, for Pension and Welfare Benefit Programs, U.S. Department of Labor.

[FR Doc.77-12258 Filed 4-28-77;8:45 am]

Federal Register

FRIDAY, APRIL 29, 1977

PART VII

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

■

ON-SITE CONSULTATION AGREEMENTS

Proposed Revision to Regulation

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[29 CFR 1908]

ON-SITE CONSULTATION AGREEMENTS

Proposed Revision to Regulation

AGENCY: Occupational Safety and Health Administration, DOL.

ACTION: Proposed revision.

SUMMARY: The proposed revisions to the regulation would increase the level of Federal funding for contracts with States for onsite consultation activities from the present fifty percent to ninety percent. In addition, the proposed revisions would expand eligibility for the program to include States with approved State plans under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter referred to as the Federal OSH Act). This action would permit every State to enter into such contracts. The proposed revisions would set out new requirements for monitoring State performance under the contract, further describe the State's obligation to publicize the availability of the program, and prescribe new requirements for the qualification of consultants. The proposal would also clarify and simplify the existing regulation.

DATES: Comments must be received on or before May 31, 1977.

ADDRESSES: Public comments should be sent to: Docket Officer, Docket C-01, Room S-6212, Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT:

William J. Higgins, Chief, Division of Voluntary Programs, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Washington, D.C. 20210 (202) 634-4923.

SUPPLEMENTARY INFORMATION: The present regulation, to which these changes are proposed, was designed to encourage States without approved 18(b) plans to participate in a program to provide on-site consultation services to employers. States with approved 18(b) plans can already provide these services under their plans and twenty-two approved plan States now have such a program. However, in the two years that the regulation has been in effect only twelve of the remaining States have chosen to participate. The Labor-HEW Appropriation Act for fiscal year 1977 provided specific funds for the purpose of providing on-site consultation services to employers, and the Appropriations Committee Report on the Act (Senate Report No. 91-997), states that the Committee believes that States have been deterred from entering into on-site consultation contracts because such contracts were funded at the fifty percent level. This funding level was established by the Occupational Safety and Health Administration to place States without approved 18(b) plans (the only States presently eligible for the contract program) on an equal basis with States with approved plans, because the Federal share of funding for State plan programs is limited by section 23(g) of the Federal OSH Act to fifty percent. The Committee instructed the Department of Labor to raise the funding level for on-site consultation contracts to a level that would ensure fuller State participation in the program.

PROPOSED NEW FUNDING LEVEL

As a result of Departmental study, it was determined that raising the level of Federal funding to ninety percent would best achieve the direction of Congress and encourage additional States to enter the program, while still requiring some financial commitment on the State's part. It is anticipated, however, that certain States will not participate in an on-site consultation program regardless of the percentage of Federal funding. These States either have legal constraints which prevent their participation, or have indicated a policy or philosophy against it.

EFFECT OF NEW FUNDING LEVEL ON STATES WITH APPROVED 18(b) PLANS

As pointed out above, many States with approved 18(b) plans include on-site consultation as a part of voluntary compliance programs under their plans. Since these State plan programs are limited to fifty percent funding by section 23(g) of the Federal OSH Act, the availability of ninety percent funding to States providing identical services would be inequitable. Therefore, in order to encourage States to maintain their plans and also provide on-site consultation services, the proposal would extend the eligibility for the program to all States, including States with approved 18(b) plans.

Although most plan States currently include on-site consultation as a part of their overall safety and health program, there is no requirement that they provide such services.

States with approved plans are required only to provide a program at least as effective as the Federal and it has been the Department's position (see 40 FR 21937, May 20, 1975) that on-site consultation would not be provided under the Federal OSH Act without mandatory citation for violations observed. Therefore, since there is no general Federal on-site program, States are not required to have such a program in their plans in order to be at least as effective. Thus, a State currently providing on-site consultation could amend its plan to eliminate on-site consultation through the change procedure provided in 29 CFR Part 1953. It should be emphasized however, that States with approved 18(b) plans must, under 29 CFR 1902.4(c)(2)(xiii), continue to maintain a voluntary compliance program as least as effective as the Federal program because these State programs, although they have in the past included on-site consultation, have other employer and employee training and education functions which must be preserved. Finally, because of the probability of administrative, monitoring, and practical difficulties, the proposed regulation would permit only one vehicle for Federally funded on-site consultation, in a State. Thus, a State must choose which program, if any, it wishes to enter.

APPLICABLE STANDARDS

Consultants, during on-site visits, would place primary emphasis upon identification of all hazards present at the workplace. In the subsequent written report, the consultant would refer to whichever occupational safety and health standard applies to the specific employer. In a non-plan State, the Federal standards would be referenced. In a plan State where a hazard is covered by a State standard for which that State has exclusive enforcement authority, the State standard would be referenced, if both a State and Federal standard apply, both would be used. If, however, the hazard is not covered by State standards, which might occur if the State plan did not cover an issue, such as maritime, the applicable Federal standard should be used. In States with public employee only plans (42 FR 12429, 29 CFR 1956), all references would be to Federal standards.

PROPOSED LIMIT ON THE NUMBER OF CONSULTANTS

Section 1908.6(a) of the proposal would establish a more specific ceiling upon the number of consultants States would be permitted to employ under the contracts. Due to budgetary limitations and in the interest of fairness and uniformity, a new standard is proposed. Under the standard, a State would be permitted to employ one consultant for every four compliance officers (both Federal and State) in the State. The number of State compliance officers would be the number provided under that State's most recent 23(g) grant if the State has an approved plan, while the number of Federal compliance officers would be the number of positions currently allocated for the State.

In recognition of the fact that this limitation may be exceeded by the current level of consultants in some approved plan States and States with existing 7(c)(1) contracts, the proposal would allow current levels of consultants to be maintained if those consultants meet the qualifications requirements in § 1908.6(b). However, positions in excess of the allowable level in these States may not be filled when they become vacant.

PROPOSED CONSULTANT QUALIFICATIONS

Under § 1908.6(b) of the proposal, new requirements would be established for consultants funded under the program. These are more specific than those in the present regulation, and include both educational and experience requirements. It is apparent that a uniformly qualified and experienced cadre of consultants is absolutely essential for an effective program. This is dictated in part by experience, including past difficulties in the establishment of uniform criteria under the

present program. Therefore, the proposal would establish objective and uniform requirements for consultants on a nationwide basis.

It was recognized, however, that consultants presently operating under on-site programs in States with approved plans and current 7(c)(1) contracts may not meet these new requirements. Therefore, the regulation would allow the Regional Administrator provisionally to accept consultants currently employed in such States, and any new consultants, if there is a reasonable expectation that they can meet the requirements within two years.

NEW MONITORING REQUIREMENTS

Under § 1908.7 of the proposal, States under contract would be required to establish an effective internal monitoring system, and would be required to prepare quarterly reports and submit various other documents and reports to the Occupational Safety and Health Administration. The monitoring would include performance evaluation of every consultant semi-annually, and would require actual on-the-job evaluation. These procedures, although extensive, were considered to be necessary and the most feasible.

The proposed requirement that the States themselves conduct monitoring was felt necessary because in most cases Federal OSHA could not conduct on-the-job evaluations of consultation activity without taking appropriate enforcement action against the employer involved.

NEW REQUIREMENTS FOR PROMOTION OF THE PROGRAM

Section 1908.4(a)(2) of the proposal describes the State's obligation to publicize the availability of the on-site consultation program. This would add no new substantive requirements, but would greatly expand the provision in the present regulation and describe in detail the possible methods a State could use to publicize its program.

NEW HEALTH HAZARDS TESTING

Section 1908.4(d)(5)(iii) of the proposal would amend the present regulation to extend the consultant's responsibility with regard to health hazards which may be present in the workplace. Under the proposal, the consultant would, to the extent of his ability, identify all health hazards present, and conduct such sampling, testing and subsequent analyses as may be necessary.

PROVISIONS WHICH WERE NOT CHANGED

Several provisions of the existing regulation were not changed, except for minor modifications in wording and rearrangement. Among these were the requirement for separation between consultation and enforcement, which was amended to take into account the existence of State enforcement authority in States with approved plans; the priority for smaller businesses and hazardous workplaces; and employee participation with the permission of the employer. It has been suggested, however, that employee participation in an on-site consultation visit should be an absolute right similar to the right of employees to participate in the walkaround in an enforcement inspection. Among other things, this would allow an employee to point out possible hazards which the consultant might otherwise miss, and also serve to notify employees of the existence of various hazards. Therefore, public comment is specifically invited on the issue of employee participation.

MINOR CHANGES

The proposal completely reorganizes the present regulation. This was considered to be necessary in order to make the provisions more concise and easier to understand. Much of the reorganization takes the form of rearrangement of the existing sections to reflect a more logical order, but many sections have been shortened, and repetitive provisions have been eliminated entirely. Some language changes were also necessary in order to make provisions applicable to States with approved 18(b) plans and recognize the enforcement responsibility of those States. Because of the minor nature of most of these changes, the following list has been prepared in order to relate the existing regulation to the proposal.

The existing § 1908.1 would remain § 1908.1 but with the text shortened to avoid detailed restatement of the regulations themselves;

Section 1908.2 would remain § 1908.2, except that "ARD" is now "RA", "CSHO" is now "compliance officer", "OSHA" is redefined, and definitions for "Employer" and "On-site consultation" are added;

Existing § 1908.3 would become § 1908.3 with the restriction against 18(b) eligibility removed, the restriction against dual federally-funded consultation activity by a State added, and the reimbursement formula stated;

Existing § 1908.4 would be deleted;

Existing § 1908.4(a) would become § 1908.6(b)(1), with additional requirements added as § 1908.6(b)(2);

Existing §1908.4(b) would become § 1908.6(c), written more as a general requirement than as administrative operating detail; arrangements for training costs are now in § 1908.3(b);

Existing § 1908.4(c) would become § 1908.6(a), with new criteria for this determination;

Existing § 1908.4(d) would become §1908.5, rewritten to further clarify these requirements;

Existing § 1908.4(d)(1) would become § 1908.5(a), with reference to case file monitoring placed in § 1908.7(b);

Existing § 1908.4(d)(2) would become § 1908.5(c);

Existing § 1908.4(d)(3) and (4) would become § 1908.5(d), rewritten to more clearly reflect actual practice;

Existing § 1908.4(d)(5) would be contained in § 1908.7(a) and § 1908.7(b);

Existing § 1908.5 would become § 1908.8;

Existing § 1908.5(a) would become § 1908.8(a);

Existing § 1908.5(b) would become § 1908.8(b);

Existing § 1908.5(c) would become § 1908.8(c) except that specific requirements for agreement wording are being deleted; and the new language would require that agreements conform to this regulation and further OSHA program directives, and specifically address key areas of concern;

Existing § 1908.5(c)(1) is deleted;

Existing § 1908.5(c)(2) would be contained in § 1908.4(c) and § 1908.4(d);

Existing § 1908.5(c)(3) would be § 1908.4(a);

Existing § 1908.5(c)(4) would be deleted because it is included in § 1908.6(b);

Existing § 1908.5(c)(5) would be deleted, because it is included in § 1908.6(c);

Existing § 1908.5(c)(6) would be included in § 1908.4(b), § 1908.4(d)(2);

Existing § 1908.5(c)(6)(i) would be deleted because it would be included in § 1908.5(d) and § 1908.4(d)(b);

Existing § 1908.5(c)(6)(ii) would be deleted;

Existing § 1908.5(c)(6)(iii) would be deleted;

Existing §§ 1908.5(c)(6)(iv), (v) and (vi) would be included in §§ 1908.4(d)(1), (4) and (6);

Existing § 1908.5(c)(6)(vii) would be contained in §§ 1908.4(d)(4), (5)(iii), and (6);

Existing § 1908.5(c)(6)(viii) would be contained in §1908.4(d)(4)(ii);

Existing § 1908.5(c)(6)(ix) would be contained in § 1908.4(d)(4)(iii) and § 1908.4(d)(6);

Existing § 1908.5(c)(7) would become § 1908.5(b);

Existing § 1908.5(c)(8) would become § 1908.4(d)(4)(v);

Existing § 1908.5(c)(9) would become § 1908.4(d)(3);

Existing § 1908.5(c)(10) would become § 1908.5(a);

Existing § 1908.5(c)(11) would become § 1908.8(c)(4);

Existing § 1908.5(d) would become § 1908.8(d);

Existing § 1908.6 would become § 1908.8(e);

Existing § 1908.7 would become § 1908.8(f); and

Existing § 1908.8 would become § 1908.9.

Part 1908 is proposed to be amended as follows:

PART 1908—ON-SITE CONSULTATION AGREEMENTS

Sec.
1908.1 Purpose and scope.
1908.2 Definitions.
1908.3 Eligibility and funding.
1908.4 General provisions.
1908.5 Relationship to enforcement.
1908.6 Consultant specifications.
1908.7 Monitoring and evaluation.
1908.8 Agreements.
1908.9 Exclusions.

§ 1908.1 Purpose and scope.

This part contains requirements for all agreements made with States under sections 7(c)(1) and 21(c) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651, et seq.) for the purpose of using State personnel to perform on-site

consultation. The objective of on-site consultation is to help employers achieve a higher level of safe and healthful working conditions for their employees, preferably through voluntary compliance activity undertaken prior to any inspection performed pursuant to the Act. A State signing an agreement under this part agrees to provide on-site consultation for employers requesting the service and to offer advice and technical assistance to each requesting employer on job-related safety and health hazards. During the visit itself, the State consultant will identify specific hazards in the employer's workplace, assess employee exposure and risk, and suggest basic approaches to control or elimination of those hazards.

§ 1908.2 Definitions.

As used in this part:

"Act" means the Federal Occupational Safety and Health Act of 1970.

"Assistant Secretary" means the Assistant Secretary of Labor for Occupational Safety and Health.

"Compliance officer" means a Federal or State compliance safety and health officer.

"Employer" means a person engaged in a business, who has employees, but does not include the United States, or any State or political sub-division of a State.

"On-site consultation" means all activities related to the conduct of an on-site consultative visit.

"OSHA" means the Federal Occupational Safety and Health Administration or the State agency responsible under an approved plan under section 18(b) of the Act for the enforcement of occupational safety and health standards in that State.

"State" includes a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands.

"RA" means the Regional Administrator for Occupational Safety and Health of the Region in which the State concerned is located, or his designee.

§ 1908.3 Eligibility and funding.

(a) *State eligibility.* (1) Any State may enter into an agreement with the Assistant Secretary to perform on-site consultation for employers.

(2) A State having an approved Section 18(b) plan is eligible to participate in the program if that plan does not include federally-funded on-site consultation to employers.

(b) *Reimbursement.* The Federal government will reimburse 90 percent of the costs incurred under an agreement entered into pursuant to this part. Approved training and specified out-of-State travel will be fully reimbursed.

§ 1980.4 General provisions.

(a) *Encouraging Requests.* (1) *State responsibility.* The State shall be responsible for encouraging employers to request on-site consultative visits, and shall publicize the availability of on-site consultation and the scope of the service which will be provided. The Secretary may also engage in activities to publicize and promote the program.

(2) *Promotional methods.* The State may use methods such as the following to inform employers of the availability of on-site consultation and to encourage requests:

(i) Paid newspaper advertisements;

(ii) Newspaper, magazine and trade publication articles;

(iii) Special direct mailings or telephone solicitations to establishments, based on workers' compensation data or other appropriate listings;

(iv) Participation at employer conferences and seminars;

(v) Solicitation of support from State business and labor organizations and leaders, and public officials;

(vi) Preparation and dissemination of publications, descriptive materials, etc., on on-site consultation services;

(vii) Free public service announcements on radio and television.

(b) *Employer requests.* An on-site consultative visit will be provided only at the request of the employer, and shall not result from any right of entry under State law. States are not authorized to make an unscheduled appearance at an employer's workplace for the purpose conducting an on-site consultative visit.

(c) *Scheduling priority.* Priority shall be given to requests from smaller businesses, based upon their number of employees, and to the hazardous nature of the workplace.

(d) *Conduct of a visit.* (1) *Preparation.* An onsite consultative visit shall be made only after appropriate preparation by the consultant. Prior to the visit, the consultant shall become familiar with as many factors concerning the establishment's operations as possible. The consultant shall review all applicable codes and standards and assure that he has the necessary technical equipment and that the equipment works properly.

(2) *Structured format.* An onsite consultative visit shall follow a structured format, which will consist of an opening conference, a walkthrough the workplace, and a closing conference, followed by a written report to the employer.

(3) *Employee participation.* With the express permission of the employer, employees or their representatives, or members of a workplace joint safety and health committee, may participate in the onsite consultative visit. Consultants shall specifically discuss this matter with the employer during the opening conference, and encourage the employer to allow employee participation.

(4) *Employer notification.* The employer may be required by the consultant to take appropriate action to protect employees in certain circumstances described below in § 1908.4(d)(6). At the opening conference, the consultant shall specifically advise the employer of these requirements.

(5) *Scope.* (i) Activity during the on-site consultative visit will be focused primarily on those specific working conditions, hazards or situations identified by the employer when the request was made. As a rule, the smaller the employer's business, the less specific the request must be.

(ii) The consultant shall advise the employer as to the employer's obligations and responsibilities under applicable Federal or State law and implementing regulations.

(iii) To the extent of their capability and training, State consultants shall identify any safety or health hazards which may be present in the workplace and may conduct such sampling and testing, with subsequent analyses, as may be necessary to confirm the existence of any health hazard.

(iv) State consultants may offer advice and technical assistance to employers during and after the on-site consultative visit on the elimination or control of safety and health hazards present in the workplace. Such advice and assistance shall not include engineering services or the provision of engineering design solutions. Descriptive materials may be provided on approaches, means, techniques, etc., commonly utilized for the elimination or control of such hazards, but should be limited generally to basic information indicating the possibility of a solution and describing the general form such a solution would take. The consultants shall also advise the employers of additional sources of assistance, if known.

(v) For any hazard present in the workplace, the consultant shall indicate to the employer whether a compliance officer would probably issue a citation for that situation in the event of a subsequent OSHA inspection. The consultant will also indicate whether in his judgment, such a violation would be classified as a "serious" or "other-than-serious" violation of applicable Federal or State statutes, regulations or standards, based on criteria contained in the current OSHA Field Operations Manual.

(vi) The consultant shall preserve the confidentiality of information obtained as the result of an on-site consultative visit which might reveal a trade secret of the employer.

(6) *Employer obligations.* (i) If an imminent danger is disclosed during a visit, the consultant shall immediately notify the employer and shall request the immediate elimination of the imminent danger. If the employer fails immediately to eliminate an imminent danger, the consultant shall immediately notify the affected employees and notify the employer that the appropriate OSHA enforcement authority is being advised.

(ii) If a serious violation, as described in the current OSHA Field Operations Manual (with the exception of the element of employer knowledge, which shall not be considered), is disclosed as a result of a consultative visit, the consultant shall immediately notify the employer of such violation and shall afford the employer a reasonable time to eliminate such violation. If the consultant is not satisfied through a further consultative visit, documentary evidence, or otherwise that such elimination has taken place,

the consultant shall notify the employer that the appropriate OSHA enforcement authority is being advised.

(iii) A specific plan to eliminate or control conditions described in § 1908.4 (d) (5) (i) and (ii) which are disclosed during a visit shall be developed by the consultant and the employer. To insure that appropriate action is being taken, the consultant shall monitor the employer's progress, through such means as follow-up visits or employer reports.

(7) *Written report.* A written report shall be prepared for each visit and sent to the employer. The report shall conform to a format specified by the Assistant Secretary. The report shall identify specific hazards; shall describe their nature, including reference to applicable standards or codes; shall list them in terms of their seriousness; and, to the extent possible, shall include suggested means or approaches to their elimination or control. Additional sources of assistance shall also be indicated, if known. The report shall also include references to the completion dates for the situations described in § 1908.4(d) (5).

§ 1908.5 Relationship to enforcement.

(a) *Independence.* On-site consultation activity by a State shall be conducted independently of any Federal or State OSHA enforcement activity. The consultation activity shall have its own separate management staff. Its management and field personnel shall not engage in any enforcement activity. The identity of employers requesting or receiving on-site consultation, as well as the file of the consultant's visit, shall not be forwarded to OSHA for use in any compliance activities.

(b) *Mandatory referrals.* (1) Consultants shall not communicate with OSHA enforcement authorities, except under the following circumstances:

(i) Where an employer fails to take immediate action on an imminent danger situation as described in § 1908.4(d) (6) (i), the consultant shall immediately notify the appropriate OSHA enforcement authority, and provide the necessary information;

(ii) Where an employer fails to take appropriate action on a serious violation as described in § 1908.4(d) (6) (ii), the consultant shall immediately notify the appropriate OSHA enforcement authority, and provide the necessary information.

(2) The consultants shall follow such procedures for these notifications as are established by the Assistant Secretary.

(c) *Workplace priorities.* Accident investigations, response to complaints, imminent danger investigations, or followup inspections by OSHA enforcement personnel shall not be delayed by an on-site consultative visit in progress. However, an on-site consultative visit already in progress will delay an initial compliance inspection until after the visit has been completed. A request for an on-site consultative visit will not delay compliance inspections under any circumstances.

(d) *Inspections.* In the event of a subsequent Federal or State OSHA inspection of an employer who has had an on-site consultative visit:

(1) The opinions, suggestions, advice and interpretations of the consultant shall not be binding on the compliance officer and will not affect the regular conduct of the inspection, or preclude the finding of alleged violations or the proposing of penalties. The compliance officer shall not be bound by the consultant's failure to have identified specific hazards. The fact that the employer took advantage of the on-site consultation service shall not operate as a defense to any enforcement action.

(2) The employer is not required to either inform the compliance officer of the prior on-site consultative visit, or provide a copy of the consultant's written report to the compliance officer.

§ 1908.6 Consultant specifications.

(a) *Number.* (1) For the period of two years from the effective date of this revision, the number of consultants under an agreement shall not exceed 25 percent of the number of State and Federal compliance officers present within the State. The number of compliance officers present shall be the number of allocated Federal positions for that State and, if the State has an approved 18(b) plan, the number of positions provided in the State's 23(g) grant. (For example, if the total number of compliance officers in the State were 14, the maximum allowable number of consultants would be 4.) This limitation will be evaluated on the basis of program performance, demand for services and resources available, and may be adjusted by the Assistant Secretary.

(2) As an exception to the limitation in § 1908.6(a) (1), a State with a current agreement or an approved section 18(b) plan may be allowed that number of consultants currently employed by the State under the agreement or plan for the purposes of providing on-site consultation to employers. However, the maximum allowable number of consultants will also be determined, and the State will be required to reduce their staff to that number through attrition of current employees. This exception does not allow for the replacement of employees who are in excess of the maximum allowable number, and does not affect the qualification requirements in § 1908.6(b).

(b) *Qualifications.* (1) Consultants shall meet the requirements for State employment in the occupational safety and health field. They also shall have adequate education and experience to satisfy the RA, after interview, that they meet the qualification requirements set out in § 1908.6(b) (2) and that they have the ability to perform satisfactorily pursuant to the agreement. All consultants shall be selected in accordance with the provisions of Executive Order 11246 of September 24, 1965, as amended, entitled "Equal Employment Opportunity."

(2) Minimum qualification requirements shall include: (i) General requirements. Consultants shall demonstrate the following: the ability to identify hazards; the ability to assess employee exposure and risk; knowledge of OSHA standards; knowledge of abatement procedures; knowledge of workplace safety and health program requirements; and the ability to effectively communicate, both orally and in writing.

(ii) Specific requirements for safety consultants. Consultants must have completed four years of college with a degree in industrial management, industrial technology, industrial engineering, physical science, or a closely related curriculum, and have a total of two years (or its equivalent) of professional safety experience in industry or government; or, two years of community college or technical institution with a degree in industrial management, industrial engineering technology, or a closely related curriculum, and a total of four years (or its equivalent) of professional safety experience in industry or government; or a high school education with a total of six years (or its equivalent) of full-time occupational safety-related professional level experience, preferably in a variety of industries.

