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ATTENTION: Questions, corrections, or requests for information regarding the contents of this issue only may be made by dialing 202—523—5282. For information on obtaining extra copies, please call 202—523—5240.

To obtain advance information from recorded highlights of selected documents to appear in the next issue, dial 202—523—5022.
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Title 3—The President
PROCLAMATION 4372
National Arthritis Month, 1975

By the President of the United States of America

A Proclamation

Arthritis, the oldest known chronic disease, is still the Nation's greatest crippler. This disease and related rheumatic disorders afflict more than 20 million people in the United States, at an annual cost of about $4 billion, and are exceeded only by heart disease as the most common chronic illness in the country today.

Recognition of this major public health problem and determination to combat it effectively have been demonstrated through the passage of the National Arthritis Act of 1974 by the United States Congress, which I was pleased to sign earlier this year. As this legislation makes plain, the total cost of arthritis must be counted not only in terms of dollars, but of human suffering and disability. Uncontrolled arthritis significantly decreases the quality of American life and has a negative economic, social, and psychological impact on the families of those afflicted.

We have learned a great deal through governmentally and privately supported research. Yet this disorder is not fully understood and it is not adequately controllable. We must meet the critical need for new research ideas and studies upon which advances in the area of arthritis treatment and prevention can be based. Our goal continues to be the eventual elimination of arthritis as a cause of human suffering and dire expense to our Nation.

NOW, THEREFORE, I, GERALD R. FORD, President of the United States of America, do hereby proclaim the month of May, 1975, as National Arthritis Month. I urge the people of the United States and educational, philanthropic, scientific, medical and health care organizations and professionals to advance the programs of our national effort to discover the cause and cures of arthritis and other rheumatic diseases and to alleviate the suffering of victims of these disorders.

IN WITNESS WHEREOF, I have hereunto set my hand this seventh day of May, in the year of our Lord nineteen hundred seventy-five, and of the Independence of the United States of America, the one hundred ninety-ninth.

[FR Doc. 75-12401 Filed 5-7-75; 2:26 pm]

FEDERAL REGISTER, VOL. 40, NO. 91—FRIDAY, MAY 9, 1975
Proclamation 4373
May 7, 1975

Fixing Terminal Date Respecting Service in the Armed Forces Entitling Persons To Certain Veterans Benefits

By the President of the United States of America

A Proclamation

The Congress has provided that entitlement to certain veterans benefits be limited to persons serving in the Armed Forces during the period, beginning August 5, 1964, referred to as the Vietnam era. The President is authorized to determine the last day on which a person must have entered the active military, naval, or air service of the United States in order for such service to qualify as service during that period.


NOW, THEREFORE, I, GERALD R. FORD, President of the United States of America, by virtue of the authority vested in me by Section 101(29) of Title 38 of the United States Code, do hereby proclaim, for the purposes of said Section 101(29), that May 7, 1975, is designated as the last day of the “Vietnam era.”

IN WITNESS WHEREOF, I have hereunto set my hand this seventh day of May in the year of our Lord nineteen hundred seventy-five, and of the Independence of the United States of America the one hundred ninety-ninth.

[FR Doc.75-12402 Filed 5-7-75;2:27 pm]

Editorial Note: For the texts of the President's statement and letter to the Speaker of the House and President of the Senate concerning the eligibility period for benefits to Vietnam era veterans, see Weekly Compilation of Presidential Documents (vol. 11, no. 19).
Amending the Civil Service Rules To Except Certain Positions From the Career Service

By virtue of the authority vested in me by the Constitution of the United States of America and Sections 3301 and 3302 of Title 5 of the United States Code, and as President of the United States of America, Section 9.11 of Civil Service Rule IX is amended by adding "and the Small Business Administration" after "Environmental Protection Agency."


[FR Doc.75-12403 Filed 5-1-75;2:27 pm]
Amending Executive Order Nos. 11803, 1 11837, 2 and 11842 3 To Pro­
vide Authority To Increase the Number of Members of the Presiden­
tial Clemency Board

By virtue of the authority vested in me as President of the United States
by Section 2 of Article II of the Constitution of the United States, Section
1 of Executive Order No. 11803 of September 16, 1974, is hereby-
amended as follows:

By adding the following at the end of the last sentence, “The President
may appoint such additional members to the board as he shall from time
to time determine to be necessary to carry out its functions.”

THE WHITE HOUSE,
May 7, 1975.

[FR Doc.75-12404 Filed 5-7-75;2:28 pm]

1 39 PR 33297.
2 40 FR 4895.
3 40 FR 8935.
By virtue of the authority vested in me by the Constitution and statutes of the United States of America, including the Act of February 14, 1903, as amended (15 U.S.C. 1501 et seq.), section 10 of the Gold Reserve Act of 1934, as amended (31 U.S.C. 822a), and section 301 of title 3 of the United States Code, and as President of the United States of America, it is hereby ordered as follows:

SECTION 1. (a) There is hereby established the Committee on Foreign Investment in the United States (hereinafter referred to as the Committee). The Committee shall be composed of a representative, whose status is not below that of an Assistant Secretary, designated by each of the following:

(1) The Secretary of State.
(2) The Secretary of the Treasury.
(3) The Secretary of Defense.
(4) The Secretary of Commerce.
(5) The Assistant to the President for Economic Affairs.

The representative of the Secretary of the Treasury shall be the chairman of the Committee. The chairman, as he deems appropriate, may invite representatives of other departments and agencies to participate from time to time in activities of the Committee.

(b) The Committee shall have primary continuing responsibility within the Executive Branch for monitoring the impact of foreign investment in the United States, both direct and portfolio, and for coordinating the implementation of United States policy on such investment. In fulfillment of this responsibility, the Committee shall:

(1) arrange for the preparation of analyses of trends and significant developments in foreign investments in the United States;
(2) provide guidance on arrangements with foreign governments for advance consultations on prospective major foreign governmental investments in the United States;
(3) review investments in the United States which, in the judgment of the Committee, might have major implications for United States national interests; and
(4) consider proposals for new legislation or regulations relating to foreign investment as may appear necessary.

(c) As the need arises, the Committee shall submit recommendations and analyses to the National Security Council and to the Economic
Policy Board. It shall also arrange for the preparation and publication of periodic reports.

Sec. 2. The Secretary of Commerce, with respect to the collection and use of data on foreign investment in the United States, shall provide, in particular, for the performance of the following activities:

(