(iii) Specific requirements for industrial hygienists. Consultants must have completed four years of college with a degree in industrial hygiene, industrial health engineering, chemistry, or related biological sciences. Special studies and training in industrial hygiene are desirable. Additionally, consultants shall also have a total of two years experience (or its equivalent) in industrial hygiene work which provided the ability to recognize the environmental factors and stresses associated with work operations and to understand their effect on humans; the ability to evaluate, on the basis of experience and with the aid of measurement techniques, the magnitude of these stresses in terms of their ability to impair human health; and the ability to prescribe methods to eliminate or control such stresses.

(3) All consultants currently employed by the State under an existing agreement or an approved Section 18(b) plan for the purpose of providing on-site consultation to employers may be provisionally accepted by the RA provided that the consultant meets the general requirements in § 1908.6(b) (2) (i) and there is a reasonable expectation that the consultant, if provisionally accepted, will be able to meet the specific requirements in § 1908.6(b) (2) (ii) or (iii) within two years from the effective date of these revisions.

(4) Proposed new consultants in all States may also be provisionally accepted by the RA provided that each consultant meets the criteria described in § 1908.6 (b) (3).

(c) *Training.* As necessary, the Assistant Secretary will specify training requirements for consultants. Expenses for training which is required by the Assistant Secretary or approved by the RA will be reimbursed in full by the Federal government.

§ 1908.7 Monitoring and evaluation.

(a) *RA responsibility.* A State's performance under the agreement will be regularly monitored and evaluated by the RA, who may direct changes as a

result of such evaluations or to foster conformance with consultation policy as enunciated by the Assistant Secretary. All aspects of the agreement with the State will be continually monitored and evaluated as part of an organized regional plan for such activity.

(b) *State performance.* The RA or his designee will periodically meet with State project officials, preferably in their offices, to assess project status and to seek resolution to any operating problems. An appropriate sample quantity of State files on individual on-site consultative visits will also be audited. Special attention will be given to determine whether the requirements of § 1908.5(6) are being followed. A written report of these periodic reviews will be forwarded by the RA to the State.

(c) *Consultant performance* (1) *State activity.* The State shall establish and maintain an organized consultant performance monitoring system under the agreement:

(i) The system shall be established within the initial 60 days of the contract period. Design and operation of the system shall conform to all requirements as may be established by the Assistant Secretary. Actual operation of the system shall require the prior approval of the system by the RA.

(ii) A performance evaluation of each individual State consultant performing on-site consultation for employers shall be prepared annually. All aspects of a consultant's performance shall be reviewed at that time. Recommendation for remedial action shall be made and acted upon if required. The annual evaluation report shall remain a confidential State personnel record and may be timed to coincide with routine and regular personnel procedures.

(ii) Performance of individual consultants shall be measured in terms of their ability to identify hazards in the workplaces which they have visited, their ability to determine employee exposure and risk, and in particular their ability to properly handle those situations described in § 1908.5(b); their knowledge and application of applicable Federal or State statutes, regulations or standards, their knowledge and application of appropriate abatement techniques and approaches, and their ability to effectively communicate their findings to employers.

(iv) Accompanied visits to observe consultants during on-site consultation visits shall be conducted at least semi-annually for each consultant, and a written report shall be prepared. A copy of the report shall be provided to the consultant. All accompanied visits shall be conducted only with the expressed permission and cooperation of the employer who requested the visit.

(v) The State will report quarterly on system operations, including copies of accompanied visit reports (purged of employer identification) completed that quarter.

(2) *Federal activity.* State consultant performance monitoring activity as set out in § 1908.7(c)(1) does not preclude Federal monitoring activity in States with approved Section 18(b) plans where the workplace observation and evaluation of individual State consultants may also be performed by the RA.

(d) *State reporting.* For Federal monitoring and evaluation purposes, the State shall assemble, compile and submit such factual and statistical data as may be required by the Assistant Secretary, according to reasonable formats, frequency, etc., as may also be required. The State shall prepare and submit to the RA any narrative reports, including copies of written reports to employers (but purged of all employer identification), as may be required by the Assistant Secretary for these purposes.

§ 1908.8 Agreements.

(a) *Who may make agreements.* The Assistant Secretary may make an agreement under this part with the Governor of a State or with any State agency designated for that purpose by the Governor.

(b) *Negotiations.* (1) Instructions for negotiations may be obtained through the RA who will negotiate for the Assistant Secretary and make final recommendations on each agreement to the Assistant Secretary.

(2) States with approved Section 18(b) plans may initiate negotiations in anticipation of the removal of Federally-funded on-site consultation services to employers from the plan, and may request also that the effective date of the agreement coincide with the date of the removal from the plan. Renegotiation of existing agreements funded under this part shall be initiated within 30 days of the effective date of this regulation.

(c) *Contents of agreements.* (1) Any agreement and subsequent modifications shall be in writing and signed by both parties.

(2) Each agreement shall provide that the State will conform its operations under the agreement to:

(i) the requirements contained in this Part 1908;

(ii) all related directives subsequently issued by the Assistant Secretary implementing this regulation.

(3) Each agreement shall contain an explicit written commitment for each major lettered paragraph in §§ 1908.4, 1908.5, 1908.6 and 1908.7, with particular emphasis placed on the following elements:

(i) Consultation management structure separate from enforcement;

(ii) Consultant numerical limitation and safety and health objective;

(iii) Recruitment of qualified professionals;

(iv) Advertisement of consultation services;

(v) Provisions of written reports to employers;

(vi) Monitoring and evaluation procedures.

(4) Each agreement shall also include a budget of the State's anticipated expenditures under the agreement, in such detail and format as may be required by the Assistant Secretary.

(d) *Location of sample agreement.* A sample agreement is available for inspection at the following locations:

(1) Office of Consultation Programs; (Division of Voluntary Programs) OSHA, Room 149, 2100 M Street NW., Washington, D.C.

(2) All Regional Offices of the Occupational Safety and Health Administration of the U.S. Department of Labor.

(e) *Action upon requests.* The State will be notified within a reasonable time of any decision concerning its request for an agreement. If a request is denied, the State will be informed in writing of the reasons therefor. If an agreement is negotiated, the initial funding will specify the period for which that agreement is contemplated. Additional funds may be added at a later time provided the activity is satisfactorily carried out and appropriations are available. The State may also be required to amend the agreement for continued support.

(f) *Termination.* Either party may terminate an agreement under this part upon 30 days written notice to the other party.

§ 1908.9 Exclusions.

An agreement under this part will not restrict in any manner the authority and responsibility of the Assistant Secretary under sections 8, 9, 10, 13, and 17 of the Act, or any corresponding State authority.

Signed at Washington, D.C. this 21st day of April, 1977.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc.77-12412 Filed 4-28-77;8:45 am]

Federal Register

FRIDAY, APRIL 29, 1977

PART VIII

DEPARTMENT OF LABOR

Employment Standards Administration

■

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

General Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General Wage Determination Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

MODIFICATIONS AND SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

Modifications and Supersedeas Decisions to General Wage Determination Decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the Modifications and Supersedeas Decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing General Wage Determination Decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and Supersedeas Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rule-making procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Wage Determination Decision.

MODIFICATIONS TO GENERAL WAGE DECISIONS

Alabama	AL77–1084

MODIFICATIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being modified and their dates of publication in the FEDERAL REGISTER are listed with each State.

Alabama:	
AL77–1007	Jan. 28, 1977.
Arizona:	
AZ76–5109	Nov. 26, 1976.
Florida:	
FL77–1015; FL77–1021	Feb. 18, 1977.
FL77–1023; FL77–1024	Feb. 25, 1977.
FL77–1028	Mar. 18, 1977.
FL77–1034; FL77–1043	Apr. 1, 1977.
FL77–1044	Mar. 1, 1977.
Hawaii:	
HI77–5030	Mar. 4, 1977.
Illinois:	
IL77–5038	Apr. 8, 1977.
Indiana:	
IL77–5038	Do.
Kansas:	
KS77–4079; KS77–4080	Do.
Michigan:	
IL77–5038	Do.
Minnesota:	
MS77–1030; MS77–1032; MS77–1033.	Mar. 25, 1977.
Missouri:	
MO77–4051	Mar. 4, 1977.
Nevada:	
NV77–5012	Feb. 11, 1977.
NV77–5022; NV77–5031	Mar. 18, 1977.
New Mexico:	
NM77–4074	Apr. 8, 1977.
New York:	
IL77–5038	Do.
Ohio:	
IL77–5038	Do.
Oklahoma:	
OK76–4160	Oct. 1, 1976.
OK77–4056	Mar. 4, 1977.
OK77–4062; OK77–4063	Mar. 11, 1977.
OK77–4065; OK77–4066	Mar. 18, 1977.
Pennsylvania:	
IL77–5038	Apr. 8, 1977.
PA76–3177	June 11, 1976.
PA76–3271	Nov. 5, 1976.
PA77–3016; PA77–3023	Jan. 28, 1977.
PA77–3026	Feb. 4, 1977.
PA77–3030; PA77–3033	Feb. 18, 1977.
PA77–3034	Apr. 15, 1977.
Texas:	
TX77–4008	Jan. 2, 1977.
Washington:	
WA77–5032	Apr. 1, 1977.
Wisconsin:	
IL77–5038	Apr. 8, 1977.

SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being superseded and their dates of publication in the FEDERAL REGISTER are listed with each State.

Supersedeas Decision numbers are in parentheses following the numbers of the decisions being superseded.

Florida:	
FL76–1135 (FL77–1049)	Nov. 26, 1976.
Nevada:	
NV77–5037 (NV77–5146)	Apr. 15, 1977.
New York:	
NY76–3277 (NY77–3000)	Nov. 19, 1976.
Oklahoma:	
OK76–4186 (OK77–4087)	Do.
OK76–4189 (OK77–4088)	Nov. 26, 1976.
West Virginia:	
WV77–3024 (WV77–3051)	Feb. 18, 1977.

CANCELLATIONS OF GENERAL WAGE DETERMINATION DECISIONS

General Wage Determination Decisions Nos. AZ77–5024, Navajo and Hopi Indian Reservations in Apache, Coconino, and Navajo Counties, Ariz., and NM77–5025, Navajo Indian Reservation in San Juan and McKinley Counties, N. Mex.,

are hereby withdrawn from the FEDERAL REGISTER. Agencies with residential construction projects pending in these Counties should utilize the project determination procedure by submitting Form SF-308. See Regulations Part 1 (29 CFR), Section 1.5. Contracts for which bids have been opened shall not be affected by this notice, and consistent with 29 CFR 1.7(b)(2), the incorporation of Decision Nos. AZ77-5024 and NM77-5025 in contract specifications the opening of bids for which is within ten (10) days of this notice need not be affected.

General Wage Determination Decision No. NV77-5146 which supersedes NV77-5037 does not apply to Highway Construction in Douglas County, Nev. Agencies with highway construction projects pending in this County should utilize the project determination procedure by submitting Form SF-308. See Regulations Part 1 (29 CFR), Section 1.5. Contracts for which bids have been opened shall not be affected by this notice, and consistent with 29 CFR 1.7(b)(2), the incorporation of Decision No. NV77-5037 in contract specifications the opening of bids for which is within ten (10) days of this notice need not be affected.

General Wage Determination Decision No. TX76-4162, Cameron, Hidalgo, Starr, and Willacy Counties, Tex., has been withdrawn. Agencies with residential, and building construction projects pending in these Counties should utilize the project determination procedure by submitting Form SF-308. See Regulations Part 1 (29 CFR), Section 1.5. Contracts for which bids have been opened shall not be affected by this notice, and consistent with 29 CFR 1.7(b)(2), the incorporation of Decision No. TX76-4162 in contract specifications the opening of bids for which is within ten (10) days of this notice need not be affected.

Signed at Washington, D.C., this 23d day of April 1977.

RAY J. DOLAN,
Assistant Administrator,
Wage and Hour Division.

NEW DECISION

STATE: Alabama COUNTIES: Cullman, Jackson, Limestone, and Morgan

DECISION NO.: AL77-1048 DATE: Date of Publication

DESCRIPTION OF WORK: Residential Construction consisting of single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bricklayers	7.20				
Carpenters	5.10				
Dry wall finishers	5.25				
Dry wall hangers	5.25				
Cement masons	5.00				
Electricians	4.668				
Insulators	4.65				
Laborers	3.00				
Painters, brush	4.53				
Plumbers & pipefitters	5.13				
Sheet metal workers	4.00				
Truck drivers	3.00				
POWER EQUIPMENT OPERATORS:					
Backhoe	4.50				
Bulldozer	3.50				
Grader	3.50				

MODIFICATIONS P 1

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
Decision # AL77-1007 - Mod. # 2 (42 FR-5619 - January 28, 1977) Jefferson and Shelby Counties, Alabama					
Change:					
Painters:					
Brush (Commercial)	8 65		60		
Spray, Structural steel	9 15		60		
Paperhangers	8 80		60		
DECISION NO. AZ76-5109 - Mod. 05 (40 FR 52189 - November 26,1976) Statewide, Arizona					
Change:					
Boilermakers	$ 13 175	$ 775	$ 1 00	$ 50	$ 02
Roofers(Tucson Area):					
Asbestos; Shinglers; Tile and Waterproofing:					
Zone A (0-44 miles from Tucson)	8 97	845	20		03
Zone B (Over 44 miles from Tucson)	10 72	845	20		03
Sprinkler Fitters	12 29	65	95		08

MODIFICATIONS P 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
Decision # FL77-1015 - Mod. # 2 (42 FR-10224 - February 18 1977) Broward County, Florida					
Change:					
Asbestos workers	11 15	50	65		04
Roofers	8 45	45	20	85	
Add:					
Lathers	9 40	40	20		04
Decision # FL77-1021 - Mod. # 3 (42 FR-10227 - February 18, 1977) Duval County, Florida					
Change:					
Bricklayers:					
Bricklayers	8 92	45	50		05+ 01
Blocklayers	8 92	45	50		05+ 01
Stonemasons	8 92	45	50		05+ 01
Carpenters:					
Carpenters	8 92	52	50		05
Piledrivers	8 92	52	50		05
Acoustical & drywall	8 92	52	50		05
Soft floor layers	8 47	52	50		05
Cement masons	7 61	45	40		01
Ironworkers	8 95	55	85		02
Laborers:					
Laborers	5 32	20	20		
Mechanical tool, power buggy, pipelayers & gunnite workers	5 39	20	20		
POWER EQUIPMENT OPERATORS:					
Groups I	9 48	50	35		05
Groups II	8 30	50	35		05
Groups III	7 32	50	35		05
Groups IV	6 21	50	35		05
Add:					
Millwrights	9 23	52	50		05

MODIFICATIONS P 3

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
Decision # FL77-1023 - Mod. # 4 (42 FR-11191 - February 25, 1977) Brevard & Volusia (Cape Kennedy, Kennedy Space Flight Center and Patrick Air Force Base only and including Melabar Radar Site, Florida					
Change:					
Bricklayers:					
Bricklayers	7 56	40	25		
Blocklayers	7 56	40	25		
Plasterers	7 56	40	25		
Terrazzo workers	7 56	40	.25		
Tile setters	7 56	.40	25		
Cement masons	7 41	40	.25		
Masonary cutting or grinding machine operator	7 71	40	.25		
POWER EQUIPMENT OPERATORS:					
Groups I	9 40	50	35		05
Groups II	8 80	50	35		05
Groups III	8 30	50	35		05
Groups IV	7 90	50	35		05
Groups V	7.20	.50	.35		.05
Decision # FL77-1024 - Mod. # 2 (42 FR-11193 - February 25, 1977) Orange County, Florida					
Change:					
Power Equipment Operators:					
Groups I	9 48	50	35		05
Groups II	8 30	50	35		05
Groups III	7 32	50	35		05
Groups IV	6 21	50	35		05

MODIFICATIONS P 4

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
Decision # FL77-1028 - Mod. # 2 (42 FR-15262 - March 18, 1977) Alachua County, Florida					
Change:					
Bricklayers	7 65	30	30		02
Carpenters:					
Carpenters	8 92	52	50		05
Accoustical workers	8 92	52	50		05
Millwrights	9 23	52	50		05
Piledrivermen	8 92	52	50		05
Ironworkers, structural, & ornamental	8 95	55	85		02
Soft floor layers	8 47	52	50		05
Stonemasons	7 65	30	30		02
POWER EQUIPMENT OPERATORS:					
Groups I	9 48	50	35		05
Groups II	8 30	50	35		05
Groups III	7 32	50	35		05
Groups IV	6.21	.50	.35		.05
Decision # FL77-1034 - Mod. # 1 (42 FR-17761 - April 1, 1977) Martin & Palm Beach Counties, Florida					
Change:					
Carpenters & soft floor layers	8 90	55	70		04

MODIFICATIONS P 5

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
Decision # 77FL-1043 Mod. # 1 (42 FR-17762 - April 1, 1977) Pinellas County, Florida					
Change:					
Carpenters:					
Piledrivermen	9 00	55	70		08
Plumbers & Steamfitters	10 38	55	95		08
Stonemasons	9 20	45	50		09+ 01
Omit:					
Electricians:					
Electricians	10 20	5%	7%+1%		3/4 of 1%
Cable splicer	10 45	5%	7%+1%		3/4 of 1%
Add:					
Electricians:					
Commercial	8 20	5%	7%+1%		3/4 of 1%
Industrial	10.20	5%	7%+1%		3/4 of 1%
Decision # FL77-1044 - Mod. # 1 (42 FR-17764 - March 1, 1977) Volusia County (except Cape Kennedy, Kennedy Space Flight Center and Cape Canaveral Air Force Station), Florida					
Change:					
Laborers:					
Laborers	5 30	20	10		
Air tool operators	5 45	20	10		
Mason tenders	5 45	20	10		
Mortar mixers	5 45	20	10		
Pipelayers (concrete & clay)	5 45	20	10		
Plasterers' tenders	5 45	20	10		
Roofers	7 40	35	25		15
Kettlemen	5 95	35	25		15
Roofers' helpers	5 30	35	25		15
Tile & Terrazzo workers	8 55	35	20		10
POWER EQUIPMENT OPERATORS:					
Groups I	9 48	50	35		05
Groups II	8 30	50	35		05
Groups III	7 32	50	35		05
Groups IV	6 21	50	35		05

MODIFICATIONS P 6

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
DECISION NO. IL77-5038 - Mod. #1 (42 FR 18802 - April 8, 1977) Illinois, Indiana, Michigan Minnesota, New York, Ohio, Pennsylvania and Wisconsin					
CHANGE:					
Floating Equipment: (Clamshell, Dragline and Marine Construction)					
Engineers and Operators	$14 00	f		d & e	
Equipment Operators	12 60	f		d & e	
Firemen	11 90	f		d & e	
Oilers	10 50	f		d & e	

FOOTNOTES:

d 8 paid holidays: A through F plus Washington's Birthday and Veterans' Day.
e 1/2 day vacation for each full 12 days employment in one calendar year
f $1 65 per hour in fringe benefits (excluding vacation payments)

PAID HOLIDAYS (Where Applicable):

A - New Year's Day; B - Memorial Day; C - Independence Day; D - Labor Day; E - Thanksgiving Day; F - Christmas Day

MODIFICATIONS P 7

DECISION #HI77-5030 - Mod. #3
(42 FR 12579 - March 4, 1977)
Statewide Hawaii

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
Changes:					
Elevator Constructors	$12.15	545	35	3% + a	02
Elevator Constructors' Helpers	70%JR	545	35	3% + a	02
Elevator Constructors' Helpers (Prob)	50%JR				
Roofers	9 80	85	75	25	10
Sprinkler Fitters	11 51	65	95		08
Truck Drivers:					
Flatbed	7 93	90	2 20	75	15
Dump, 8 yds and under; Water truck (up to and including 2000 gals)	8 20	90	2 20	75	15
Water truck (over 2000 gals.)	8 51	90	2 20	75	15
Tandem, Semi-trailer or Semi-dump	9 16	90	2 20	75	15
Slip-in or pup	9 48	90	2 20	75	15
End dumps, unlicensed (Euclid, Mack, Caterpillar or similar); Tractor trailer (hauling equipment)	9 59	90	2 20	75	15

MODIFICATIONS P 8

DECISION #KS77-4079 - Mod. #1
(42 FR 18803 - April 8, 1977)
Shawnee County, Kansas

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
Changes:					
Tile setters	$9 00				
Power Equipment Operators (Building Construction):					
Group 1	10 10	.50	1 00	75	10
Group 2	9 70	50	1 00	75	10
Group 3:					
(a)	8 65	50	1 00	75	10
(b)	8 90	50	1 00	75	10
Group 4:					
(a)	8 10	50	1 00	75	10
(b)	8 35	50	1 00	75	10
Group 5	10 60	50	1 00	75	10
Group 6	10 35	50	1 00	75	10
Group 7	10 60	50	1 00	75	10
Group 8	11 10	50	1 00	75	.10
Group 9	12 10	50	1 00	75	10
Power Equipment Operators (Site Preparation & Grading):					
Group 1	8 35	50	1 00	75	10
Group 2	8 10	50	1 00	75	10
Group 3	7 85	50	1 00	75	.10
Group 4	7 50	50	1 00	75	10
Group 5	7 60	50	1 00	75	10
Group 6	8 60	50	1 00	75	10

MODIFICATIONS P 9

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
DECISION #KS77-4080 - Mod. #1 (42 FR 18806 - April 8, 1977) Shawnee County, Kansas					
Change:					
Tile setters	$9 00				
Power Equipment Operators (Building Construction):					
Group 1	10 10	50	1 00	75	10
Group 2	9 70	50	1 00	75	10
Group 3:					
(a)	8 65	50	1 00	75	10
(b)	8 90	50	1 00	75	10
Group 4:					
(a)	8 10	50	1 00	75	10
(b)	8 35	50	1 00	75	10
Group 5	10 60	50	1 00	75	10
Group 6	10 35	50	1 00	75	10
Group 7	10 60	50	1 00	.75	10
Group 8	11 10	50	1 00	75	10
Group 9	12 10	50	1 00	75	10
Power Equipment Operators (Site Preparation & Grading):					
Group 1	8 35	50	1 00	75	10
Group 2	8 10	50	1 00	75	10
Group 3	7 85	50	1 00	75	10
Group 4	7 50	50	1 00	75	10
Group 5	7 60	50	1 00	75	10
Group 6	8 60	50	1 00	75	10

MODIFICATIONS P 10

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
Decision # MS77-1030 - Mod. # 2 (42 FR-16356 - March 25, 1977) Hancock, Harrison, Jackson, & Pearl River Counties, Mississippi					
Change:					
Electricians:					
Electricians	9 40	5%	1%+ 20		1/8 of 1%
Cable splicer	9 65	5%	1%+.20		1/8 of 1%
Sprinkler Fitters	10 35	65	85		08
Decision # MS77-1032 - Mod. # 1 (42 FR-16359 - March 25, 1977) Hinds County, Mississippi					
Change:					
Glaziers	7 10				01
Lather	8 25				01
Sprinkler fitters	10 35	65	85		08
Decision # MS77-1033 - Mod. # 1 (42 FR-16361 - March 25, 1977) Warren County, Mississippi					
Change:					
Glaziers	7 10				01
Lathers	8 25				01
Add:					
Sprinkler fitters	10 35	65	85		08
DECISION #MO77-4051 - Mod. #2 (42 FR 12618 - March 4, 1977) Description of Work and Locations: Heavy and Highway Construction, Missouri					
Change:					
Ironworkers Zone 7	$9 10	45	65		02

MODIFICATIONS P 11

DECISION #NV77-5012 - Mod. #2 (42 FR 8947 - February 11; 1977) Nevada Test Site including the Tonopah Test Range in Clark and Nye Counties, Nevada	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
Change:					
Sprinkler Fitters	$15 05	65	95		08
DECISION #NV77-5022 - Mod. #2 (42 FR 15273 - March 18, 1977) Clark County (excluding the Nevada Test Site), Nevada					
Change:					
Lathers	$10 00	60	$1 00	$1 00	06
Sprinkler Fitters	15 05	65	95		08

MODIFICATIONS P 12

DECISION #NV77-5031 - Mod. #2 (42 FR 15278 - March 18, 1977) Washoe County, Nevada	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
Change:					
Carpenters:					
Zone 1: In Washoe County, the area within 5 road miles of the following communities - Carson City, Lovelock; also area within 10 road miles of Reno Nevada; also Washoe Valley between Reno, Nevada and Carson City Nevada, but not including any area further than the foot of the mountains to the east or west side of Washoe Valley; also the area of Stead Air Force Base:					
Residential carpenter	$7 44	70	$1 16	$1 00	05
Zone 2: Area outside of Zone 1 and not more than 20 road miles from the above communities:					
Residential carpenter	8 04	70	1 16	1 00	05
Zone 3: Area over 20 and not more than 40 road miles from the above communities:					
Residential carpenter	8 24	70	1 16	1 00	05
Zone 4: Area over 40 road miles from the above communities:					
Residential carpenter	8 94	70	1 16	1 00	05

MODIFICATIONS P 13

DECISION #NV77-5031 (Cont'd):
Change (Cont'd):

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
Drywall Installers:					
Zone 1: In Washoe County the area within 5 road miles of the following communities Carson City, Lovelock; also area within 10 road miles of Reno, Nevada; also Washoe Valley between Reno, Nevada, and Carson City, Nevada, but not including any area further than the foot of the mountains on the east or west side of Washoe Valley; also the area of Stead Air Force Base	$9 60	70	$1 16	$1 10	05
Zone 2: Area outside of Zone 1 and not more than 20 road miles from the above communities	10 20	70	1 16	1 00	05
Zone 3: Area over 20 and not more than 40 road miles from the above communities	10 40	70	1 16	1 00	05
Zone 4: Area over 40 road miles from the above communities	11 10	70	1 16	1 00	05
Electricians:					
Washoe County excluding Lake Tahoe Area:					
Electricians; Technicians	12 33	67	1% + 77		08
Cable Splicers	13 56	67	1% + 77		08
Lake Tahoe Area:					
Electricians; Technicians	13 33	67	1% + 77		08
Cable Splicers	14 56	67	1% + .77		08
Sprinkler Fitters	15.05	.65	.95		.08

DECISION NO. NM77-4074 - Mod. #2
(42 FR 18825 - April 8, 1977)
Statewide, New Mexico

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
CHANGE:					
SPRINKLER FITTERS	$11 26	65	95		08

MODIFICATIONS P 14

DECISION NO. OK77-4056 - Mod. #1
(42 FR 12663 - March 4, 1977)
Comanche County, Oklahoma

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
CHANGE:					
SPRINKLER FITTERS	$11 15	65	95		08

Description of work to read "Building Construction (but does not include single family homes and garden type apartments up to and including 4 stories)

DECISION NO. OK76-4160 - Mod. #3
(41 FR 43629 - October 1, 1976)
Garfield County, Oklahoma

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
CHANGE:					
SPRINKLER FITTERS	$11 15	65	95		08

Description of work to read "Building Construction (but does not include single family homes and garden type apartments up to and including four stories)

MODIFICATIONS P 15

DECISION NO. OK77-4062 - Mod. #2
(42 FR 13787 - March 11, 1977)
Muskogee, Adair and Cherokee Counties, Oklahoma

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
CHANGE: SPRINKLER FITTERS	$11 15	65	95		08

Description of work to read "Building construction (but does not include single family homes and garden type apartments up to and including 4 stories), and heavy construction within the City of Muskogee

DECISION NO. OK77-4063 - Mod. #3
(42 FR 13790 - March 11, 1977)
Oklahoma, Cleveland, Caddo, Canadian, Grady, Kingfisher, Logan, Lincoln, McClain, Seminole, and Pottawatomie Counties, Oklahoma

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
CHANGE: SPRINKLER FITTERS	$11 15	65	95		08

Description of work to read "Building Construction (but does not include include single family homes and garden type apartments up to and including 4 stories)

MODIFICATIONS P 16

DECISION NO. OK77-4065 - Mod. #2
(42 FR 15287 - March 18, 1977)
McIntosh County, Oklahoma

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr.
CHANGE: SPRINKLER FITTERS	$11 15	65	95		08

Description of work to read "Building construction (but does not include single family homes and garden type apartments up to and including 4 stories)"

DECISION NO. OK77-4066 - Mod. #1
(42 FR 15289 March 18, 1977)
Pittsburg County, Oklahoma

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
CHANGE: SPRINKLER FITTERS	$11 15	65	95		08

Description of work to read "Building Construction (but does not include single family homes and garden type apartments up to and including 4 stories)

MODIFICATIONS P 17

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr.
DECISION #PA76 -3177 - Mod. # 5 (41 FR 23916 - June 11 1976) Erie County Pennsylvania					
Change:					
Roofers:					
Composition	$9 29	45	30		
DECISION #PA76-3271 - Mod. # 4 (41 FR 48993 - November 5 1976) Luzerne County Pennsylvania					
Change:					
Electricians					
Remainder of County	10 94	30	1%+ 75		03
DECISION #PA77-3026 - Mod. #3 (42 FR 7066 - February 4 1977) Lancaster County, Pennsylvania					
Change:					
Line Construction					
Linemen & Cable Splicers	10 83	40	1%		3/4%
Groundman	6 46	40	1%		3/4%
Winch truck operator	7 55	40	1%		3/4%
DECISION PA77-3033 - Mod. # 1 (42 FR 10268 - February 18 1977) Northampton County, Pennsylvania					
Change:					
Line Construction					
Lineman	11 78	40	1%		3/8%
Cable splicse	11 78	40	1%		3/8%
Groundman	7 03	40	1%		3/8%
Winch truck operator	8 22	40	1%		3/8%

MODIFICATIONS P 18

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
DECISION #PA77-3023 - Mod. # 2 (42 FR 5640 - January 28 1977) Butler Cambria, Erie Fayette Mercer, Washington Westmoreland Lawrence, Somerset Allegheny, Beaver Armstrong, Blair Cameron, Centre Clarion Clearfield Crawford, Forest Greene Indiana McKean Venango, Warren, Bedford Jefferson, Clinton, Elk, Franklin Fulton Huntingdon Mifflin and Potter Counties Pennsylvania					
Change:					
Power Equipment Operator:					
Zone 1					
Class -1	$10 63	65	80		09
Class 2	10 37	65	80		09
Class 3	8 01	65	80		09
Class 4	7 56	65	80		09
Class 5	7 41	65	80		09
Zone 2					
Class 1	10 34	65	80		09
Class 2	10 06	65	80		09
Class 3	7 72	65	80		09
Class 4	7 23	65	80		09
Class 5	7 12	65	80		09

DECISION NO. PA77-3023

AREA COVERED BY POWER
EQUIPMENT OPERATOR ZONES

ZONE 1 - Allegheny, Armstrong, Beaver, Blair Butler, Cambria, Centre, Clearfield, Crawford, Erie, Fayette, Greene, Indiana Jefferson, Lawrence McKean, Mercer, Somerset, Venango, Warren Washington Westmoreland
ZONE 2 - Bedford, Cameron Clarion Clinton Elk, Forest Franklin, Fulton, Huntingdon, Mifflin, Potter

CLASSIFICATION DEFINITION
FOR ALL ZONES

CLASS 1 - Autograder (C M. I. & similar), backfiller; backhoe - 360° swing, cableway, caisson drill (similar to Hugh Williams) central mix plant cooling plant, concrete paving mixer, concrete pump (self propelled), cranes, cranes (boom or mast 101 ft or over up to & including 150 ft. inclusive of jib + 25), cranes (boom or mast over 150 ft; up to & including 200 ft inclusive of jib + $.50), cranes (boom or mast over 200 ft inclusive of jib + $ 75), cranes (tower-stationary-climbing tower cranes) derrick, derrick boat, dozer (D-6 & over), dragline dredge dredge hydraulic (1 leverman - 1 oiler - 1 apprentice), elevating grader, franki pile machine, gradall (remote controle or otherwise), grader (power-fine grade), helicopter (1500 lb or over lift), helicopter (under 1500 lb lift), hilift (4 cy & over) hoist 2 drums or more (in one unit), hydraulic boom truck (with pivotal cab) (single motor-pitman or similar), kocal lead mechanic, locomotive (std gauge), metro-chip harvester or similar mix mobile, mix mobile (with self loading attachment) mucking machine (tunnel), pile driver machine, pipe extrusion machine presplitter drill (self contained), refrigeration plant (soil stabilization), rough terrian crane (25 ton & over), rough terrain crane (under 25 ton), scrapers, shovel-power, slip form paver (C. M I and similar), trenching machine (30 000 lbs and over), trenching machine (under 30,000 lb), tunnel machine (mark XXI jarva or similar), whirley

DECISION NO PA77-3023

CLASSIFICATION DEFINITION
FOR ALL ZONES (CONT'D)

CLASS 2 - Asphalt paving machines (spreader), asphalt plant operator, auger (tractor mtd), auger (truck mtd), backhoe (rear pivotal swing) (180° swing), belt loader (euclid or similar), boring machine, cable placer or layer, compactor with blade concrete batch plant (electronically synchronized) concrete belt placer (C M. I and similar), concrete finishing machine and spreader, concrete mixer (over 1 cy) concrete pump (stationary), core drill (truck or skid mtd - similar to Penn drill), dozer (under D-6) force feed loader, fork lift (lull or similar), grader - power, grease unit operator (head) guard rail post driver (truck mounted), guard rail post driver (skid type), hilift (und 4 cy), hydraulic boom truck (non-pivotal cab), job work boat (powered) (when assistance is required it shall be a deckhand), jumbo operator, locomotive (narrow guage), mechanic, minor equipment operator (accumulative four units), mucking machine, multi-head saw (groover) over-head crane, roller - power-asphalt, ross carrier, side boom or tractor mounted boom, stone curshcr, (screening-washing plants) stone spreader (self-propelled) truck mounted drill (davey or similar), welder and repairman well point pump operator

CLASS 3 - Broom Finisher (C.M I or similar), Compactors/Rollers (Static or Vibratory) (Self-propelled), Curb Builder, Minor Equipment Operator (Two to three units), Multi-head Tie Tamper, Pavement Breaker (Self-propelled or ridden), Soil Stabilizer Machine, Tire Repairman (As per Agreement with Teamsters), Tractor (Snaking & Hauling), Well Driller & Horizontal and Winch or "A" Frame Truck (When hoisting & Lowering)

CLASS 4 - Ballast Regulator, Compressor, Concrete Mixer (1 cy & under with skip), Concrete Saw (Ridden or self-propelled), Conveyor, Elevator (Material hauling only), Fork-lift (Ridden or self-propelled), Form Line Machine, Generator, Grout Pump, Heater (Mechanical), Hoist (Single Drum), Ladavator, Light Plant, Mulching Machine, Personnel Boat (powered), Pulverizer, Pumps, Seeding Machine, Spray Cure Machine (power Driven), Subgrader, Tie Puller, Tugger and Welding Machine (Gas or Diesel)

CLASS 5 - Deck Hand, Farm Tractor, Fireman or Boiler, Mechanic's Helper, Oiler, Power Room, Side Delivery Shoulder Spreader (Attachment)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr.
DECISION #PA77-3034 - Mod. # 1 (42 FR 20100 - April 15 1977) Schuylkill County Pennsylvania					
Change:					
Electricians					
Remainder of County	$11 20	30	1%+.20		05
Ironworkers	11 35	84	1 21		02
DECISION #PA77-3016 - Mod. # 3 (42 FR 5632 - January 28 1977) Bucks, Chester, Delaware Montgomery, Philadelphia Counties Pennsylvania					
Change:					
Electricians					
Zone 3					
Commercial	12 34	4 4%	1%+3 5%		1/2 of 1%
DECISION NO. PA77-3030 - Mod. # 1 (42 FR 10266 - February 18 1977) Cumberland Dauphin, Perry Juniata New Cumberland Depot in York County Pennsylvania					
Change:					
Electricians	9 91	45	3%+ 31		1/4%

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
DECISION #TX77-4008 - Mod. #1 (42 FR 5644 - January 28, 1977) Statewide (excluding Dallas-Fort Worth Regional Airport), Texas					
Change Area Covered By Various Zones to Read as Follows:					
Zone 15 - Brazoria, Fort Bend, Galveston*, Harris*, Matagorda Montgomery, Waller & Wharton Cos					
DESCRIPTION OF WORK: Heavy (excluding tunnels & dams) & Highway Construction, Incidental Shore Work & Paving & Utilities Incidental to General Building Construction This wage determination does not apply to any residential construction (single family homes and garden type apartments up to & including 4 stories)					
*Not to be used for Paving & Utilities Incidental to General Building Construction on Galveston Island, work performed on the site of water or sewage treatment facilities in Galveston County & Heavy Construction (including Incidental Shore Work) in Harris County					

DECISION NO. WA77-5032 - Mod. #2 MODIFICATIONS P 23
(42 FR 17789 - April 1, 1977)
Statewide, Washington

Change:

POWER EQUIPMENT OPERATORS (Area 1)
(All Counties and portions of Counties East of the 120th Meridian)

Group No.	Zone 1	Zone 2	Zone 3
1	$8 70	$9 20	$9 65
2	9 00	9 50	9 95
3	9 55	10 05	10 50
4	9 70	10 20	10 65
5	9 85	10 35	10 80
6	10 10	10 60	11 05
7	10 35	10 85	11 30
FRINGE BENEFITS:	$ 80 H&W	$ 90 Pen	$ 03 App Tr

*ZONE 1: Within a 15 mile radius from the center of the following Cities: Moses Lake, Pasco, Spokane and Walla Walla in Washington - and Coeur d' Alene and Lewiston in Idaho

*ZONE 2: From a 15 to 45 mile radius from the center of the above named Cities, except Coeur d' Alene and Walla Walla which are limited to a 15 mile zone only

*ZONE 3: Over a 45 mile radius from the center of the above named Cities except Coeur d' Alene and Walla Walla which are limited to a 15 mile zone only

SUPERSEDEAS DECISION

FL77-1049 - (Cont'd) Page 2

STATE: Florida COUNTY: Leon
DECISION NUMBER: FL77-1049 DATE: Date of Publication
Supersedeas Decision No : FL76-1135 dated November 26, 1976 in 41 FR-52234
DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
Asbestos workers	10 51	45	55		04
Boilermakers	9 50	75	1 00		02
Bricklayers:					
Blocklayers	7 55	30	30		08+ 02
Bricklayers	7 55	30	30		08+ 02
Stone masons	7 55	30	30		08+ 02
Cement masons	7 05	30	30		08+ 02
Marble masons	7 05	30	30		08+ 02
Terrazzo workers	7 05	30	30		08+ 02
Tile setters	7 05	30	30		08+ 02
Carpenters:					
Carpenters	6 85	20			03
Soft floor layers	6 85	20			03
Electricians	9 25		1%		0 5%
Elevator constructors	9.315	545	35	4%+a+b	02
Elevator constructors helpers	70%JR	545	35	4%+a+b	02
Elevator constructors' helpers (prob)	50%JR				
Glaziers	8 00		20		01
Ironworkers	8 95	55	85		02
Laborers:					
Laborers	4 25	20			
Concrete cutters, Grouters; Gunnite workers; Mason tenders; Mechanical tool operators; Mortar mixers; Pipelayers; Plasterer tender; Power buggy operators	4 40	20			
Lathers	7 15				05
Linemen	8 52	30	1%		0 5%
Painters:					
Brush	5 95	35	40		06
Spray	6 20	35	40		.06
Plasterers	7 05	30	30		08+ 02
Plumbers	8 95	30	25		05
Roofers:					
Roofers	8 35	25	20		02
Kettlemen	5 85	25	20		02
Helpers	4 80	25	20		02
Sprinkler fitters	10 16	60	90		10
Steamfitters	9 95	50	50		08
Welders - rate for craft					

PAID HOLIDAYS: (WHERE APPLICABLE) :
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:

a Six paid holidays: A through F

b. Employer contributes 4% of regular hourly rate for employee who has worked in business more than 5 years Employer contributes 2% of regular hourly rate for employee who has worked in business less than 5 years

FL77-1049 - (Cont'd)

POWER EQUIPMENT OPERATORS:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
GROUP I	9 48	50	35		05
GROUP II	8 30	50	35		,05
GROUP III	7.32	50	35		05
GROUP IV	6 21	50	35		05

GROUP I: Cranes, derricks, clam shells, draglines, piledriver (including auger & boring machine for drilling in piling), backhoes, hydra cranes, grade all, shovels, patrols, cableways, tug boat captain (150 H P,or more), multi-bowl operator (similar to R G LeTourneau Model L-60-2 or 3 twenty cu. yd. scraper: front end loaders, (over 4 cy. cap ,) , side boom cats, multi-drum hoist (for rigging), mechanic (heavy equip), tower crane (stationary, climbing & traveling), gantry cranes, locomotive cranes, bridge cranes (over 20 ton cap.), concrete pump with boom (mobile),high lift or fork lift (second floor & higher), Locomotive engineer (jobs not covered by railroad unions)

GROUP II: Bulldozers, bridge cranes (20 tons & under), highlift or forklift (up to 2nd floor), straddle buggys, hoists (other than rigging) including winch truck not mobile & used ahoist, front end loader (over 2 cy & up to & incl , 4 cy cap), trenching machine (ladder & wheel type) over 6' cut & 24" width, concrete paver & scrapers

GROUP III: Concrete pumps, front end loader (2 cy or less not used as hoist) mobile winch trucks, self-propelled sub-grader, asphalt paving machine concrete mixer, tractors, air compressor plant (2 or more compressors on a common manifold), lubricating engineer (mobile plant), pavement breakers, street sweeping machines

GROUP IV: Tractor operated sweeper, trenching machine (ladder & wheel type maximum cut 6' & maximum width 24"), firemen, self-propelled rollers, wellpoint pump, asphalt distributor, water truck driver, motor boat operator, oiler, mechanics' helpers, pumpman (other than well point up to & incl , 5 pumps within 300 ft radius), self-propelled sweepers, combination pump,compressor & combustion type welding machine

SUPERSEDEAS DECISION

STATE: Nevada

COUNTIES: Statewide (excluding the Nevada Test Site and Tonopah Test Range, and highway construction in Douglas County), Nevada

DECISION NUMBER: NV77-5146

DATE: Date of Publication

Supersedes Decision No NV77-5037 dated April 15, 1977, in 42 FR

DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4 stories), heavy and highway construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
ASBESTOS WORKERS:					
Clark, Esmeralda, Lincoln, Nye Counties	$ 12 11	85	$ 1 10		
Elko, Eureka, White Pine Cos	10 56	52	1 17		
Remaining Counties	13 06	90	1 02		
BOILERMAKERS	13 175	775	1 00	50	02
BRICKLAYERS; Stonemasons:					
Clark, Esmeralda, Lincoln, Nye County (south of Hwy #6)	11 37	70	60		06
Remaining Counties and Nye County (north of Hwy #6):					
Zone 1: 0-35 miles from Courthouse in Reno, Nevada	11 00	50	60		01
Zone 2: 35-75 miles from Courthouse in Reno, Nevada	11 90	50	60		01
Zone 3: 75 miles and over from Courthouse in Reno Nevada	11 00	50	60		01
BRICK TENDERS:					
Clark, Esmeralda, Lincoln, Nye Counties	8 47	51	1 25	1 00	
Remaining Counties:					
Zone A: 0-35 miles from Courthouse in Reno, Nevada	9 25	50	90		05
Zone B 35-75 miles from Courthouse in Reno, Nevada	10 15	50	90		05

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
CARPENTERS:					
Clark, Esmeralda County (South of Hwy #6), Lincoln, Nye County (south of Hwy #6, including City of Tonopah):					
Zone 1: Area within the City limits of Henderson, Nevada, and Boulder City, Nevada; area within a 10 mile radius of Las Vegas, Nevada; area within a 5 mile radius of Tonopah, Nevada; present fenced area of Nellis Air Force Base, as well as that area adjacent to Nellis Air Force Base bounded on the north by the Nellis spur track and on the west by the train line of the Union Pacific Railroad:					
Carpenters	$ 10 46	55	90	$1 00	10
Floor Layers; Patent Scaffold Erectors; Power Saw Operators	10 61	55	90	1 00	10
Piledrivermen	10 66	55	90	1 00	10
Millwrights	11 06	55	90	1 00	10
Zone 2: Area outside of Zone 1 and not more than 20 road miles from the communities described above:					
Carpenters	10 96	55	90	1 00	10
Floor layers; Patent Scaffold Erectors; Power Saw Operators	11 11	55	90	1 00	10
Piledrivermen	11 16	55	90	1 00	10
Millwrights	11 56	55	90	1 00	10

CARPENTERS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
Zone 3: Area over 20 miles and not more than 40 miles from the communities described in Zone 1:					
Carpenters	$ 11 21	55	90	1 00	10
Floor Layers; Patent Scaffold Erectors; Power Saw Operators	11 36	55	90	1 00	10
Piledrivermen	11 41	55	90	1 00	10
Millwrights	11 81	55	90	1 00	10
Zone 4: Area over 40 miles from the communities described in Zone 1:					
Carpenters	12 46	55	90	1 00	10
Floor Layers; Patent Scaffold Erectors; Power Saw Operators	12 61	55	90	1 00	10
Piledrivermen	12 66	55	90	1 00	10
Millwrights	13 06	55	90	1 00	10
Nye County (north of Hwy #6, excluding City of Tonopah) and all Remaining Counties:					
Zone 1: Area within 5 road miles of the following communities - Carson City, Elko, Ely, Fallon, Hawthorne, Lovelock, Minden, Winnemucca; also area within 10 road miles of Reno, Nevada; also the area within 2 road miles of Yerington, Nevada; also Washoe Valley between Reno, Nevada, and Carson City, Nevada, but not including any area further than the foot of the mountains to the east or west side of Washoe Valley; also the area of Stead Air Force Base:					
Carpenters	9 35	70	1 16	1 00	05
Floor Layers; Patent Scaffold Erectors; Power Saw Operators	9 50	70	1 16	1 00	05
Piledrivermen	9 55	70	1 16	1 00	05
Millwrights	9 95	.70	1 16	1 00	05

CARPENTERS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
Zone 2: Area outside of Zone 1 and not more than 20 road miles from the communities in Zone 1:					
Carpenters	$ 9 95	70	$ 1 16	$1 00	05
Floor Layers; Patent Scaffold Erectors; Power Saw Operators	10 10	70	1 16	1 00	05
Piledrivermen	10 15	70	1 16	1 00	05
Millwrights	10 55	70	1 16	1 00	05
Zone 3: Area over 20 and not more than 40 road miles from the communities in Zone 1:					
Carpenters	10 15	70	1 16	1 00	05
Floor Layers; Patent Scaffold Erectors; Power Saw Operators	10 30	70	1 16	1 00	05
Piledrivermen	10 35	70	1 16	1 00	05
Millwrights	10 75	70	1 16	1 00	05
Zone 4: Area over 40 road miles from the communities in Zone 1:					
Carpenters	10 85	70	1 16	1 00	05
Floor Layers; Patent Scaffold Erectors; Power Saw Operators	11 00	70	1 16	1 00	05
Piledrivermen	11 05	70	1 16	1 00	05
Millwrights	11 45	70	1 16	1 00	05
CEMENT MASONS:					
Clark, Lincoln, Nye Counties:					
Cement Masons	8 90	1 00	40	2 00	08
Cement Floor Finishing Machine and Color Work	9 15	1 00	40	2 00	08

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
CEMENT MASONS: (Cont'd)					
Lake Tahoe Area:					
Cement Masons	$ 10 60	65	75	$1 00	03
Mastic, Magnesite and all Composition Masons	10 85	65	75	1 00	03
Troweling Machine; Grinder Operator and Kelly Float	11 10	65	75	1 00	03
Remaining Counties:					
Zone 1: Area within a 15 mile radius of the Main Post Office, Reno, Nevada, or within a 15 mile radius of the employee's permanent residence in the State of Nevada; also area within a 7 mile radius of the Main Post Office, Carson City, Nevada:					
Cement Masons	9 15	65	75	1 00	03
Mastic, Magnesite and all Composition Masons	9 40	65	75	1 00	03
Troweling Machine; Grinder Operator and Kelly Float	9 65	65	75	1 00	03
Zone 2 - Highway Construction:					
Area outside of Zone 1:					
Cement Masons	10 40	65	75	1 00	03
Mastic, Magnesite and all Composition Masons	10 65	65	75	1 00	03
Troweling Machine; Grinder Operator and Kelly Float	10 90	65	75	1 00	03
Zone 2 - Nonhighway Construction:					
2-A: Area over 15 but not over 50 miles to the center of the jobsite:					
Cement Masons	9 90	65	75	1 00	03
Mastic, Magnesite and all Composition Masons	10 15	65	75	1 00	03
Troweling Machine; Grinder Operator and Kelly Float	10 40	65	75	1 00	03

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
CEMENT MASONS: (Cont'd)					
2-B: Area over 50 miles to the center of the jobsite:					
Cement Masons	$ 11 15	65	75	$1 00	03
Mastic, Magnesite and all Composition Masons	11 40	65	75	1 00	03
Troweling Machine; Grinder Operator and Kelly Float	11 65	65	75	1 00	03
DRYWALL INSTALLERS:					
Statewide except the Counties of Clark, Esmeralda County (South of Hwy #6), Lincoln, Nye County (south of Hwy #6):					
Zone 1: Area within 5 road miles of the following communities: Carson City, Elko, Ely, Fallon, Hawthorne, Lovelock, Minden, Winnemucca; also area within 10 road miles of Reno, Nevada; also the area within 2 road miles of Yerington, Nevada; also Washoe Valley between Reno, Nevada and Carson City, Nevada, but not including any area further than the foot of the mountains to the east or west side of Washoe Valley; also the area of Stead Air Force Base:	9 60	70	1 16	1 00	05
Zone 2: Area outside of Zone 1 and not more than 20 road miles from the communities in Zone 1	10 20	70	1 16	1 00	05
Zone 3: Area over 20 and not more than 40 road miles from the communities in Zone 1	10 40	70	1 16	1 00	05
Zone 4: Area over 40 road miles from the communities in Zone 1	11 10	70	1 16	1 00	05

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
ELECTRICIANS:					
Clark, Lincoln, Nye County (south of Mt Diablo Base Line)					
Electricians; Technicians	$ 13 81	73	1%+ 40		08
Cable Splicers	14 14	73	1%+ 40		08
Nye County (north of Mt Diablo Base Line) and Remaining Counties excluding Lake Tahoe Area:					
Electricians; Technicians	12 33	67	1%+ 77		08
Cable Splicers	13 56	67	1%+ 77		08
Lake Tahoe Area:					
Electricians; Technicians	13 33	67	1%+ 77		08
Cable Splicers	14 56	67	1%+ 77		08
ELEVATOR CONSTRUCTORS:					
Nevada west of 118° longitude	13 49	545	35	3%+a	02
Nevada east of 118° longitude and south of 39° North latitude	12 95	545	35	3%+a	02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	545	35	3%+a	02
ELEVATOR CONSTRUCTORS' HELPERS (PROB)	50%JR				
GLAZIERS:					
Clark, Esmeralda, Lincoln, Nye Counties	12 63	35	40		05
Remaining Counties	10 495	43	1 20	84+ 43	
IRONWORKERS:					
Elko, Eureka, White Pine Counties:					
Fence Erectors; Machinery Movers; Ornamental; Reinforcing; Riggers; Structural	10 10	55	1 00		04
Remaining Counties:					
Fence Erector	10 41	1 14	1 86	1 20	04
Ornamental; Reinforcing; Structural	11 30	1 14	1 86	1 20	04
LATHERS:					
Clark, Esmeralda, Lincoln, Nye Counties	10 00	60	1 00	1 00	06
Remaining Counties	10 86	56	20		01

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
LINE CONSTRUCTION WORKERS:					
Clark, Lincoln, Nye County (South half)					
Line Equipment Operator	$ 13 73	73	1%		35
Cable Splicers	5%overJr	73	1%		35
Lake Tahoe Area:					
Lineman	13 33	67	1%+ 77		08
Line Equipment Operator	12 10	6	1%+ 77		08
Groundman	10 25	67	1%+ 77		08
Cable Splicer	14 56	67	1%+ 77		08
Remaining Counties (excluding Lake Tahoe Area):					
Lineman	12 33	67	1%+ 77		08
Line Equipment Operator	11 10	67	1%+ 77		08
Groundman	9 25	67	1%+ 77		08
Cable Splicers	13 56	67	1%+ 77		08
MARBLE MASONS:					
Clark, Esmeralda, Lincoln, Nye County (south half)	11 37	70	60		06
PAINTERS:					
Clark, Esmeralda, Lincoln, Nye Counties					
Brush; Roller	11 55	75	35		06
Paperhangers; Spray; Steel; Swing Stage; Sandblasters; Sign; Tapers	11 90	75	35		06
Buffing Steel; Sandblasters; Structural Steel	12 35	75	35		06
Steeplejack	13 15	75	35		06
Remaining Counties including Lake Tahoe Area:					
Brush	10 95	70	75		
Paperhangers; Spray; Structural Steel; Swing Stage; Sandblaster; Tapers	11 20	70	75		
PLASTERERS:					
Clark, Lincoln, Nye Counties	9 98	1 00	40	1 20	08
Remaining Counties	10 52	65	1 00		03
PLASTERER TENDERS:					
Statewide except Clark, Esmeralda, Lincoln, Nye County (South of Hwy 66)					
Plasterer Tenders serving Plasterers	10 05	50	90		
Plasterer Tenders working on any type of gun	10 65	50	90		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
PLUMBERS; Steamfitters:					
Clark, Esmeralda, Lincoln, Nye County (south half)	$ 11 05	$ 1 05	$ 1 90	$1 85	08
Remaining Counties and Nye County (north half)	10 84	73	80	1 95	10
PLUMBERS (Utility):					
Statewide except Clark, Esmeralda, Lincoln, Nye County (south half)	10 84	73	80	1 95	10
ROOFERS:					
Clark, Esmeralda, Lincoln Nye County (south half)	12 75	65			
Remaining Counties and Nye County (north half)	9 75	50	35		02
SHEET METAL WORKERS:					
Clark, Esmeralda, Lincoln, Nye County (South half), White Pine Counties	11 43	93	1 60	1 00	07
Remaining Counties and Nye County (north half)	9 80	94	1 83	98	05
SOFT FLOOR LAYERS:					
Clark, Esmeralda, Lincoln, Nye Counties	12 52	40			15
Remaining Counties including Lake Tahoe Area	10 80	70	20	2 4%	08
SPRINKLER FITTERS	15 05	65	95		08
TERRAZZO WORKERS; TILE SETTERS:					
Clark, Esmeralda, Lincoln, Nye County (south half)	11 37	70	60		06
Remaining Counties and Nye County (north half):					
Zone 1: 0-35 miles from Courthouse in Reno, Nevada	11 00	50	60		01
Zone 2: 35-75 miles from Courthouse in Reno, Nevada	11 90	50	60		01
Zone 3: 75 miles and over from Courthouse in Reno, Nevada	11 00	50	60		01

FOOTNOTE:

a Employer contributes 4% basic hourly rate for over 5 years' service and 2% basic hourly rate for 6 months to 5 years service as Vacation Pay Credit

Six Paid Holidays: A through F

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
LABORERS:					
Clark, Esmeralda, Lincoln, Nye Counties:					
Group 1	$ 7 63	51	$ 1 25	$1 00	
Group 2	7 68	51	1 25	1 00	
Group 3	7 71	51	1 25	1 00	
Group 4	7 73	51	1 25	1 00	
Group 5	7 75	51	1 25	1 00	
Group 6	7 76	51	1 25	1 00	
Group 7	7 78	51	1 25	1 00	
Group 8	7 81	51	1 25	1 00	
Group 9	7 82	51	1 25	1 00	
Group 10	7 84	51	1 25	1.00	
Group 11	7 89	51	1 25	1 00	
Group 12	7 92	51	1 25	1 00	
Group 13	7 94	51	1 25	1 00	
Group 14	7 97	51	1 25	1 00	
Group 15	7 99	51	1 25	1 00	
Group 16	8 055	51	1 25	1 00	
Group 17	8 08	51	1 25	1 00	
Group 18	8 15	51	1 25	1 00	

LABORERS
Clark Esmeralda, Lincoln, Nye Counties

Group 1: Debris Handler; Dry packing of concrete and filling of form-bolt holes; Dumpman; Gas and oil pipeline laborers; Demolition Laborers; General or construction Laborers; Spotter; Window Cleaner

Group 2: Cutting Torch Operator (demolition); Tarman and Motorman

Group 3: Guinea Chaser

Group 4: Fine Grader, highway and street paving, airport, runways and similar type heavy construction; Landscape gardener and nursery-man

Group 5: Laborers - packing rod steel and pans

Group 6: Underground Laborer including caisson bellowers

Group 7: Chucktender (except tunnels); Scaler; Septic tank digger and installer (lead man); Tank scaler and cleaner

Group 8: Cesspool digger and installer

Group 9: Concrete curer-impervious membrane and oiler of all materials; Making and caulking of all non-metallic pipe joints; Riprap stonepaver; Sandblaster (pot tender)

LABORERS (Cont'd)
Clark, Esmeralda, Lincoln, Nye Counties

Group 10: Asphalt Ironer, raker, spreader; Buggymobile; Cement dumper (on 1 yard or larger mixers and handling bulk concrete); Cement grinding machine operator; Concrete re cutter; Concrete saw man, excluding tractor type; Gas and oil pipeline wrapper, pot tender and form man; Tree climber, faller, chain saw operator; Pittsburgh Chipper and similar type; Vibrators and all pneumatic, gas, electric and similar mechanical tools not separately classified herein; Roto Scraper

Group 11: Rock Slinger; Scaler, using bosun chair, safety belt or power tools

Group 12: Driller and/or pavement breaker

Group 13: Laying of all non-metallic pipe (including sewer pipe, drain pipe and underground tile)

Group 14: Gas and oil pipeline wrapper - 6 inch pipe and over

Group 15: Cribber or Shorer; Powderman

Group 16: Steel Headerboard Man

Group 17: Driller (core, diamond or wagon) Joy Driller Model TM-H-2A, Gardner-Denver Model DH-163 and similar drills; Sandblaster - Nozzleman

Group 18: Head Rock Slinger

LABORERS*:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
Remaining Counties:					
Building Construction:					
Zone 1: Area within 5 road miles of the following communites - Carson City, Elko, Fallon, Hawthorne, Lovelock, Minden Tonopah, Winnemucca; also area within 10 road miles of Reno, Nevada; also the area within 2 road miles of Yerington, Nevada; also Washoe Valley between Reno, Nevada, and Carson City, Nevada, but not including any area further than the foot of the mountains to the east or west side of Washoe Valley; also the area of Stead Air Force Base; also the Tahoe Basin from the Summit to the Lake:					
Group 1	$ 8 00	50	90		10
Group 2	8 10	50	90		10
Group 3	8 25	50	90		10
Group 4	8 50	50	90		10
Group 5	8 80	50	90		10
Group 6-A	8 80	50	90		10
Group 6-B	8 50	50	90		10
Group 6-C	8 15	50	90		10
Zone 2: Area outside of Zone 1 and not more than 20 road miles from the above communities:					
Group 1	8 60	50	90		10
Group 2	8 70	50	90		10
Group 3	8 85	50	90		10
Group 4	9 10	50	90		10
Group 5	9 40	50	90		10
Group 6-A	9 40	50	90		10
Group 6-B	9 10	50	90		10
Group 6-C	8 75	50	90		10

LABORERS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
Remaining Counties (Cont'd)					
Building Construction (Cont'd)					
Zone 3: Area over 20 and not more than 40 road miles from the communities named in Zone 1:					
Group 1	$ 8 80	50	90		10
Group 2	8 90	50	90		10
Group 3	9 05	50	90		10
Group 4	9 30	50	90		10
Group 5	9 60	50	90		10
Group 6-A	9 60	50	90		10
Group 6-B	9 30	50	90		10
Group 6-C	8 95	50	90		10
Zone 4: Area over 40 road miles from the communties named in Zone 1:					
Group 1	9 50	50	90		10
Group 2	9 60	50	90		10
Group 3	9 75	50	90		10
Group 4	10 00	50	90		10
Group 5	10 30	50	90		10
Group 6-A	10 30	50	90		10
Group 6-B	10 00	50	90		10
Group 6-C	9 65	50	90		10
Heavy and Highway Construction:					
Area 1:					
Group 1	8 00	50	90		10
Group 2	8 10	50	90		10
Group 3	8 25	50	90		10
Group 4	8 50	50	90		10
Group 5	8 80	50	90		10
Group 6-A	8 80	50	90		10
Group 6-B	8 50	50	90		10
Group 6-C	8 15	50	90		10
Area 2:					
Group 1	9 15	50	90		10
Group 2	9 25	50	90		10
Group 3	9 40	50	90		10
Group 4	9 65	50	90		10
Group 5	9 95	50	90		10
Group 6-A	9 95	50	90		10
Group 6-B	9 65	50	90		10
Group 6-C	9 30	50	90		10

LABORERS - Area Definition - See Area Definition following TRUCK DRIVERS

LABORERS (Cont'd)
Remaining Counties

Group 1: All cleanup work of debris, grounds and building including windows and tile; Dumpman or spotter (other than asphalt); General laborer; Gardeners and landscape laborers; Limber, brushloader and piler

Group 2: Choker setter or rigger (clearing work only); Pittsburgh chipper and similar type brush shredders; Concrete worker (wet or dry) all concrete work not listed in Group 3; Crusher or Grizzly tender; Guinea chaser (stakeman); Panel forms (wood or metal) handling, cleaning and stripping of; Loading and unloading, carrying and handling of all rods and material for reinforcing concrete; Railroad trackmen (bu' ders); Sloper; Semi-skilled wrecker (salvaging of building materials other than those listed in Group 3); Greasing Dowels

Group 3: Asphalt workers (ironers, shoveler, cutting machine); Buggymobile; Chainsaw, faller, logloader and bucker; Compactor (all types); Concrete mixer under 1/2 yd ; Concrete pan work (breadpan type), (handling, cleaning, stripping); Concrete saw, chipping, grinding, sanding, vibrator; Cribbing, shoring, lagging, trench jacking, hand-guided lagging hammer; Curbing or divider machine; Curb setter (precast or cut); Ditching machine (hand-guided); Drillers' helper, chuck tender; Form raiser, slip forms; Grouting of concrete walls, windows and door jams; Headerboardman; Jackhammer, pavement breaker, air spade; Mastic worker (wet or dry); Pipe wrapper, kettleman, potman, and men applying asphalt, creosote and similar type materials; All power tools (air, gas or electric) not listed in Group 5; Pipejacking; Posthole digger (air, gas or electric), Post driver; Riprap-stonepaver and rock slinger, including placing of sack concrete wet or dry; Rototiller; Rigging and signaling in connection with laborers' work; Sandblaster, potman, gunman or nozzleman; Vibra-screed; Skilled wrecker (removing and salvaging of sash, windows, doors, plumbing and electrical fixtures)

Group 4: Burning and welding in connection with laborers' work; Joy Drill Model TWM-2A, Gardner Denver Model DH 143 and similar type drills; Track drillers, Diamond core drillers, Wagon drillers, Mechanical drillers on multiple units; High scalers; Concrete pump; Heavy duty vibrator with stinger 5" diameter or over; Pipelayer, caulker and bander; Pipelayer - waterline, sewerline, gasline, conduit; Asphalt rakers

Group 5: Blasters and powderman, all work of loading, placing and blasting of all powder and explosives of any type regardless of method used for such loading and placing

Group 6-A: Nozzleman

Group 6-B: Gunman, Materialman

Group 7: Reboundman

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
POWER EQUIPMENT OPERATORS (Except Piledriving and Steel Erection) Clark, Esmeralda, Lincoln, Nye Counties:					
Group 1	$ 9 75	95	$ 2 00	50	04
Group 2	10 03	.95	2 00	50	04
Group 3	10 32	95	2 00	50	04
Group 4	10 46	95	2 00	50	04
Group 5	10 68	95	2 00	50	04
Group 6	10 79	95	2 00	50	04
Group 7	10 91	95	2 00	50	04
Group 8	11 08	95	2 00	50	04
Group 9	11 21	95	2 00	50	04

POWER EQUIPMENT OPERATORS
(Except Piledriving and Steel Erection)
Clark, Esmeralda, Lincoln, Nye Counties

Group 1: Brakeman; Compressor Operator; Engineer Oiler; Generator operator; Heavy duty repairman helper; Pump; Signalman; Switchman

Group 2: Concrete Mixer Operator, Skip Type; Conveyor Operator; Fireman; Generator, Pump or Compressor (2-5 inclusive); Generator, Pump or Compressor Portable Units (over 5 units, 10¢ per hour for each additional unit up to nine units); Hydrostatic Pump; Oiler Crusher (Asphalt or Concrete Plant); Plant Operator, Generator, Pump or Compressor; Skiploader - Wheel type up to 3/4 yd w/o attachment; Soils Field Technician; Tar Pot Fireman; Temporary Heating Plant; Trenching Machine Oiler; Truck Crane Oiler; Rotary Drill Helper (oilfield)

Group 3: A-Frame or Winch Truck; Elevator operator (inside); Equipment greaser (rack); Ford Ferguson (with dragtype attachments); Helicopter radioman (ground); Power concrete curing machine; Power concrete saw; Power driven jumbo form setter; Ross carrier; Stationary pipe wrapping and cleaning machine

Group 4: Asphalt Plant Fireman; Boring Machine; Boxman or Mixerman (Asphalt or Concrete); Chip Spreading Machine; Concrete Pump (small portable); Bridge Type Unloader and Turntable; Dinkey Locomotive or Motorman (up to and including 10 tons); Equipment Greaser (grease truck); Helicopter Hoist; Highline Cableway Signalman; Hydra-Hammer - Aero Stomper; Power sweeper; Roller (compacting); Screed (Asphalt or Concrete); Trenching Machine (up to 6 ft)

POWER EQUIPMENT OPERATORS (Cont'd)
(Except Piledriving and Steel Erection)
Clark, Esmeralda, Lincoln, Nye Counties)

Group 5: Asphalt Plant Engineer; Concrete Batch Plant; Backhoe (up to and including 3/4 yds); Bit Sharpener; Concrete Joint Machine (canal and similar type); Concrete Planer; Deck Engine; Forklift (under 5 ton capacity); Machine Tool; Maginnis Internal Full Slab Vibrator; Mechanical Berm (curb or gutter concrete or asphalt); Mechanical Finisher (concrete-Clary-Johnson-Bidwell or similar); Pavement Breaker; Road Oil Mixing Machine; Roller (asphalt or finish); Rubber-tired Earth Moving Equipment, (single engine, up to and including 25 yards struck); Self-propelled Tar Pipelining Machine; Slip Form Pump (power-driven hydraulic lifting device for concrete forms); Tugger Hoist (1 drum); Tunnel Locomotive (over 10 and up to and including 30 tons); Stinger Crane (Austin-Western or similar type); Skiploader Crawler and Wheel type over 3/4 yards and up to and including 1½ yards); Tractor-Bulldozer, Tamper, Scraper (single engine, up to 100 HP, Flywheel and similar types, up to and including D-5 and similar types)

Group 6: Asphalt or Concrete Spreading (tamping or finishing); Asphalt Paving Machine (Barber Greene or similar type); BHL Lima Road Pactor or similar; Bridge Crane; Pipe Laying Machine (cast in place); Combination Mixer and Compressor (gunite work); Concrete Pump (truck mounted); Concrete Mixer; Crane (up to and including 25 tons); Crushing Plant; Elevating Grader; Forklift (over 5 tons); Grade Checker; Gradeall; Grouting Machine; Heading Shield; Heavy Duty Repairman; Hoist (Chicago Boom and similar type); Holman Belt Loader and similar type; LeTourneau Blob Compactor or similar type; Lift Slab Machine (Vagtborg and similar types); Lift Mobile; Loader-Athey, Euclid, Sierra and similar type); Material Hoist; Mucking Machine 1/4 yd - rubber-tired, rail or track type); Pneumatic Concrete Placing Machine (Hackley-Presswell or similar type); Pneumatic Heading Shield (tunnel); Pumperete Gun; Rotary Drill (excluding caisson type); Rubber-tired Earth Moving Equipment Operator (single engine - Caterpillar, Euclid, Athey Wagon and similar types with any and all attachments over 25 yards and up to and including 50 cubic yards struck); Rubber-tired Scraper (self-loading - Paddle wheel type - John Deere, 1040 and similar single unit); Skiploader (Crawler and Wheel type - over 1½ yards, up to and including 6½ yards); Surface Heaters and Planers; Rubber-tired Earth Moving Equipment, multiple engine (up to and including 25 yards, struck); Trenching Machine (over 6 feet depth capacity, manufacturers rating); Tower Crane; Tractor Compressor Drill Combination; Tractor (any type larger D-5 - 100 Flywheel HP and over or similar) (Bulldozer, Tamper Scraper and Push Tractor single engine); Tractor (Boom attachments); Traveling Pipe Wrapping, Cleaning and Bending; Tunnel Locomotive (over 30 tons); Shovel, Backhoe, Dragline, Clamshell (over 3/4 yard and up to 5 cubic yards, M R C)

POWER EQUIPMENT OPERATORS (Cont'd)
(Except Piledriving and Steel Erection)
Clark, Esmeralda, Lincoln, Nye Counties

Group 7: Crane (over 25 tons up to and including 100 tons M R C); Derrick Barge, Dual Drum Mixer; Hoist, Stiff Legs, Guy Derrick, or similar type, up to and including 100 tons; Monorail Locomotive (Diesel, gas or electric); Motor Patrol - Blade Operator (single engine); Multiple Engine Tractor Operator (Euclid and similar type except Quad 9 Cat); Rubber-tired Earth Mov g Equipment (single engine over 50 yards struck); Rubber-tired Earth Moving Equipment (Multiple engine, Euclid, Caterpillar and similar) (over 25 yards and up to 50 cubic yards struck); Tractor Loader Operator (Crawler and wheel type over 6½ yards); Tower Crane Repairman; Shovel, Backhoe, Dragline, Clamshell Operator (over 5 cubic yards, MRC); Woods Mixer and similar Pugmill Equipment; Heavy Duty Repairman - Welder Combination

Group 8: Auto Grader; Automatic Slip Form; Crane (Over 100 tons); Hoist Stiff Legs, Guy Derricks or similar types (capable of hoisting 100 tons or more); Mass Excavator (less than 750 cubic yards); Mechanical Finishing Machine; Mobile Form Traveler; Motor Patrol (multi engine); Pipe Mobile Machine; Rubber-tired Earth Moving Equipment (multiple engine, Euclid, Caterpillar and similar type over 50 cubic yards struck); Rubber-tired Self Loading Scraper (Paddle Wheel - Auger type self-loading (2 or more units); Tandem Equipment (2 units only); Tandem Tractor (Quad 9 or similar type); Tunnel Mole Boring Machine; Rubber-tired Scraper (pushing without Push Cat, Push-Pull (50¢ per hour additional)

Group 9: Canal Liner; Canal Trimmer; Helicopter Pilot; Highline Cableway; Wheel Excavator (over 750 cubic yards); Remote Controlled Earth Moving Equipment ($1 00 per hour additional to base rate)

	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr Tr
POWER EQUIPMENT OPERATORS* (Except Piledriving and Steel Erection)	AREA 1	AREA 2				
Remaining Counties:						
Group 1	$ 8 75	$ 9 90	$ 1 12	$ 2 23	92	20
Group 2	9 12	10 27	1 12	2 23	92	20
Group 3	9 32	10 47	1 12	2 23	92	20
Group 4	9 84	10 99	1 12	2 23	92	20
Group 5	10 05	11 20	1 12	2 23	92	20
Group 6	10 17	11 32	1 12	2 23	92	20
Group 7	10 34	11 49	1 12	2 23	92	20
Group 8	10 72	11 87	1 12	2 23	92	20
Group 9	10 94	12 09	1 12	2 23	92	20
Group 10	11 17	12 32	1 12	2 23	92	20
Group 10-A	11 29	12 44	1 12	2 23	92	20
Group 11	11 46	12 61	1 12	2 23	92	20
Group 11-A	12 54	13 69	1 12	2 23	92	20
*POWER EQUIPMENT OPERATORS - TRUCK DRIVERS	Area Definition - See "Area Definition" following					

POWER EQUIPMENT OPERATORS (Cont'd)
(Except Piledriving and Steel Erection)
Remaining Counties

Group 1: Assistant to Engineer, including brakeman, deckhand, fireman, heavy duty repairman helper, oiler, partsman (heavy duty repair shops parts room when needed), Switchman, tar pot fireman

Group 2: Compressor; Material Loader and/or Conveyor (handling building materials); Pump; Tar Pot Fireman (power agitated)

Group 3: Box Operator (bunker); Concrete Curing Machine (streets, highways, airports, canals); Conveyor Belt (tunnel); Engineer Generating Plant (500 K W); Fireman Hot Plant; Hydraulic Monitor; Lubrication and Service Engineer (mobile and grease rack); Mixer Box Operator (concrete plant); Motorman; Rotomist; Screedman (except asphaltic or concrete paving); Oiler (truck crane)

Group 4: Ballast Jack Tamper; Ballast Regulator; Ballast Tamper multiple-purpose; Boxman (asphalt plant); Concrete Mixer, skip type; Dinky; Fork Lift (construction job site); Ross Carrier; Skip Loader (under 1 cu yd); Tie Spacer; Line Master

Group 5: Concrete Mixer (over 1 cu yd); Concrete Pumps or Pumperete Guns; Elevator and Material Hoist (1 drum); Screedman (Barber-Greene and similar) (asphaltic or concrete paving); Shuttle Car; Signalman

Group 6: Boom Truck or Dual Purpose A" Frame Truck; B L H Lima Road Factor or similar; Chip Box Spreader (Flaherty type or similar); Concrete Batch Plant (wet or dry); Concrete Saws (highways, streets, airports, canals); Highline Cableway Signalman; Locomotive (over 30 tons); Maginnis International Full Slab Vibrator (airports, highways, canals, warehouses); Mechanical Burn, curb and/or curb gutter machine (concrete or asphalt); Power Jumbo (setting slip forms, etc , in tunnels); Roller (except asphalt); Self-propelled Compactor (single engine); Slip Form Pump (power driven by hydraulic, electric, air, gas, etc , lifting device for concrete forms); Stationary Pipe Wrapping, Cleaning and Bending Machine; Pavement Breaker or Tamper (with or without compressor combination); Pavement Breaker, truck mounted, with compressor combination; Small rubber-tired Tractors; Self-propelled Tape Machine

POWER EQUIPMENT OPERATORS (Cont'd)
(Except Piledriving and Steel Erection)
Remaining Counties

Group 7: Compressor (over 2); Concrete Conveyor; Concrete Conveyor or Concrete Pump, truck or equipment mounted (boom length to apply); Crusher Plant Engineer; Dock Engineer; Drilling and Boring Machinery, vertical and horizontal (not to apply to water-liners, wagon drills or jackhammers); Generators; Grade Setters; Grade Checker; Kolman Loader; Material Hoist (2 or more drums); Mechanical Finishers or Spreader Machine (asphalt, Barber-Greene and similar); Mine or Shaft Hoist; Pipe Bending Machines (pipelines only); Pipe Cleaning Machines (tractor propelled and supported); Pipe Wrapping Machines (tractor propelled and supported); Portable Crushing and Screening Plants; Pumps (over 2); Refrigeration Plants; Self-propelled Boom type Lifting Device (center mount) (10 ton capacity or less); Slusher; Soil Tester (certified); Surface Heater and Planer; Trenching Machine (maximum digging capacity 3 ft. depth); Truck type Loader; Welding Machines (gasoline or diesel); Roller (asphalt)

Group 8: Asphalt Plant Engineer; Car Passer; Cast-in-place Pipe Laying Machine; Combination Slusher and Motor; Dozer; Concrete Batch Plant (multiple units); Elevating Grader; Grooving and Grinding Machine (highways); Heavy-duty Repairman and/or Welder; Ken-Seal; Loader (up to and including 2½ cu yds); Mechanical Trench Shield; Mixermobile; Push Cats; Road Oil Mixing Machine; Wood-mixer (and other similar pugmill equipment); Rubber-tired Earthmoving Equipment (up to and including 35 cu yds struck" m r c., Euclids, T-Pulls, DW's 10, 20, 21 and similar); Self-propelled Compactor with dozer; Sheepfoot; Small Tractor (with boom); Soil Stabilizer (P & H or equal); Timber Skidder (rubber tire) or similar equipment; Tractor; Tractor drawn Scraper; Tractor mounted compressor drill combination; Trenching Machine (over 3 ft depth); Tri-batch Paver; Tunnel Badger or Tunnel Boring Machine; Tunnel Mole Boring Machine

Group 9: Canal Finger Drain Digger; Chicago Boom; Combination Backhoe and Loader (up to and including 3/8 yds); Combination Mixer and Compressor (gunite); Lull Hi-Lift (20 ft or over); Mucking Machine; Tractor with boom (D6 or larger); Track Laying type Earth Moving Machine (single engine with tandem scrapers); Sub-grader (Gurries or other types)

POWER EQUIPMENT OPERATORS (Cont'd)
(Except Piledriving and Steel Erection)
Remaining Counties

Group 10: Boom type Backfilling Machine; Bridge Crane; Cary-lift or similar; Chemical Grouting Machine; Derricks; Derrick Barges (except excavation work); Euclid Loader and similar types; Heavy Duty Rotary Drill Rigs; Lift-slab (Vagtborg and similar types); Loader (over 2½ cu yds up to and including 4 cu yds); Locomotive (over 100 tons) (single or multiple units); Multiple engine earth moving machines (Euclid, dozers, etc); Pre-stress Wire-wrapping Machine; Rubber-tired Scraper, self-loading; Self-propelled Reservoir-debris equipment floating (200 HP and over); Shuttle Car (reclaim station); Single engine Scraper (over 35 cu yds); Train loading station; Vacuum Cooling Plant; Whirley Crane (up to and including 25 tons); Trenching Machine; Multi-engine with Sloping attachments (JEFFCO or similar)

Group 10-A: Backhoe (up to and including 1 cu yd hydraulic); Backhoe (up to and including 1 cu yd. cable); Cranes (not over 25 tons) (Hammerhead and Gantry); Grade-alls (up to and including 1 cu yd); Motor Patrol; Power Shovels, Clamshells, Draglines, Cranes (up to and including 1 cu yd); Rubber-tired Scraper, Self-loading (twin engine); Self-propelled Boom-type Lifting Device (center mount) (over 10 tons)

Group 11: Automatic Asphalt or Concrete Slip Form Paver; Automatic Railroad Car Dumper; Canal Finger Drain Backfiller; Canal Trimmer; Cranes (over 25 tons); Highline Cableway Operator; Loader (over 4 yds up to and including 12 cu. yds); Multi-engine Earthmoving Equipment (up to and including 75 cu yds struck" H R.C); Power Shovels, Clamshells, Draglines, Backhoes, Grade-alls (over 1 yd and up to and including 7 cu yds H R.C); Self-propelled Compactor (with multiple propulsion power units); Single engine rubber-tired earth-moving machine (with tandem scraper); Slip Form Paver (concrete or asphalt); Tandem Cats and Scrapers; Tower Crane Mobile; Universal Liebher and Tower Cranes (and similar types); Wheel Excavator (up to and including 750 cu yds per hour); Whirley Cranes (over 25 tons)

Group 11-A: Band Wagons (in conjunction with wheel excavators); Loader (over 12 cu. yds); Multi-engine Earth Moving Equipment (over 75 cu yds "struck" H R C); Operator of Helicopter (when used in construction work); Power Shovels and Draglines (over 7 cu. yds. H R C.); Remote controlled Earth Moving Equipment; Wheel Excavator (over 750 cu yds per hour)

POWER EQUIPMENT OPERATORS: STEEL ERECTION Remaining Counties	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
Group 1	$ 9 22	$1 12	$2 23	92	20
Group 2	9 61	1 12	2 23	92	20
Group 3	10 61	1 12	2 23	92	20
Group 4	10 75	1 12	2 23	92	20
Group 4-A	11 04	1 12	2 23	92	20
Group 5	11 52	1 12	2 23	92	20
Group 6	11 93	1 12	2 23	92	20
Group 6-A	12 50	1 12	2 23	92	20
Group 7	13 48	1 12	2 23	92	20

POWER EQUIPMENT OPERATORS (Cont'd)
STEEL ERECTION
Remaining Counties

Group 1: Oiler

Group 2: Compressor Operator; Generator, gasoline or diesel-driven (100 K W or over); Truck Crane Oiler

Group 3: Compressors, Generators and/or Welding Machines or combination (2 to 6) (Structural Steel or Tank Erection only)

Group 4: Heavy Duty Repairman; Tractor Operator

Group 4-A: Combination Heavy-duty Repairman-welder

Group 5: Boom Truck or Dual purpose A-Frame Truck; Boom Cat; Chicago Boom; Crawler Cranes and Truck Cranes (15 tons m r c or less); Self-propelled boom-type lifting device (center mount) (10 ton capacity or less m r c); Single Drum Hoist; Tugger Hoist

Group 6: Crawler Cranes and Truck Cranes (over 15 tons m r c); Derricks; Gantry Rider (or similar equipment); Highline Cableway; Self-propelled boom-type lifting device (center mount) (over 10 tons); Tower Cranes Mobile; Universal Liebher and Tower Cranes (and similar types); Two or more drum hoist

Group 6-A: Cranes (over 125 tons)

Group 7: Operator of Helicopter

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
POWER EQUIPMENT OPERATORS: PILEDRIVING Remaining Counties					
Group 1	$ 8 78	$1 12	$2 23	92	20
Group 1-A	9 11	1 12	2 23	92	20
Group 1-B	9 26	1 12	2 23	92	20
Group 2-A	9 89	1 12	2 23	92	20
Group 2-B	10 10	1 12	2 23	92	20
Group 3	10 40	1 12	2 23	92	20
Group 3-A	10 79	1 12	2 23	92	20
Group 4	11 34	1 12	2 23	92	20
Group 5	11 48	1 12	2 23	92	20
Group 6	12 50	1 12	2 23	92	20

POWER EQUIPMENT OPERATORS (Cont'd)
PILEDRIVING
Remaining Counties

Group 1: Fireman; Oilman; Deckhand

Group 1-A: Compressor Operator

Group 1-B: Truck Crane Oiler

Group 2-A: Operator of Tugger Hoist (hoisting material only)

Group 2-B: Compressor Operator (over 2); Generator Operator; Pump Operator (over 2); Welding Machine Operator (powered other than by electricity)

Group 3: Deck Engineer; Fork Lift Operator; A-Frames; Self-propelled boom-type lifting device (center mount) (10 ton capacity or less m r c)

Group 3-A: Heavy Duty Repairman and/or Welder

Group 4: Operating Engineer in lieu of Assistant to Engineer tending boiler or compressor attached to Crane Piledriver; Operator of pile-driving rigs, skid or floating and derrick barges; Operator of diesel or gasoline powered Crane Piledriver (without boiler) (up to and including 1 cu yd rating); Self-propelled boom-type lifting device (center mount) (over 10 tons); Truck Crane Operator (up to and including 25 tons)

Group 5: Operator of diesel or gasoline powered Crane Piledriver (without boiler) (over 1 cu yd rating); Operator of Crane (with steam, flash boiler, pump or compressor attached); Operator of steam powered Crawler, or Universal type Driver (Raymond or similar type); Truck Crane Operator (over 25 tons) (hoisting material or performing pile-driving work)

Group 6: Cranes (over 125 tons)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
TRUCK DRIVERS Clark, Esmeralda, Lincoln, Nye Counties					
Group 1	$ 9 35	40	65		
Group 2	9 46	40	65		
Group 3	9 51	40	65		
Group 4	9 67	40	65		
Group 5	9 85	40	65		
Group 6	10 35	40	65		

TRUCK DRIVERS
Clark, Esmeralda, Lincoln, Nye Counties

Group 1: Dump Trucks (less than 12 yds); Trucks (legal payload capacity less than 15 tons); Water and Fuel Trucks (under 2500 gals); Pickups; Service; Repairman Helper; Drivers of busses (on jobsite used for transportation of up to 25 passengers); Teamster Equipment (highest rate for dual craft operation)

Group 2: Dump Trucks (12 yds but less than 16 yds); Trucks (legal payload capacity between 15 and 20 tons); Water and Fuel Trucks (2500 to 4000 gals); Truck Driver working on gas and oil pipeline (including Winch truck and all sizes of trucks); Truck Greaser and Tireman; Drivers of busses (on jobsite used for transportation of more than 25 passengers); Bootman

Group 3: Dumpcrete (less than 6½ yds); Transit-mix (less than 3 yds); Warehouse Clerk

Group 4: Dump Trucks (16 yds up to and including 22 yds); Trucks (legal payload capacity 20 tons but less than 30 tons); Water and Fuel Trucks (4000 gals but less than 6000 gals); Dumpcrete (6½ yds and over); Transit-mix (3 yds but less than 6 yds); Euclid-type Spreader Trucks; Dumpster; Fork Lift; Ross Carrier - highway; Road Oil Spreading Truck, time spent spreading oil

Group 5: Dump Trucks (over 22 yds.); Trucks (legal payload capacity 20 tons and over); Water and Fuel Trucks (6000 gals and over); Transit-mix (6 yds and over); Truck Repairman

Group 6: D W and similar-type equipment, D W 10 and D.W 20; Euclid-type equipment, LeTourneau Pulls, Terra Cobras and similar types of equipment; also PB and similar-type trucks when performing work within Teamster jurisdiction, regardless of types of attachment including power units pulling off Highway Belly Dumps in tandem

TRUCK DRIVERS* Remaining Counties	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr Tr
	AREA 1	AREA 2				
DUMP (single or multiple units including semi, double and transfer units; Dumpcrete and bulk cement spreaders:						
Under 4 yards	$ 9 20	$ 10 35	51	65		05
4 yds and under 8 yds	9 40	10 55	51	65		05
8 yds and under 18 yds	9 60	10 75	51	65		05
18 yds and under 35 yd	9 75	10 90	51	65		05
35 yds and under 60 yds	10 00	11 15	51	65		05
60 yds and under 75 yds	10 15	11 30	51	65		05
75 yds and under 100 yds	10 30	11 45	51	65		05
100 yards and over	10 45	11 60	51	65		05
TRANSIT MIX:						
Under 8 yards	9 60	10 75	51	65		05
8 yards and including 12 yards	9 70	10 85	51	65		05
Over 12 yards	9 90	11 05	51	65		05
WATER TRUCKS and Jetting Trucks:						
Up to 2,500 gallons	9 40	10 55	51	65		05
2,500 gallons and over	9 60	10 75	51	65		05
DW 20 and 21 and other similar Cat type, Terra Cobra, LeTourneau Pulls, Tournarocker, Euclid and similar type equipment when pulling Aqua/Pak; Water tank trailers, fuel and/or grease tank or other misc trailers (except as defined under dump trucks)	9 85	11 00	51	65		05

	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr Tr
TRUCK DRIVERS (Cont'd)	AREA 1	AREA 2				
FLATRACK; Industrial Lift with Mechanical Tailgate:						
Single unit 2 axle	$ 9 40	$ 10 55	51	65		05
Single unit 3 axle	9 50	10 65	51	65		05
BUS AND MANHAUL DRIVERS, Single Unit; Pickup:						
Up to 18,000 pounds	9 25	10 40	51	65		05
18,000 pounds and over	9 35	10 50	51	65		05
WINCH TRUCK, A-FRAME:						
Under 18,000 pounds	9 35	10 50	51	65		05
18,000 pounds and over	9 45	10 60	51	65		05
HEAVY DUTY TRANSPORT (High-bed); Heavy Duty Transport (gooseneck lowbed); Tiltbed or flatbed pull trailers	9 75	10 90	51	65		05
BOOTMAN, Combination; Bootman and road oiler	9 65	10 80	51	65		05
ROAD OIL TRUCK OR BOOTMEN; Fuel driver; Fuel man and Fuel island man	9 35	10 50	51	65		05
HELICOPTER PILOT (when transporting men or material)	10 15	11 30	51	65		05
LIFT JITNEYS And FORK LIFTS	9 45	10 60	51	65		05
WAREHOUSE CLERK	9 30	10 45	51	65		05
TIRE REPAIRMAN	9 60	10 75	51	65		05
TRUCK REPAIRMAN	9 90	11 05	51	65		05

*TRUCK DRIVERS - Area Definition - See "Area Definition" following this page

AREA DEFINITIONS
Remaining Counties
LABORERS
Heavy and Highway Construction
POWER EQUIPMENT OPERATORS
(Except Pilediving and Steel Erection)
TRUCK DRIVERS

AREA 1: All of northern Nevada within the following lines:
Commencing at the N W corner of township 22N, range 18E, Mount Diablo Baseline and Meridian at the California-Nevada border;
Thence easterly to the N E corner to township 22N, range 22E;
Thence southerly to the N E corner of township 20N, range 22E;
Thence easterly to the N W corner of township 20N, range 26E;
Thence northerly to the N W corner of township 22N, range 26E;
Thence easterly to the N W corner of township 22N, range 29E;
Thence northerly to the N W corner of township 30N, range 29E;
Thence easterly to the N E corner of township 30N, range 33E;
Thence southerly to the S E corner of township 24N, range 33E;
Thence westerly to the S E corner of township 24N, range 31E;
Thence southerly to the S E corner of township 16N, range 31E;
Thence westerly to the S E corner of township 16N, range 30E;
Thence southerly to the S E corner of township 15N, range 30E;
Thence westerly to the S E corner of township 15N, range 27E;
Thence southerly to the S E corner of township 14N, range 27E;
Thence westerly to the S E corner of township 14N, range 23E;
Thence southerly to the S E corner of township 13N, range 23E;
Thence westerly to the S E corner of township 13N, range 22E;
Thence southerly to the N E corner of township 10N, range 22E;
Thence easterly to the N E corner of township 10N, range 23E;
Thence southerly along the easterly line of range 23E to the intersection of the California-Nevada border;
Thence north-westerly, then northerly following the California-Nevada border to the point of beginning

Area 1 also includes that portion of northern Nevada included within the following line:
Commencing at the S W corner of township 37N, range 52E;
Thence easterly to the S E corner of township 37N, range 52E;
Thence northerly to the N E corner of township 37N, range 52E;
Thence easterly to the N W corner of township 37N, range 58E;
Thence southerly to the S W corner of township 37N, range 58E;
Thence easterly to the S E corner of township 37N, range 58E;
Thence southerly tp the N E corner of township 31N, range 58E;
Thence westerly to the N.W corner of township 31N, range 58E;
Thence southerly to the S W corner of township 31N, range 58E;
Thence westerly to the S E corner of township 31N, range 52E;
Thence northerly to the N E corner of township 31N, range 52E;
Thence westerly to the S E. corner of township 32N, range 51E;
Thence northerly to the point of beginning

AREA 2: All areas not included within Area 1 as defined above

SUPERSEDEAS DECISION

STATE: NEW YORK COUNTIES: ALBANY, RENSSELAER, SARATOGA, SCHENECTADY

DECISION NO : NY77-3000 DATE: DATE OF PUBLICATION

Supersedes Decision No NY76-3277 dated November 19, 1976 in 41 FR 51342

DESCRIPTION OF WORK: Building construction, (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr
ASBESTOS WORKERS	$10 82	63	28		02
BOILERMAKERS	11 50	75	10%		02
BRICKLAYERS, CEMENT MASONS, PLASTERERS, STONE MASONS, POINTERS AND CAULKERS	10 49	70	35		01
BRICKLAYERS, CEMENT MASONS, PLASTERERS, STONE MASONS, POINTERS AND CAULKERS: (Rehabilitation work on residential structures over 4 stories defined to include all work, including demolition, repair and alteration on any existing structure which is intended for predominately residential use)	7 59	70	35		01
CARPENTERS, BUILDING					
Saratoga County: Twps of Day, Hadley, Edinburg, Corinth and Moreau					
Carpenters and soft floor layers	9 35	50	50	g	005
Millwrights	9 60	50	50	g	005
Piledriverman	9 50	50	50	g	005
CARPENTERS, BUILDING					
Albany County, Rensselaer County, Schenectady County, Saratoga County: Remainder of County					
Carpenters and soft floor layers	9 70	70	70		02
Millwrights	10 20	70	70		02
Piledrivermen	10 92	1 25	1 73	71	02
CARPENTERS: (Rehabilitation work on residential structures over 4 stories, defined to include all work, including demolition, repair and alteration on any existing structure which is intended for predominatly residential use)	6 90	70	70		02

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr
CARPENTERS, HEAVY AND HIGHWAY	9 32	70	70	h	02
CEMENT MASONS, HEAVY AND HIGHWAY	9 15	70	35		
ELECTRICIANS:					
Saratoga County: Ganseveen, Mt McGregor, Schuylerville, Victory Mills, Wayville Stillwater, Mechanicville and Waterford	11 00	70	1%+ 60	g	05
Remainder of County	10 60	70	1%+ 95	g	05
Albany County: Electricians					
Cohoes and Watervliet	11 00	70	1%+ 60	g	05
Remainder of County	11 35	45	1%+ 50	a	
Rensselaer County: Electricians					
Schodack, Rensselaer, E Greenbrush, Stephentown and Nassau	11 35	45	1%+ 50	a	
Remainder of County	11 00	70	1%+ 60	g	05
Schenectady County: Electricians	10 60	70	1%+ 95	g	03
ELEVATOR CONSTRUCTORS	10 62	545	35	3%+b+c	02
ELEVATOR CONSTRUCTORS HELPERS	7 43	545	35	3%+b+c	02
ELEVATOR CONSTRUCTORS HELPERS (PROB)	5 31				
GLAZIERS	8 49	40	25		01
IRONWORKERS: STRUCTURAL, REINFORCING AND ORNAMENTAL	10 10	69	85		04
LEAD BURNERS	10 75	40	25	d	01
LATHERS	9 56	70	30		01
LINE CONSTRUCTION:					
Lineman	11 10	65	1%+ 60	e	½%
Cable splicer	12 21	65	1%+ 60	e	½%
Groundman digging machine operator	9 99	65	1%+ 60	e	½%
Groundman mobile equipment operator	8 88	65	1%+ 60	e	½%
Groundman truck driver	8 325	65	1%+ 60	e	½%
Groundman dynamite man and mechanic	8 88	65	1%+ 60	e	½%
PAINTERS:					
Albany County, Rensselaer County and Schenectady County					
Brush	8 92		35		02
Structural steel & bridge	9 67		35		02
Swing scaffold, bosun chair, water towers, flagpoles and window jacks	9 42		35		02
Spray	10 02		35		02

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DECISION NO NY77-3000	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr
PAINTERS:					
Saratoga County Twps of Clifton, Park, Half Moon, Malta, Charlton, Galway, Milton & West Milton					
Brush	8 92		35		02
Structural steel & bridge	9 67		35		02
Spray	10 02		35		02
Swing scaffold, bosun chair, water towers, flagpoles and window jacks	9 42		35		02
PAINTERS:					
Saratoga County twps of Day, Hadley, Corinth, Moreau, Gansevoort and Mt McGregor					
Brush	8 04	25	20		
Structural steel, swing scaffold and bridge	8 37	25	20		
Spray and sandblasting	8 59	25	20		
PAINTERS:					
Remainder of County:					
Commercial work	7 25				
Swing scaffold, bosun chair, water towers, flagpoles and window jacks	7 75				
MARBLE SETTERS, TERRAZZO WORKERS, AND TILE SETTERS:					
Saratoga County: Twps. of Ballston, Charlton, Clifton Park	9 35	70	35		
Remainder of County	10 49	70	35		
PLUMBERS, STEAMFITTERS, AIR CONDITIONING AND REFRIGERATION:					
Albany County, Except Watervliet to the Latham Shopping Center, Westerly to stop #16 Albany - Schenectady road; Saratoga County: Cohoes area; Rensselaer County: Southern half of county	10 30	70	92	i	05
PLUMBER AND STEAMFITTERS					
Albany:					
City of Latham	10 30	60	1 00		04
PLUMBERS AND STEAMFITTERS					
City of Green Island, Watervliet	10 30	60	1 00		04

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DECISION NO NY77-3000	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
PLUMBERS AND STEAMFITTERS					
Saratoga County:					
Twps of Stillwater and Halfmoon	10 30	60	1 00		04
Twps of Galway, Milton, Charlton, Clifton Park and Atomatic projects at West Milton and Malta	10 50	65	90		10
Remainder of County	9 50	2 01	1 52	1 14	10
Schenectady County	10 50	65	90		10
PLUMBERS AND STEAMFITTERS:					
Northern Rensselaer County: Cities of Green Island and Watervliet Albany County: twps of Latham Saratoga County: twps of Halfmoon and Stillwater	10 30	60	1 00		04
Southern Rensselaer County:					
Remainder of County					
Albany County: except cities of Watervliet to the Latham Shopping Center, Westerly to Stop #16 Albany-Schenectady Rd Saratoga County: Choes Area	10 30	70	98	i	05
ROOFERS	10 10	77	40		02
SHEET METAL WORKERS	10 37	3%+.80	67		05
SPRINKLER FITTERS	11 86	65	95		08
TRUCK DRIVERS, BUILDING:					
Straight, winch, transit mix on job site, road oilers, dump, panel, pick-up, water and fuel trucks on site (including nozzle)	8 70	70	59	f	02
Euclids or similar equipment	8 95	70	59	f	02
Lowboy or lowboy trailers	8 85	70	59	f	02
Welders - receive rate prescribed for craft performing operation to which welding is incidental					

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PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day and F-Christmas Day

FOOTNOTES:

a Holiday: E, provided the employee works the day after the holiday, 3 hrs before X-Mas Eve and New Years Eve

b Holidays: A thru F

c Employer contributes 4% of basic hourly rate for 5 years or more of service or 2% of basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit

d Holidays: A thru F, Washington's Birthday, Good Friday and Christmas Eve, providing employee has worked 30 full days during the 90 days prior to the holiday, and the regularly scheduled work days immediately preceeding and following the holiday

e Holidays: A thru F; Washington's Birthday, Election Day for the president of the United States and Election of Governor of New York (provided the employee works the day before and the day after the holiday)

f One week vacation after one year's work; 2 weeks after 5 years work

g Holiday: Thanksgiving Day provided employee reports for work the day after the holiday

h Holidays: Labor Day and 4th of July

i Employer contributes $4 00 per day to a Vacation Fund

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
Schenectady, Saratoga County; Twps of Day, Hadley, Edinburg, Corinth, Moreay, South Glen Falls, Providence, Greenfield, Wilton, Northumberland Galway, Milton, Saratoga Springs, Charlton, Ballston, Malta & Clifton Park					
LABORERS: (Rehabilitation work only for garden type apartments over 4 stories)					
GROUP I	6 07	70	85		07
GROUP II	6 185	70	85		07
GROUP III	6 20	70	85		07
GROUP IV	6 24	70	85		07
GROUP V	6 27	70	85		07
GROUP VI	6 2575	70	85		07
GROUP VII	6 43	70	85		07
LABORERS, BUILDING:					
GROUP I	8 65	70	85		07
GROUP II	8 80	70	85		07
GROUP III	8 825	70	85		07
GROUP IV	8 875	70	85		07
GROUP V	8 925	70	85		07
GROUP VI	8 90	70	85		07
GROUP VII	9 125	70	85		07

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LABORERS DEFINITION (REHABILITATION WORK ONLY FOR GARDEN TYPE APARTMENTS OVER 4 STORIES)

GROUP I
Laborers

GROUP II
Pipelayers (2 man team) mortar mixers (hand or machine), jackhammer operator, well pointing, concrete vibrators, all air or gas driven tools, hod carriers, power driven buggies

GROUP III
Form setter (curb)

GROUP IV
Wagon drill operator

GROUP V
Acetylene burners

GROUP VI
Demolition

GROUP VII
Blasters

LABORERS DEFINITION (BUILDING CONSTRUCTION)

GROUP I
Laborers

GROUP II
Pipelayers (2 man team), Mortar mixers (hand or machine), jackhammer operator, well pointing, concrete vibrators, power driver buggies

GROUP III
Form setter (curb)

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LABORERS DEFINITION (BUILDING CONSTRUCTION) CONT'D

GROUP IV
Wagon drill operator

GROUP V
Acetylene burners

GROUP VI
Demolition

GROUP VII
Blasters

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
Albany, Rensselaer, Saratoga (Remainder of County)					
LABORERS: (Rehabilitation work only for garden type apartments over 4 stories)					
GROUP I	6 02	70	90		07
GROUP II	6 1325	70	90		07
GROUP III	6 15	70	90		07
GROUP IV	6 19	70	90		07
GROUP V	6 22	70	90		07
GROUP VI	6 2075	70	90		07
GROUP VII	6 38	70	90		07
LABORERS, BUILDING:					
GROUP I	8 60	70	90		07
GROUP II	8 75	70	90		07
GROUP III	8 775	70	90		07
GROUP IV	8 825	70	90		07
GROUP V	8 875	70	90		07
GROUP VI	8 85	70	90		07
GROUP VII	9 075	70	90		07

DECISION NO NY77-3000

LABORERS DEFINITIONS (REHABILITATION WORK ON RESIDENTIAL STRUCTURES OVER 4 STORIES, DEFINED TO INCLUDE ALL WORK, INCLUDING DEMOLITION, REPAIR AND ALTERATION ON ANY EXISTING STRUCTURE WHICH IS INTENDED FOR PREDOMINATLY RESIDENTIAL USE)

GROUP I
Laborers

GROUP II
Pipelayers (2 man team), hod carriers, mortar mixers (hand or machine), jackhammer operator, well pointing, all or gas driven tools, concrete vibrators power driven buggies

GROUP III
Form setters (curb)

GROUP IV
Wagon drill operator

GROUP V
Acetylene burners

GROUP VI
Demolition

GROUP VII
Blasters

LABORERS DEFINITION (BUILDING CONSTRUCTION)

GROUP I
Laborers

GROUP II
Pipelayers (2 man team), hod carriers, mortar mixers (hand or machine), jackhammer operator well pointing all air or gas driven tools concrete vibrators, power driven buggies

GROUP III
Form setters (curb)

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LABORERS DEINITIONS (BUILDING CONSTRUCTION) CONT'D

GROUP IV
Wagon drill operator

GROUP V
Acelytene burners

GROUP VI
Demolition

GROUP VII
Blasters

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
Saratoga (Remainder of County), Rensselaer and Schenectady					
LABORERS, HEAVY AND HIGHWAY CONSTRUCTION:					
GROUP I	7 84	70	85	a	05
GROUP II	8 04	70	85	a	05
GROUP III	8 24	70	85	a	05
GROUP IV	8 44	70	85	a	05

LABORERS: HEAVY AND HIGHWAY CONSTRUCTION

GROUP I
Laborers and driller helpers

GROUP II
Concrete aggregate bin, mortar mixer, hand or machine vibratoe gin buggy, mason tenders, concrete bootmen, chain saw jackhammer pavement breaker and all other gas, electric oil and airtool operators, bull float tamper pipelayers

GROUP III
Drillers, asphalt rakers, stone or granite curb setters and acetylene torch operator

GROUP IV
Blasters form setters stone or granite curb setters

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C Independence Day; D-Labor Day; E-Thanksgiving Day and F-Christmas Day

FOOTNOTE:
a Holidays A through F providing the employee works the day before and after the holiday

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
LABORERS: HEAVY AND HIGHWAY CONSTRUCTION					
Albany County, Saratoga County: twps of Day, Hadley, Edenbug, Corinth, Moreau, S. Glen Falls, Providence, Greenfield, Wilton Northumberland, Galway, Milton, Saratoga Springs, Charlton, Bellston, Malta, Clifton Park					
CLASS A	7 64	80	95	a	05
CLASS B	7 84	80	95	a	05
CLASS C	8 04	80	95	a	05
CLASS D	8 24	80	95	a	05

LABORERS: HEAVY AND HIGHWAY CONSTRUCTION

CLASS A
Laborers, drill helper, flagmen, outboard and hand boats

CLASS B
Bull float, chain saw, concrete aggregate, bin, concrete bootman, gin buggy, hand or machine vibrator, jackhammer, mason tender, mortar mixer, pavement breaker, handlers of all steel mesh, small generators for laborers' tools, installation of bridge drainage pipe, pipelayers, vibrator type rollers, tamper, drill doctor, tail or screw op on asphalt paver, water pump op (1½" and single diaphragm), nozzle (asphalt, gunnite, seeding and sand blasting), laborers on chain link fence erection, rock splitter and power unit, pusher type concrete saw and all other gas, electric, oil and air tool operators, wrecking laborer

CLASS C
All rock or drilling machine operators (except quarry master and similar type), acetylene torch op , asphalt raker, powderman

CLASS D
Blasters, form setters, stone or granite curb setters

PAID HOLIDAYS:
A New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day and F-Christmas Day

FOOTNOTE:
a Paid Holidays A through F, provided the employee has worked the day before and after the holiday

DECISION NO NY77-3000

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
POWER EQUIPMENT OPERATORS, BUILDING CONSTRUCTION: Albany County, Rensselaer County, Saratoga County and Schenectady County					
GROUP I	9 99	85	60	a	10
GROUP II	10 06	85	60	a	10
GROUP III	10 17	85	60	a	10
GROUP IV	10 36	85	60	a	10
GROUP V	10 69	85	60	a	10
GROUP VI	10 84	85	60	a	10
GROUP VII	11 02	85	60	a	10

POWER EQUIPMENT OPERATORS: BUILDING CONSTRUCTION

GROUP I
Oilers

GROUP II
Firemen and heavy duty greasers, all boilers and steam generators

GROUP III
Pumps, vibrators, concrete mixers, spreaders, concrete finishing machines, mortar mixers, air compressors, dust collectors, welding machines well points, two or more Herman Nelson and like heaters, batch and plant op , seed and mulching machines, generators, temporary light plants, concrete pump, beltcrete power pac (beltcrete system), electric submersible pump 4 and over

GROUP IV
Dinkey locomotives, Barber Greene loaders, loaders and conveyors, tractors, scoopmobiles, bulldozers, road rollers, form fine graders, power brooms and sweepers

GROUP V
Black top spreaders, black top rollers, high lifts, fork lifts, one drum hoist or hod hoists, post hole diggers, traxcavators, core and well well drillers (one drum), economobile and similar type machines, elevators, A-L frame winches, power hoisting (single drum)

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POWER EQUIPMENT OPERATORS: BUILDING CONSTRUCTION CONT'D

GROUP VI
LeTourneau graders or scrapers, trenching machines, push cart

GROUP VII
Tractor road pavers, cranes, power road graders, shovels, backhoes, draglines, pile drivers hoists two or more drums, three drum engines, hysters two drum and swinging engines, three drum swinging engine, locomotive cranes, gradalls hydrocrane model CHB Vibrotamp or similar, Murphy type diesel generator-belt-crete system, side booms, hydro hammer, tractor mounted drill (quarry master), euclid loaders, concrete pumps, all CMI equipment, concrete central mix plant, automated asphalt, concrete central plant, derrick, whirlies, tower cranes, cableways, hydraulic cranes, power hoisting (2 drum and over), mucking machine

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day and F-Christmas Day

FOOTNOTES:
a Holidays: A through F

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
Albany County: Excluding the City of Albany, Rensselaer County: Excluding the City of Troy Saratoga County: Entire County Schenectady County: Excluding the City of Schenectady					
POWER EQUIPMENT OPERATORS, HEAVY & HIGHWAY CONSTRUCTION:					
GROUP I	10 15	90	60	a	15
GROUP II	9 82	90	60	a	15
GROUP III	9 10	90	60	a	15
GROUP IV	8 27	90	60	a	15

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POWER EQUIPMENT OPERATORS: HEAVY AND HIGHWAY CONSTRUCTION

GROUP I
Automated concrete spreader (CMI), automatic fine grader, backhoe (except tractor mounted rubber tired), belt placer (CMI type), blacktop plant (automated), cableway, caisson auger, central mix concrete plant (automated), cherry picker (over 5 tons capacity), concrete pump (8" or over) crane cranes & derricks (steel erection), dragline dredge, dual drum paver, excavator (all purpose-hydraulically operated, (gradall or similar), fork lift (factor rated 15 ft and over), front end loader 4 c y and over) head tower (sauerman or equal) hoist (2 or 3 drum), mine hoist, mucking machine or mole, over head crane (gantry or straddle type), piledriver, power grader, quarry master (or equivalent), scraper, shovel, sideboom, slip form paver (if second man is needed, he shall be an oiler) tractor drawn belt type loader, truck crane, tunnel shovel, cableway caisson auger, central mix concrete plant (automated)

GROUP II
Backhoe (tractor mounted, rubber tired), bituminous spreader and mixer black-top plant (non-automated), blast or rotary drill truck or tractor mounted), boring machine cage-hoist, central mix plant (non-automated and all concrete batching plants), cherry picker (5 tons capacity and under), compressors (4 or less) exceeding 2000 C F M combined capacity concrete paver (over 16S), concrete pump (under S), crusher, diesel power unit, drill rigs (tractor mounted), front end loader (under 4 c y), hi-pressure - boiler (15 lobs and over), hoist (one drum) Kolman plant loader and similar type loaders (if another man is required to clean screen or to maintain the equipment, he shall be an oiler), locomotive maintenance/engineer/greaseman/welder, mixer (for stablized base self-propelled), monorail machine, plant engineer, pump crete, ready mix concrete plant, refrigeration equipment (for soil stabilization), road widener, roller (all above subgrade), tractor with dozer and/or pusher trencher, tugger-hoist, winch winch cat

GROUP III
A-frame truck, compressors (4 not to exceed 2000 C F M combined capacity or 3 less with more than 1200 C F M. but not to exceed 2000 C F M), compressors (any size but subject to other provisions for compressors), dust collectors, generators, pumps, welding machines (4 of any type of combination) concrete pavement spreaders and finishers conveyor, drill-core, drill-well, electric pumps used in conjunction with well point system, farm tractor with accessories, fine grade machine, fork lift (under 15 ft), gunite machine, hammers (hydraulic-self-propelled) post hole digger and post driver,power sweeper roller (grade and fill), submersible electric pump (when used in lieu of well point system), tractor with tower accessories, vibratory compactor vibro tamp, well point

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POWER EQUIPMENT OPERATORS: HEAVY AND HIGHWAY CONSTRUCTION (CONT'D)

GROUP IV

Aggregate plant, boiler (used in conjunction with production), cement and bin operator, compressors (3 or less not to exceed 1200 C F M combined capacity), compressor (any size, but subject to other provisions for compressors) dust collectors, generator pumps, welding machines (3 or less of any type or combination) concrete paver or mixer (16S and under), concrete saw (self-propelled), fireman, form tamper, hydraulic pump (jacking system), lighting plants, mulching machine, oiler parapet-(concrete or pavement grinder), power broom (towed), power heaterman, revinius widener, shell winder, steam cleaner, tractor

Cities of Albany, Troy and Schenectady	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
POWER EQUIPMENT OPERATORS, HEAVY AND HIGHWAY CONSTRUCTION:					
GROUP I	10 05	1 00	60	a	15
GROUP II	9 72	1 00	60	a	15
GROUP III	9 00	1 00	60	a	15
GROUP IV	8 17	1 00	60	a	15

Cities of Albany, Troy and Schenectady

HEAVY AND HIGHWAY CONSTRUCTION - POWER EQUIPMENT OPERATORS

GROUP I

Automated concrete spreader (CMI), automatic fine grader, backhoe (except tractor mounted, rubber tired), belt placer (CMI type), blacktop plant (automated), cableway, caisson auger, central mix concrete plant (automated), cherry picker (over 5 tons capacity), concrete pump (8" or over) crane, cranes & derricks (steel erection), dragline, dredge, dual drum paver, excavator (all purpose-hydraulically operated, (gradall or similar), fork lift (factor rated 15 ft and over), front end loader 4 c.y and over) head tower (mauerman or equal) hoist (2 or 3 drum), mine hoist, mucking machine or mole, over head crane (gantry or straddle type), piledriver, power grader, quarry master (or equivalent), scraper, shovel, sidebeam, slip form paver (if second man is needed, he shall be an oiler), tractor drawn belt type loader, truck crane, tunnel shovel, cableway, caisson auger, central mix concrete plant (automated)

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POWER EQUIPMENT OPERATORS: HEAVY AND HIGHWAY CONSTRUCTION (CONT'D)

GROUP II

Backhoe (tractor mounted, rubber tired), bituminous spreader and mixer, blacktop plant (non-automated), blast or rotary drill tr : or tractor mounted), boring machine, cage-hoist, central mix plant (non-automated and all concrete batching plants), cherry picker (5 tons capacity and under), compressors (4 or less) exceeding 2000 C F M combined capacity concrete paver (over 16S), concrete pump (under 8"), crusher, diesel power unit, drill rigs (tractor mounted), front end loader (under 4 c y), hi-pressure - boiler (15 lobs and over), hoist (one drum) Kolman plant loader and similar type loaders (if another man is required to clean screen or to maintain the equipment, he shall be an oiler), locomotive maintenance/engineer/greaseman/welder, mixer (for stablized base self-propelled) monorail machine, plant engineer, pump crete, ready mix concrete plant, refrigeration equipment (for soil stabilization), road widener, roller (all above subgrade), tractor with dozer and/or pusher, trencher, tugger-hoist, winch, winch cat

GROUP III

A-frame truck, compressors (4 not to exceed 2000 C.F M combined capacity or 3 less with more than 1200 C F M. but not to exceed 2000 C F M), compressors (any size but subject to other provisions for compressors), dust collectors, generators, pumps, welding machines (4 of any type of combination), concrete pavement spreaders and finishers, conveyor, drill-core, drill-well, electric pumps used in conjunction with well point system, farm tractor with accessories, fine grade machine, fork lift (under 15 ft), gunite machine, hammers (hydraulic-self-propelled), post hole digger and post driver, power sweeper, roller (grade and fill), submersible electric pump (when used in lieu of well point system), tractor with tower accessories, vibratory compactor, vibro tamp, well point

GROUP IV

Aggregate plant, boiler (used in conjunction with production), cement and bin operator, compressors (3 or less not to exceed 1200 C F M combined capacity), compressor (any size, but subject to other provisions for compressors) dust collectors, generator pumps, welding machines (3 or less of any type or combination) concrete paver or mixer (16S and under), concrete saw (self-propelled), fireman, form tamper, hydraulic pump (jacking system), lighting plants, mulching machine, oiler parapet-(concrete or pavement grinder), power broom (towed), power heaterman, revinius widener, shell winder, steam cleaner, tractor

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PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:
a Holidays: A through F

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
TRUCK DRIVERS: HEAVY AND HIGHWAY CONSTRUCTION:					
CLASS 1	8 04	65	70	a	
CLASS 2	8 09	65	70	a	
CLASS 3	8 14	65	70	a	
CLASS 4	8 29	65	70	a	
CLASS 5	8 44	65	70	a	

TRUCK DRIVERS: HEAVY AND HIGHWAY CONSTRUCTION

CLASS 1
Warehouseman yardmen truck helpers, pickups, panel trucks, flatboy material trucks (straight jobs) single axel dump trucks, dumpsters material checkers and receivers, greasers, truck tiremen, mechanic helpers and parts chaser

CLASS 2
Tandems, batch trucks, mechanics and dispatcher

CLASS 3
Semi-trailers, low-boy trucks, asphalt distributors trucks agitator mixer trucks and dumpcrete type vehicles, truck mechanic

CLASS 4
Specialized earth moving equipment - euclid type or similar off-highway equipment where not self loaded and straddle (ross) carrier

CLASS 5
Off-highway tandem back-dump, twin engine equipment and double-hitched equipment where not elf loaded

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PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day and F-Christmas Day

FOOTNOTE:
a Paid Holidays A through F, provided the employee has worked the working day before and after the holiday

SUPERSEDEAS DECISION

STATE: Oklahoma COUNTIES: Tulsa, Creek, Craig, Ottawa, Delaware, Mayes and Rogers

DECISION NO.: OK77-4087 DATE: Date of Publication

Supersedes Decision No. OK76 4186 dated November 19, 1976 in 41 FR 51359

DESCRIPTION OF WORK: Building Construction, (but does not include single family homes and garden type apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
ASBESTOS WORKERS	$10 80	35	.60		015
BOILERMAKERS	10 00	50	1 00		02
BRICKLAYERS-Stonemasons:					
Tulsa, Delaware, Ottawa, Craig and Rogers Counties	9.74	30	40	33	06
Mayes County	9 36	45	40		04
CARPENTERS:					
Area I	8 78	35	.65		05
Area II	8 12	33	30		
MILLWRIGHTS-Piledrivermen:					
Area I	9 08	35	65		05
Area II	8 37	33	30		

CARPENTERS-MILLWRIGHTS-PILEDRIVERMEN AREA DEFINITIONS

AREA I - Tulsa, Creek, Craig, Rogers and Mayes Counties

AREA II - Delaware and Ottawa Counties

CEMENT MASONS:					
Cement masons	9 28		40		06
Power tool operator	9 53		40		06
ELECTRICIANS:					
Electricians	9 65	46	1%+ 40	30	07
Cable splicers	9 90	46	1%+.40	.30	07
ELEVATOR CONSTRUCTORS	9.66	545	35	4%+a+b	02
ELEVATOR CONSTRUCTORS' HELPER	70%JR	545	35	4%+a+b	02
ELEVATOR CONSTRUCTORS' HELPER (Probationary 6 months)	50%JR				
GLAZIERS:					
Area I	8 42	40	30		01
Area II	8 05			25	

GLAZIERS AREA DEFINITIONS

AREA I - Tulsa, Creek, Mayes, and Roger Counties

AREA II - Craig, Delaware and Ottawa Counties

IRONWORKERS	9 60	45	65		12
LABORERS:					
Group I	6 90	25	30		
Group II	7 20	25	30		
Group III	7 30	25	30		
Group IV	7 75	25	30		

LABORERS CLASSIFICATION DEFINITIONS

Group I - All digging and dirt work, firing of salamanders and smudge pots; loading and unloading of materials and equipment; loading and unloading of materials to and from hoist or cages for stock piling only; wheeling and placing of concrete; handling of lumber, steel, cement and distribution of materials; all cleaning, including cleaning of windows; wrecking and razing of building and all structures; cleaning when the man is directly tenders; and common laborers

Group II - All machine tool operators that come under the jurisdiction of the laborers; all sewer and drain tile layers and handling at the ditch, ex cluding distribution; operators of water pumps up to 4 inches and slip form jacks; men erecting scaffolds and directly tending others, masons, cement masons and plasterers, mortar mixers, hod carriers and dry mixers; high work over 30 feet from the ground or floors; cement finisher helper; work on swing ing scaffold; all kettle and pot men, tank cleaning, all pipe doping treating and wrapping, including all men working with dope; mortar and plaster mixing machine, pump crete machines, and gunite mixing machines, including placing of concrete; handling creosoted or treated materials, liquid acids, or like materials, when injurious to health, eye and skin or clothes; all newly developed mechanical equipment which replaces wheel barrows or buggies previously used by laborers; all scale men on batch plants; all laborers screening sand, running sand drier, and feeding operating sand blaster, except nozzle; signal men and cutting torch operators in connection with laborers work; concrete grader

GROUP III - Wagon drill operator

GROUP IV - Powderman or blaster

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr.
LATHERS	$ 8 65		30		01
LINE CONSTRUCTION:					
Lineman	9 35		1%		1/2%
Cable splicers	9 91		1%		1/2%
Hole digger operator	8 49		1%		1/2%
Heavy Equipment operator (Pole or Cat Equivalent)	8 49		1%		1/2%
Jack Hammerman	7 00		1%		1/2%
Line truck driver (winch op)	7 68		1%		1/2%
Powderman	8 49		1%		1/2%
Groundman	6 24		1%		1/2%
Truck driver (flat bed ton and half and under)	6 66		1%		1/2%

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
PAINTERS: (Craig, Ottawa and Delaware Counties):					
Brush, roller, tapers, paper-hangers	$ 7 92		30		
Spray, steamclean, snadblast, and pot tenders	8 295		30		
PAINTERS (Tulsa, Creek, Rogers and Mayes Counties):					
Brush	8 55		25	85	02
Highwork and stage	8 95		25	85	02
Spray and sandblasting	8 95		25	85	02
Hot or bituminous	9 85		25	85	02
Sheetrock handtools	8 55		25	85	02
Sheetrock power tools	8 90		25	85	02
Hazardous work	10 75		25	85	02
PIPEFITTERS	10 47	45	55		08
PLASTERERS	9 15				01
PLUMBERS	10 57	35	55		08
POWER EQUIPMENT OPERATORS:					
Group I	10 10	45	50		12
Group II	9 85	45	50		12
Group III	9 60	45	50		12
Group IV	9 35	45	50		12
Group V	9 10	45	50		12
Group VI	8 85	45	50		12
Group VII	8 45	45	50		12
Group VIII	8 35	45	50		12
Group IX	8 15	45	50		12
Group X	7 85	45	50		12

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP I All crane type equipment with 200' of boom or over (including jib)
GROUP II - All crane type equipment with 150-200' of boom (including jib)
GROUP III - All crane type equipment with 100-150' of boom (including jib), all tower cranes and all crane type equipment of 3 cu yd or more (as rates by mfg), sideboom (booms 30' and over), guy derrick
GROUP IV - Heavy duty mechanic welder crane hook and overhead monorail, whirley panel board batch plant operator, piledriver engineer, draglines shovel, clamshell, backhoe, sideboom (under 30'), gradall, hydro crane, cherry picker, hoists while operating 2 or more drums, hoists while doing stack and chimney work (1 or 2 drums), power driven hole digger (with 30' and longer mast)

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS (CONT'D)

GROUP V - Motor patrol (blade), fork lift (35' and over), dozer (engine h p 65 or over), fordson tractor or like equipment with hoe or loader equipment or ditcher, scraper type equipment, tournapull, DW 10,15, 16, 20, 21 and similar rubber-tired equipment, Euclid, TS 24 and similar, loader operator or Hi-lift (Engine h p 65 or over), asphalt lay machine, tail boom, conveyor multiple, panel board control, power driven hole digger with less than 30' mast, trenching machine, concrete pump - boom type
GROUP VI - Locomotive engineer, boring machine, tug boat, mixer-18 cu ft and over, sand barge, dredging machine, tugger, hoist when operating one drum, welding machine, 3 to 6, air compressor, 3 to 5, 500 cu ft. and under, air compressor, over 500 cu ft , (1) pump battery, 3 to 6, fork lift, bob-cat and similar equipment, generator plant engineer diesel electric, winch truck with a frame, roller, all types, outside elevator or building type of personnel hoist, concrete buster or tamper, heaters under jurisdiction of operators, engineers fireman, boiler operator, crushing plants, oiler distri butor, pulvimixer, farmer tractor-with or without attachments, batch plant operator - duel continuous or belt bulk handling screed operator, concrete pump, form grader, screening plant, well point pump operator, signal man on large whirleys when and if required operator for rotary drilling machines when operated from console or machines
ENGINEER FOR MACHINES NOT LISTED UNDER THE ABOVE CLASSIFICATIONS SHALL RECEIVE THE SCALE COMPARABLE TO THESE CLASSIFICATIONS.
GROUP VII - Greaser, tilt top trailer operator
GROUP VIII Permanent elevator - building type (automatic, concrete mixer, with hopper less than 18 cu ft , air compressor, 500 cu ft and under (1 or 2) welding machine (1 or 2), pump (1 or 2) fuelman, conveyor operator single continuous belt bulk handling
GROUP IX - Asphalt lay machine back end man, helpers
GROUP X - Truck crane oiler driver or truck crane oiler

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
ROOFERS	8 40	45	25		04
SHEET METAL WORKERS	9 53	50	66		10
SOFT FLOOR LAYERS	7 71		25	70+b	03
SPRINKLER FITTERS	11 15	65	95		08
TERRAZZO WORKERS	9 29		30		
TERRAZZO WORKERS' & Tile Layers helper	7 70				
TERRAZZO WORKERS' Helpers floor machine operator	7 80				
TERRAZZO WORKERS' Helpers base machine operator	8 00				
TILE LAYERS	9 29		30		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
TRUCK DRIVERS: (DELAWARE COUNTY)					
Group I	$7 55				
Group II	7 65				
Group III	7 75				
Group IV	7 70				
Group V	7 85				

DELAWARE COUNTY - TRUCK DRIVERS CLASSIFICATION DEFINITIONS

GROUP I - Pick-up 1½ tons, or 2½ yards and up to but not including 3 tons or 4 yards, such as dump trucks, flat beds, stake bodies and buses.
GROUP II 3 tons or 4 yards and up to but not including 4 tons or 6 yards
GROUP III - 5 tons or 6 yards and over including heavy equipment such as pole trucks, winch trucks, euclids, Mississippi wagons, semi dumps, tourner pulls, or other heavy material moving equipment, tractor trailer drivers and similar equipment, such as tractors, ten wheelers
GROUP IV - Ready mix concrete trucks up to but not including 3 yards
GROUP V - Ready mix concrete trucks 3 yards and over

TRUCK DRIVERS: (TULSA, CREEK, CRAIG, OTTAWA, MAYES AND ROGERS COUNTIES)						
Group I	7 68					
Group II	7 73					
Group III	7 83					
Group IV	7 83					
Group V	7 83					

TULSA, CREEK, CRAIG, OTTAWA, MAYES AND ROGERS COUNTIES - TRUCK DRIVERS CLASSIFICATION DEFINITIONS

Group I - Truck drivers, including pick up, 1½ tons or 2½ yards up to but not including 3 tons or 4 yards, such as dump trucks, flat beds, stake body or bus driver
Group II - 3 tons or 4 yards up to but not including 4 tons or 6 yards
Group III - 5 tons or 6 yards and over including heavy equipment
Group IV - Ready mix concrete truck
Group V - Tractor-trailer and similar equipment

FOOTNOTES:
a - 1st 6 mos. none; 6 mos to 5 yrs - 2%; over 5 years - 4% of basic hourly rate
b - Paid Holidays - A through F
PAID HOLIDAYS:
A New Year's Day; Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F Christmas Day

SUPERSEDEAS DECISION

STATE: Oklahoma COUNTY: Wagoner
DECISION NO : OK77 4088 DATE: Date of Publication
Supersedes Decision No OK76 4189 dated November 26 1976 in 41 FR 52278
DESCRIPTION OF WORK: Building Construction (but does not include single family homes and garden type apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
ASBESTOS WORKERS	$10 80	35	60		015
BOILERMAKERS	10 00	50	1 00		02
BRICKLAYERS	9 36	45	40		04
CARPENTERS:					
Carpenters	8 25	35	55		06
Millwrights Piledrivermen	8 75	35	55		06
CEMENT MASONS:					
Zone I That portion of Wagoner county on a diagonal line from the northeast corner of Okmulgee to the Southeast corner of Hayes	9 28		40		10
Zone II - Remainder of Wagoner Co	8 55				
ELECTRICIANS:					
Zone I					
Electricians	9 73	60	1%		1/2%
Cable splicers	10 03	60	1%		1/2%
Zone II					
Electricians	10 13	60	1%		1/2%
Cable splicers	10 43	60	1%		1/2%
Zone III					
Electricians	9 65	46	1%+ 40	30	07
Cable splicers	9 90	46	1%+ 40	30	07

ELECTRICIANS - CABLE SPLICERS ZONE DEFINITIONS

Blue Mount, Coweta, Gatesville, Shannon, Tullahassee, Porter and Stone Bluff Townships
Zone I A 20 mile radius from the Post Office in Muskogee
Zone II That area outside zone I
Zone III Adams, Creek, Lone Star and Shahan Townships Only

GLAZIERS	8 42	40	30		01
IRONWORKERS	9 60	45	65		12
LABORERS:					
Group I - Construction laborers	6 10	25	30		
Group II - Mason tenders, mortar mixers sewer drain; tile layers; machine tool operators	6 40	25	30		
Group III - Powdermen (make up) wagon drill operator	6 60	25	30		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
LINE CONSTRUCTION:					
Linemen	$ 9 35		1%		1/2%
Cable splicers	9 91		1%		1/2%
Hole digger operator	8 49		1%		1/2%
Heavy equipment operator for pole cat equivalent)	8 49		1%		1/2%
Line truck driver (winch operator)	7 68		1%		1/2%
Jack hammerman	7 00		1%		1/2%
Powderman	8 49		1%		1/2%
Groundman	6 24		1%		1/2%
Truck driver (flat bed, ton and half and under)	6 66		1%		1/2%
PAINTERS:					
Brush and roller	7 45		40	20	07
Highwork and stage	7 85		40	20	07
Sandblasting	8 10		40	20	07
Spray painting	8 10		40	20	07
Hot or bituminous	8 75		40	20	07
Hazardous work	9 65		40	20	07
Sheetrock power tools	7 80		40	20	07
PLUMBERS Steamfitters	10 60	40	80		15
POWER EQUIPMENT OPERATORS:					
Group I	10 10	45	50		12
Group II	9 85	45	50		12
Group III	9 60	45	50		12
Group IV	9 35	45	50		12
Group V	9 10	45	50		12
Group VI	9 85	45	50		12
Group VII	8 45	45	50		12
Group VIII	8 35	45	50		12
Group IX	8 15	45	50		12
Group X	7 85	45	50		12

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP I All crane type equipment with 200' of boom or over (including jib)
GROUP II - All crane type equipment with 150 200' bf boom (including jib)
GROUP III - All crane type equipment with 100 150' of boom (including jib), all tower cranes and all crane type equipment of 3 cu yd of more (as rates by mfg), sideboom (booms 30' and over(, guy derrick
GROUP IV - Heavy duty mechanic welder, crane hook and overhead monorail, whirley, panel board batch plant operator, piledriver engineer, dragline, shovel, clam shell, backhoe, sideboon (under 30'), gradall, hydro crane, cherry picker, hoists while operating 2 or more drums, hoists while doing stack and chimney work (1 or 2 drums), power driven hole digger (with 30' and longer mast)
GROUP V - Motor patrol (blade), fork lift (35' and over), dozer (engine h p 65 or over), fordson tractor or like equipment with h or loader equipment or ditcher, scraper type equipment, tournapull, DW 10, 15, 16, 20, 21, & similar rubber tired equipment, Euclid, TS-24 and similar, loader operator or Hi-lift (Engine h p 65 or over), asphalt lay machine, tail boom, conveyor multiple, panel board control, power driven hole digger with less than 30' mast, trenching machine, concrete pump - boom type

ENGINEERS FOR MACHINES NOT LISTED UNDER THE ABOVE CLASSIFICATIONS SHALL RECEIVE THE SCALE COMPARABLE TO THESE CLASSIFICATIONS

GROUP VI - Locomotive engineer, boring machine, tug boat, mixer, 18 cu ft and over, sand barge, dredging machine, tugger, hoist - when operating one drum, welding machine, 3 to 6 air compressor, 3 to 5, 500 cu ft. and under, air com pressor, over 500 cu ft , (1) pumps, battery, 3 to 6, fork lift, bobcat and similar equipment, generator plant engineers, diesel electric, winch truck with a frame, roller, all types, outside elevator or building type of personnel hoist, concrete buster or tamper, heaters under jurisdiction of operating engineers, fireman, boiler operator, crushing plants, oiler distributor, pulvimixer, farmer tractor with or without attachments, batch plant operator - duel, continous or belt bulk handling, screed operator, concrete pump, form grader, screening plant, well point pump operator, signal man on larg whirleys when and if required, operator for rotary drilling machines when operated from console or machines

ENGINEERS FOR MACHINES NOT LISTED UNDER THE ABOVE CLASSIFICATIONS SHALL RECEIVE THE SCALE COMPARABLE TO THESE CLASSIFICATIONS

GROUP VII - Greaser, tilt top trailer operator
GROUP VIII - Permanent elevator - building type (automatic), concrete mixer, with hopper less than 18 cu ft., air compressor, 500 cu ft & under (1 or 2) welding machine (1 or 2), pump (1 or 2), fueiman, conveyor operator-single continous belt bulk handling
GROUP IX - Asphalt lay machine back end man, helpers
GROUP X - Truck crane oiler driver or truck crane oiler

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr.
ROOFERS	$ 8 80	45	25		04
SHEET METAL WORKERS	9 53	50	66		10
SPRINKLER FITTERS	11 15	65	95		08
TRUCK DRIVERS:					
Group I	8 03				
Group II	8 13				
Group III	8 23				
Group IV	8 18				
Group V	8 33				

TRUCK DRIVERS CLASSIFICATION DEFINITION

Group I
Pick up, 1½ tons or 2½ yards and up to but not including 3 tons or 4 yards, such as dump trucks, flat beds, stake bodies and buses
Group II
3 tons or 4 yards and up to but not including 4 tons or 6 yards
GROUP III
5 tons or 6 yards and over including heavy equipment such as pole trucks, winch trucks, euclids, Mississippi wagons, semi-dumps, tournerpulls, or other heavy material moving equipment; tractor trailer drivers and similar equipment, such as tractors, ten wheelers
GROUP IV
Ready mix concrete trucks up to but not including 3 yards
GROUP V
Ready mix concrete trucks 3 yards and over

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental

SUPERSEDEAS DECISION

STATE: West Virginia
DECISION NO.: WV77-3051
COUNTY: Statewide
DATE: Date of Publication
Supersedes Decision No. WV77-3024, dated February 18, 1977, in 42 FR 10272
DESCRIPTION OF WORK: Heavy and Highway Construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
BRICKLAYERS & STONEMASONS:					
AREA 1	$ 9 92	65	75		
AREA 2	9 45	50	50	a + 53	03
AREA 3	9 63	60	6%		02
AREA 4	9 93	50	25		02
AREA 5	11 04	30	30		
AREA 6	9 65	60			
AREA 7	9 79		40		
AREA 8	8 70				

AREAS COVERED BY BRICKLAYERS & STONEMASONS

AREA 1 - Boone, Braxton, Clay, Fayette, Greenbrier, Kanawha, Putnam, Raleigh & Summers Counties
AREA 2 - Barbour, Doddridge, Gilmer, Grant, Hardy, Harrison, Lewis, Marion, Monongalia, Pendleton, Pocahontas, Preston, Randolph, Taylor, Tucker, Upshur & Webster Counties
AREA 3 - Marshall, Ohio, Tyler & Wetzel Counties
AREA 4 - Brooke & Hancock Counties.
AREA 5 - Cabell, Lincoln, Mason, Mingo & Wayne Counties.
AREA 6 - Calhoun, Jackson, Pleasants, Ritchie, Roane, Wirt & Wood Counties
AREA 7 - Berkeley, Hampshire, Jefferson, Mineral & Morgan Counties
AREA 8 - McDowell, Mercer, Monroe & Wyoming Counties

	HEAVY	HIGHWAY				
	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr Tr
CARPENTERS:						
AREA 1	$ 8 80	8 63	35	35		02
AREA 2	8 70	8 53	35	35		02

Carpenters working inside tunnel shall receive an additional 25¢ per hour

DECISION NO WV77-3051

AREAS COVERED BY CARPENTERS

AREA 1 - Brooke, Cabell, Hancock, Harrison, Jackson, Kanawha Lewis Marion Marshall, Mason, Monongalia, Ohio, Pleasants Preston, Putnam, Tyler, Wayne Wetzel & Wood Counties.
AREA 2 - Barbour, Berkeley, Boone, Braxton, Calhoun, Clay, Doddridge Fayette Gilmer, Grant Greenbrier, Hampshire, Hardy, Jefferson, Lincoln, Logan, McDowell, Mercer, Mineral, Mingo, Monroe, Morgan Nicholas Pendleton, Pocahontas, Raleigh, Randolph, Ritchie, Roane, Summers, Taylor, Tucker, Upshur, Webster Wirt & Wyoming Counties.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
CEMENT MASONS:					
Heavy Construction	$ 9 27	25			
Highway Construction	9 09	25			
ELECTRICIANS:					
AREA 1					
Wiremen	11 35	50	1% + 07	02	04
Cable splicers	12 46	50	1% + 07	02	04
AREA 2					
Contracts $15,000 or less:					
Wiremen	7 05	50	1% + 12	77	06
Cable splicers	7 35	50	1% + 12	77	06
Contracts over $15,000:					
Wiremen	9 95	50	1% + 12	77	06
Cable splicers	10 25	50	1% + 12	77	06
AREA 3					
Wiremen	9 10	50	1% + 53	1 17	03
Cable splicers	10 01	50	1% + 53	1 17	03
AREA 4					
Wiremen	9 90	50	1% + 32	1 02	04
Cable splicers	10 15	50	1% + 32	1 02	04

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ELECTRICIANS (CONT'D):	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
AREA 5					
Wiremen	$12 00	6%	7%	8%	½ of 1%
Cable splicers	12 40	6%	7%	8%	½ of 1%
AREA 6					
Contracts under $12,000:					
Wiremen	5 50	50	1% + 1 02	1 27	02
Contracts $12,000 or more:					
Wiremen	8 85	50	1% + 1 02	1 27	02
Cable splicers	9 00	50	1% + 1 02	1 27	02
AREA 7					
Wiremen	9 75	50	1% + 1 02	1 02	04
Cable splicers	10 00	50	1% + 1 02	1 02	04
AREA 8					
Wiremen	10 37	50	1% + 47	1 02	04
Cable splicers	10 89	50	1% + 47	1 02	04
AREA 9					
Wiremen	10 82	50	1% + 47	1 02	04
Cable splicers	11 36	50	1% + 47	1 02	04
AREA 10					
Wiremen	10 57	50	1% + 47	1 02	04
Cable splicers	11 10	50	1% + 47	1 02	.04
AREA 11					
Wiremen	10 15	50	1% + 25		1%
AREA 12					
Wiremen	10 35	50	1% + 25		1%
AREA 13					
Wiremen	10 55	50	1% + 25		1%
AREA 14					
Wiremen	8 51	30	1%		½ of 1%
Cable splicers	8 91	30	1%		½ of 1%

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ELECTRICIANS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
AREA 15					
Contracts $15,000 or less:					
Wiremen	$ 7 35	50	1% + 12	77	06
Cable splicers	7 65	50	1% + 12	77	06
Contracts over $15,000:					
Wiremen	10 25	50	1% + 12	77	06
Cable splicers	10 55	50	1% + 12	77	06
AREA 16					
Contracts $15,000 or less:					
Wiremen	7 55	50	1% + 12	77	06
Cable splicers	7 85	50	1% + 12	77	06
Contracts over $15,000:					
Wiremen	10 45	50	1% + 12	77	06
Cable splicers	10 75	50	1% + 12	77	06
AREA 17					
Contracts under $30,000:					
Wiremen	6 25	50	1%		3/4 of 1%
Contracts $30,000 or more:					
Wiremen	9 65	50	1%		3/4 of 1%

AREAS COVERED BY ELECTRICIANS

AREA 1 - Boone, Braxton, Calhoun, Clay, Fayette (Falls & Kanawha Townships only), Gilmer, Kanawha, Nicholas, Putnam, Raleigh (Clear Fork & Marsh Fork Townships only), Roane & Webster Counties
AREA 2 - Raleigh (remainder of county) County
AREA 3 - Barbour, Doddridge, Harrison, Lewis, Randolph & Upshur Counties
AREA 4 - Brooke (Buffalo Twp Only), Marshall, Ohio & Wetzel Counties
AREA 5 - Brooke (except Buffalo Twp) & Hancock Counties
AREA 6 - Marion, Monongalia, Preston, Taylor & Tucker Counties.
AREA 7 - Jackson, Pleasants, Ritchie, Tyler, Wirt & Wood Counties
AREA 8 - Cabell & Wayne Counties
AREA 9 - Logan, Mason & Mingo Counties
AREA 10 - Lincoln County
AREA 11 - Mineral County
AREA 12 - Berkeley, Hampshire & Morgan Counties
AREA 13 - Grant County
AREA 14 - Greenbrier, McDowell, Mercer, Monroe & Pocahontas Counties
AREA 15 - Fayette (remainder of county) County
AREA 16 - Summers & Wyoming Counties
AREA 17 - Hardy, Jefferson & Pendleton Counties

DECISION NO WV77-3051

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
IRONWORKERS:					
AREA 1	$10 42	.75	85		05
AREA 2	10 63	60	75		03
AREA 3	10 17	75	85		01
AREA 4					
Zone 1 - 10 miles from Union Hall	10 26	65	70		01
Zone 2 - 10 to 15 miles from Union Hall	10 41	65	.70		01
Zone 3 - 15 to 20 miles from Union Hall	10 51	65	70		01
Zone 4 - 20 to 25 miles from Union Hall	10 61	65	70		01
AREA 5	9 84	60	90		
AREA 6	9 55	60	65		03

AREAS COVERED BY IRONWORKERS

AREA 1 - Boone, Braxton, Clay Fayette Kanawha, Lincoln, Logan, McDowell Nicholas, Putnam, Raleigh Webster & Wyoming Counties.
AREA 2 - Barbour Brooke, Hancock Harrison, Marion Marshall, Monongalia Ohio, Taylor, Tyler & Wetzel Counties
AREA 3 - Calhoun, Doddridge, Gilmer, Jackson, Lewis Mason Pleasants Ritchie, Roane, Upshur, Wirt & Wood Counties.
AREA 4 - Cabell, Mingo & Wayne Counties
AREA 5 - Berkeley, Grant, Hampshire Hardy, Mineral Morgan, Pendleton, Preston Randolph & Tucker Counties
AREA 6 - Greenbrier Mercer Monroe, Pocahontas & Summers Counties

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	HEAVY	HIGHWAY				
	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr Tr.
LABORERS:						
GROUP 1	$ 8 48	$ 8 32	35	35		03
GROUP 2	8 07	7 92	35	35		03
GROUP 3	7 75	7 58	35	35		03
GROUP 4	7.44	7 27	35	35		03
GROUP 5	7 19	6 98	35	35		03
GROUP 6	6 69	6 51	35	35		03

All classifications who are required to work in open vorticle ditches and manholes that are 6' or more in depth shall receive 15¢ per hour above their regular rate of pay

LABORERS' CLASSIFICATIONS DEFINITIONS

GROUP 1 - Blacksmith, Tunnel Driller, Tunnel Miner
GROUP 2 - Powderman, Mucker Chucker
GROUP 3 - Caison bttom man, Pipe Layer (including Laser Beam Set up) Form setter (road) Drill Operator and Inside Laborer
GROUP 4 - Airtool Operator Vibrator Man, Whacker, Chainsaw Operator, Mortarman, Mason Tender, Blacksmith Helper, Cement Finisher Helper, Drill Helper, Powderman Heler, Waterproofer, Sheeter and Shorer, Pipelayers Helper Bullfloat Man, Pavement Reinforcing Placer, Handyman, Signal Man, Asphalt Raker, Greencutter, Georgia Power Buggie, Burner, Grade Checker, Concrete Blower Man
GROUP 5 - Laborer, Deckhand, Mulcher and Seeder (hand or machine), Trees Trimmer, Flagman
GROUP 6 - Watchman

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LINE CONSTRUCTION:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
AREA 1					
Linemen & operators (all mechanized equipment)	$10 48	45	1% + 42	1 02	½ of 1%
Cable splicers	11 53	45	1% + 42	1 02	½ of 1%
Groundmen	8 38	45	1% + 42	1 02	½ of 1%
AREA 2					
Linemen & operators (all mechanized equipment)	10 00	45	1% + 12	77	½ of 1%
Cable splicers	10 30	45	1% + 12	77	½ of 1%
Groundmen	8 00	45	1% + 12	77	½ of 1%
AREA 3					
Linemen & operators (all mechanized equipment)	9 80	45	1% +1 02	1 02	½ of 1%
Cable splicers	10 78	45	1% +1 02	1 02	½ of 1%
Groundmen	7 84	45	1% +1 02	1 02	½ of 1%
AREA 4					
Linemen & operators (all mechanized equipment)	9 10	50	1% + 53	1 17	½ of 1%
Cable splicers	10 01	50	1% + 53	1 17	½ of 1%
Groundmen	7 28	50	1% + 53	1 17	½ of 1%
AREA 5					
Linemen & operators (all mechanized equipment)	9 90	50	1% + 32	1 02	½ of 1%
Cable splicers	10 15	50	1% + 32	1 02	½ of 1%
Groundmen	7 92	50	1% + 32	1 02	½ of 1%
AREA 6					
Linemen & operators (all mechanized equipment)	10 80	5%	6%	8%	½ of 1%
Cable splicers	11 20	5%	6%	8%	½ of 1%
Groundmen	7 02	5%	6%	8%	½ of 1%
AREA 7					
Linemen & operators (all mechanized equipment)	9 40	50	1% +1 02	1 27	½ of 1%
Cable splicers	10 34	50	1% +1 02	1 27	½ of 1%
Groundmen	7 52	50	1% +1 02	1 27	½ of 1%

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LINE CONSTRUCTION (CONT'D):	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
AREA 8					
Lineman	$ 10 15	50	1% + 25		½ of 1%
Equipment operators	9 64	50	1% + 25		½ of 1%
Truck drivers, groundmen	6 60	50	1% + 25		½ of 1%
AREA 9					
Linemen	10 35	50	1% + 25		½ of 1%
Equipment operators	9 84	50	1% + 25		½ of 1%
Truck drivers, groundmen	6 80	50	1% + 25		½ of 1%
AREA 10					
Linemen	10 55	50	1% + 25		½ of 1%
Equipment operators	10 04	50	1% + 25		½ of 1%
Truck drivers, groundmen	7 00	50	1% + 25		½ of 1%
AREA 11					
Linemen, cable splicers & equipment operators	12 11	45	1%		½ of 1%
Truck with winch, pole or steel handling	7 43	45	1%		½ of 1%
Groundmen	7 17	45	1%		½ of 1%
AREA 12					
Linemen & operators (all mechanized equipment)	10 30	45	1% + 12	77	½ of 1%
Cable splicers	10 60	45	1% + 12	77	½ of 1%
Groundmen	8 24	45	1% + 12	77	½ of 1%
AREA 13					
Linemen & operators (all mechanized equipment)	10 50	45	1% + 12	77	½ of 1%
Cable splicers	10 80	45	1% + 12	77	½ of 1%
Groundmen	8 40	45	1% + 12	77	½ of 1%
AREA 14					
Linemen	8 66	35	1%		½ of 1%
Cable splicers	9 06	35	1%		½ of 1%
Equipment operators	7 45	35	1%		½ of 1%
Trucks with earth boring auger	6 06	35	1%		½ of 1%
Trucks with winch, groundmen	4 76	35	1%		½ of 1%

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AREAS COVERED BY LINE CONSTRUCTION

AREA 1 - Boone Braxton, Cabell Calhoun, Clay, Gilmer, Kanawha, Lincoln Logan, Mason, Mingo, Nicholas, Putnam Roane, Wayne & Webster Counties
AREA 2 - Raleigh County
AREA 3 - Jackson Pleasants Ritchie Tyler Wirt & Wood Counties.
AREA 4 - Barbour, Doddridge Harrison Lewis, Randolph & Upshur Counties
AREA 5 - Brooke (Buffalo Twp only) Marshall, Ohio & Wetzel Counties
AREA 6 - Brooke (except Buffalo Twp) & Hancock Counties
AREA 7 - Marion, Monongalia, Preston, Taylor & Tucker Counties
AREA 8 - Mineral County
AREA 9 - Berkeley Hampshire & Morgan Counties
AREA 10 - Grant County
AREA 11 - Hardy, Jefferson & Pendleton Counties
AREA 12 - Fayette County
AREA 13 - Summers & Wyoming Counties
AREA 14 - Greenbrier, McDowell, Mercer, Monroe & Pocahontas Counties

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
PAINTERS:					
AREA 1					
Painters -					
An area within 50 miles of Huntington, W V.	$ 7 42	30	35		02
An area 50 miles and beyond of Huntington, W V	8 67	30	35		02
Structural Steel -					
An area within 50 miles of Huntington, W V.	8 53	30	35		02
An area 50 miles and beyond of Huntington, W V	9 77	30	35		02
Bridge & Hazardous Work (includes towers, smoke stacks, flag poles & tanks)					
An area within 50 miles of Huntington, W V.	9 24	30	35		02
An area 50 miles and beyond of Huntington, W V.	10 49	30	35		02

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	Basic Hourly Rates	Fringe Benefit Payment			
		H & W	P I	V tl	App T
AREA 2					
Brush-roller	$ 8 50				
Lining machine work, power cleaning tools	$ 9 00				
Spray, sandblasting, mittens, structural steel, materials emitting toxic vapors	10 00				
Height Clause: An additional $ 1 00 per hour per 100' over the appropriate scale.					
AREA 3					
Painters	8 40	50	20	30	
Structural steel after erection	9 25	50	20	30	
Bridge painting	9 15	50	20	30	
Spray painters	9 40	50	20	30	
Towers, tanks & stacks	9 65	50	20	30	
Repaint industrial & structural steel	8 50	50	20	30	
Sand blasters	10 25	50	20	30	
Swing & boatswain chair	8 75	50	20	30	
AREA 4					
New Construction:					
Brush	9 16		30		01
Roller	9 42		30		01
Spray & Blast, Pot-Men	10 18		30		01
Repaint Work					
Brush	7 74		30		01
Roller	8 02		30		01
Spray-Pot-Men	10 18		30		01
Bridge					
Brush	9 86		30		01
Roller	10 11		30		01
Spray, Blast, Glove	10 86		30		01
Open structural steel	9 51		30		01
Stacks, vent pipes flag poles, electrical radio & T V. towers & tanks over 30 feet high	10 11		30		01

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	NEW	REPAINT				
	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	P I	V H	App Tr
PAINTERS:						
AREA 5						
Brush	$ 8 14	$ 7 32				
Air Compressor Operator	8 14	7 32				
Roller, Spray, Dipping & Mitten Work	8 46	7 68				
Water blasters, Steam jenny nozzle men swinging scaffold & Boatswain chair, window belt & window jack work	8 99	8 43				
Brush painters on bridges needle beam, cable work power tool work, brush & flame cleaning	9 37	8 86				
Sand blaster	9 70	9 12				
All stacks, vent pipes, flag poles, in excess of 30' high, all towers, water towers, elevated tanks, electrical switch yards, transformer banks, television towers	10 65	10 25				
Spray painter or sandblaster on bridges needle beam cable work	9 70*	9 12				

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PAINTERS (CONT'D):	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
AREA 6					
Brush & roller	$ 6 42	50			01
Glove	6 67	50			01
Spray & sandblast	7 42	50			01
Heavy Construction:					
Glove & roller	7 75	50			01
Structural steel, locks & dams brush	7 50	50			01
Spray & sandblast	8 50	50			01
Towers & tanks over 35'	8 74	50			01
Railroad & Highway Bridges:					
Brush	7 74	50			01
Glove & roller	7 99	50			01
Spray & sandblast	8 74	50			01
AREA 7					
Brush & roller	6 20	50	40		
Spray	7 20	50	40		
AREA 8					
Light Work					
Brush, rollers, sign painting	9 10		25		
Brush & rollers (toxic materials)	9 60		25		
Spray, sandblasting & use of flame burning & power tools	10 10		25		
Spray (toxic materials)	10 60		25		
Heavy & Hazardous Work:					
Brush & sign painting	10 10		25		
Brush (toxic materials)	10 60		25		
Spray, rollers, sandblasting, & use of flame burning & power tools	11 10		25		
Spray & roller (toxic materials)	11 60		25		

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AREAS COVERED BY PAINTERS

AREA 1 - Cabell, Lincoln, Logan, Mason, Mingo & Wayne Counties
AREA 2 - Monongalia & Preston Counties
AREA 3 - Barbour, Doddridge, Gilmer, Harrison, Lewis, Marion, Randolph, Taylor, Tucker, Upshur & Webster Counties
AREA 4 - Calhoun, Jackson, Pleasants, Ritchie, Roa , Tyler, Wirt & Wood Counties.
AREA 5 - Boone, Braxton, Clay, Fayette, Greenbrier, Kanawha, McDowell, Mercer, Monroe, Nicholas, Pocahontas, Putnam, Raleigh, Summers & Wyoming Counties
AREA 6 - Brooke (south of Buffalo Creek), Marshall, Ohio & Wetzel Counties
AREA 7 - Brooke (remainder of county), & Hancock Counties
AREA 8 - Grant, Hampshire, Hardy, Mineral, Morgan & Pendleton Counties

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
PILEDRIVERMEN - HEAVY CONSTRUCTION:					
AREA 1	$ 9 98	35	35		02
AREA 2	9 88	35	.35		02
AREA 3	10 60	5%	10%		1%

AREAS COVERED BY PILEDRIVERMEN
HEAVY CONSTRUCTION

AREA 1 - Cabell, Harrison, Jackson, Kanawha, Lewis, Marion, Mason, Pleasants, Preston, Putnam, Tyler, Wayne & Wood Counties.
AREA 2 - Barbour, Berkeley, Boone, Braxton, Calhoun, Clay, Doddridge, Fayette, Gilmer, Grant, Greenbrier, Hampshire, Hardy, Jefferson, Lincoln, Logan, McDowell, Mercer, Mineral, Mingo, Monroe, Morgan, Nicholas, Pendleton, Pocahontas, Raleigh, Randolph, Ritchie, Roane, Summers, Taylor, Tucker, Upshur, Webster, Wirt & Wyoming Counties
AREA 3 - Brooke, Hancock, Marshall, Monongalia, Ohio & Wetzel Counties

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
PILEDRIVERMEN - HIGHWAY CONSTRUCTION:					
AREA 1	$ 8 95	35	35		02
AREA 2	8 85	35	35		02

AREAS COVERED BY PILEDRIVERMEN
HIGHWAY CONSTRUCTION

AREA 1 - Brooke, Cabell, Hancock, Harrison, Jackson, Kanawha, Lewis, Marion, Marshall, Mason, Monongalia, Ohio, Pleasants, Preston, Putnam, Tyler, Wayne, Wetzel & Wood Counties.
AREA 2 - Barbour, Berkeley, Boone, Braxton, Calhoun, Clay, Doddridge, Fayette, Gilmer, Grant, Greenbrier, Hampshire, Hardy, Jefferson, Lincoln, Logan, McDowell, Mercer, Mineral, Mingo, Monroe, Morgan, Nicholas, Pendleton, Pocahontas, Raleigh, Randolph, Ritchie, Roane, Summers, Taylor, Tucker, Upshur, Webster, Wirt & Wyoming Counties

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
PLUMBERS & PIPEFITTERS:					
AREA 1	$ 9 69	40	7%	10%	05
AREA 2	10 46	50	7%	8%	05
AREA 3	9 65	45	55	10%	04
AREA 4	9 90	45	55	10%	04
AREA 5	10 23	40	50		
AREA 6					
Plumbers	9 78	45	30		05
Steamfitters	9 82	45	15		05
AREA 7					
Zone 1 - within 8 mile radius of Cabell Co Courthouse	10 58	50	1 00		02
Zone 2 - 8 to 15 miles from the Courthouse	10 78	50	1 00		02
Zone 3 - 15 to 25 miles from the Courthouse	10 98	50	1 00		02
Zone 4 - Over 25 miles from the Courthouse	11 23	50	1 00		02

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PLUMBERS & PIPEFITTERS (CONT D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
AREA 8					
Contracts $75,000 or less	$ 7 55	45	40		09
Contracts over $75,000	9 62	45	40		09
AREA 9	10 15	45	55	10%	04
AREA 10	10 40	45	55	10%	04
AREA 11	7 82	60	80	d	

AREAS COVERED BY PLUMBERS & PIPEFITTERS

AREA 1 - Brooke (south of Buffalo Creek), Marshall, Ohio & Wetzel Counties
AREA 2 - Brooke (remainder of county), & Hancock Counties
AREA 3 - Harrison, Marion & Monongalia Counties
AREA 4 - Barbour, Doddridge, Lewis, Taylor & Upshur Counties.
AREA 5 - Calhoun, Jackson (northern portion to but not including the Town of Ripley), Pleasants, Ritchie, Roane (northern portion to but not including the Town of Spencer), Tyler, Wirt & Wood Counties
AREA 6 - Boone (northeast portion including the Towns of Madison & Whitesville), Braxton (southern portion up to but not including the Town of Sutton), Clay, Fayette, Greenbrier, Jackson (remainder of county), Kanawha, Nicholas, Pocahontas, Putnam, Roane (remainder of county), Summers & Webster (southern portion up to but not including the Town of Webster Springs) Counties.
AREA 7 - Boone (remainder of county), Cabell, Lincoln, Logan, Mason, Mingo & Wayne Counties.
AREA 8 - McDowell, Mercer, Monroe, Raleigh & Wyoming Counties.
AREA 9 - Braxton (remainder of county), Gilmer, Randolph, Tucker & Webster (remainder of county) Counties.
AREA 10 - Grant, Hampshire, Hardy, Mineral & Pendleton Counties
AREA 11 - Berkeley, Jefferson & Morgan Counties

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	HEAVY	HIGHWAY				
	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr Tr
POWER EQUIPMENT OPERATORS:						
GROUP 1	$ 9 63	$ 9 49	45	55		04
GROUP 2	8 83	8 66	45	55		04
GROUP 3	8 09	7 92	45	55		04
GROUP 4	7 85	7 68	45	55		04
GROUP 5	7 52	7 35	45	55		04
GROUP 6	7 20	7 03	45	55		04
GROUP 7	8 41	8 25	45	55		04

All classifications performing tunneling and all other underground work shall receive an additional 25¢ per hour

CLASSIFICATION DEFINITIONS POWER EQUIPMENT OPERATORS

GROUP 1 - Equipment with booms of 150 and/or capacity of 3 yards and over, or 50 tons or over front end loader with capacity of 4 yards and over, capacities to be based on manufacturer's specifications transloader
GROUP 2 - Cable way, crane, derrick (2 drums or more) derrick boat, dragline, dredge, gradall, hoist (2 drums or more) mechanic (heavy), mixer plant (2 or more mixers including batch control), paver (dual drums), pile driver, shovel side boom tractor, cone drill, operator trencher (20" or over) truck crane, back hoe, hi-lift (1½ cubic yards or over), dozer with ripper (when dozer is D 8 class or larger), double hitched equipment, bulldozer with roller, standard guage locomotive, tug boat, concrete pump, controlled fine grade machine
GROUP 3 - Bulldozer, derrick (single drum), hi-lift (under 1½ cubic yards), hoist (single drum), single drum paver, trencher (under 20"), motor grader air tugger, rubber-tired scraper, self loading tractor pan, Ross Carrier, "A" frame, multiple concrete saw, asphalt paver, hydraulic post driver, base paver, rotary drill, lead greaser on grease truck or service island, snake or push tractor, and horizontal road boring machine
GROUP 4 - Concrete mixer (single drum), one cubic yard or over fork lift, asphalt batch plant, concrete batch plant, crushing plant screening and washing plant, self propelled power concrete spreader, sub grader, power form handling equipment, burlap and curing machine, concrete finishing machine, form grader, bull float, portable concrete saw, roller and compactor, bar and joint installing machine
GROUP 5 - High pressure fireman and tireman
GROUP 6 - Air compressor, concrete mixer (under 1 cubic yard), conveyor-belt or bucket, light plant, narrow guage locomotive welding machine, low pressure fireman, mechanic's helper, oiler, screed man, spreader box man, farm tractor, joint sealer and pump
GROUP 7 - Group 6 operating up to 5 pieces of utility equipment

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	HEAVY	HIGHWAY				
	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr
TRUCK DRIVERS:						
GROUP 1	$ 7 37	$ 7 16	b	c		
GROUP 2	7 52	7 38	b	c		
GROUP 3	7 77	7 56	b	c		
GROUP 4	8 12	7 91	b	c		
GROUP 5	8 13	7 99	b	c		
GROUP 6	8 37	8 16	b	c		
GROUP 7	8 58	8 31	b	c		
GROUP 8	8 60	8 39	b	c		

All classifications performing tunneling and all other underground work shall receive an additional 25¢ per hour

CLASSIFICATION DEFINITIONS TRUCK DRIVERS

GROUP 1 - Warehousemen yardmen truck helpers, pick-ups, station wagons, panel trucks, team 2 up
GROUP 2 - Single axle trucks used as dump, supply, fuel, water, van flatbody, monorail, distributor, (other than bituminous distributors) and including towed single units material checkers, material receivers Team 4 Up, greasers, tiremen and mechanic helpers (trucks)
GROUP 3 - Tandem axle trucks used as dump supply, fuel, water, van flatbody, monrail and including towed single units, truck tractors used in combination with dump, van, tank, flatbed low platform, or pole trailers bituminous distributors, off highway near dump - to 22 tons-agitator or mixer trucks (up to and including 5 c y)
GROUP 4 - Rubber tired tractors (towing or pushing).
GROUP 5 - Tri-axle trucks used as dump supply, fuel, water, van flatbed, monorail and including towed single units agitator or mixer trucks (over 12 c.y to 20 c y), off highway near dump - 23 tons to 40 tons - mucker trucker
GROUP 6 - Agitator or mixer trucks (over 20 c y), off highway near dump 40 tons to 75 tons
GROUP 7 - "A" frame operator
GROUP 8 - Mechanics (truck), off highway near dump over 75 tons

FOOTNOTES:

a Paid Holiday - Christmas Day

b Employers contribute $58 50 per month per employee employed 30 days or more

c Employers contribute $60 67 per month per employee employed 30 days or more

d Paid Holidays - New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; & Christmas Day

[FR Doc.77-12080 Filed 4-28-77;8:45 am]

federal register

FRIDAY, APRIL 29, 1977

PART IX

DEPARTMENT OF AGRICULTURE

Office of the Secretary

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PRIVACY ACT OF 1974

Additional System of Records

DEPARTMENT OF AGRICULTURE

Office of the Secretary

PRIVACY ACT OF 1974

Systems of Records

Notice is hereby given that the Department of Agriculture, in accordance with 5 U.S.C. 552a(e) (4) and (11), intends to adopt the notice of an additional system of records set forth below. Although the Privacy Act requires only that the portion of each system which describes the "routine uses" of that system be published for public comment, USDA invites such comment on all portions of this notice.

Interested persons may submit written comments on this notice to: Director, Research and Operations Division, Office of the General Counsel, U.S. Department of Agriculture, Washington, D.C. 20250, on or before May 31, 1977. All comments submitted will be available for public inspection during regular business hours in Room 2321 of the South Building, USDA, 12th Street and Independence Ave., S.W.

This additional notice will be adopted without further publication as set forth below thirty days after the date of its publication in the Federal Register (May 31, 1977) unless modified by a subsequent notice to incorporate comments received from the public.

USDA/FCIC-5

System name: Rejected Applications, USDA/FCIC

System location: Regional Offices located in: Fresno, California; Indianapolis, Indiana; Des Moines, Iowa; Manhattan, Kansas; St. Paul, Minnesota; Jackson, Mississippi; Billings, Montana; Lincoln, Nebraska; Raleigh, North Carolina; Bismarck, North Dakota; Columbia, South Carolina; Nashville, Tennessee; College Station, Texas; and Spokane, Washington. Also individual offices for the county of the Federal Crop Insurance Corporation. The address of each field office may be obtained from the local telephone directory under the "United States Government, Department of Agriculture, Federal Crop Insurance Corporation."

Categories of individuals covered by the system: Producers whose applications for insurance have been rejected.

Categories of records in the system: System consists of the rejected application, related materials and correspondence received between the applicant and Federal Crop Insurance Corporation offices.

Authority for maintenance of the system: 7 U.S.C. 1501-1520; 7 CFR 2.67.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (1) Referral to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting a violation of law, or of enforcing or implementing the statute, rule, regulation or order issued pursuant thereto, of any record within this system when information available indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by rule, regulation or order issued pursuant thereto.

(2) Referral to a court, magistrate or administrative tribunal, or to opposing counsel in a proceeding before any of the above, of any record within the system which constitutes evidence in that proceeding, or which is sought in the course of discovery.

(3) Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders in the county and regional offices involved.

Retrievability: Records are indexed by individual names and crop years.

Safeguards: Records are accessible only to authorized personnel and are maintained in offices which are locked during non-duty hours.

Retention and disposal: Records are normally retained for 3 years following the crop year in which the file was prepared. Records for disposal are delivered to custodial services for disposal as waste paper.

System manager(s) and address: Manager, Federal Crop Insurance Corporation, USDA, Washington, D.C. 20250.

Notification procedure: An individual may request information regarding this system of records, or information as to whether the system contains records pertaining to himself from the office for the county. The addresses of the individual office for the county may be obtained from the Director, National Service Office, Federal Crop Insurance Corporation, 8930 Ward Parkway, Kansas City, Missouri 64114. A request for information pertaining to an individual should contain (1) individual's name and address, (2) state(s), and county(ies) where farm(s) is located and (3) crop year in which application for insurance was rejected.

Record access procedures: Any individual may obtain information as to the procedures for gaining access to a record in this system which pertains to him by submitting a written request to the appropriate official referred to in the preceding paragraph.

Contesting record procedures: Same as access procedure.

Record source categories: Information in this system comes from prospective insureds and employees of the Federal Crop Insurance Corporation.

Dated: April 21, 1977

John C. White,
Deputy Secretary.

[FR Doc.77-11941 Filed 4-28-77;8:45 am]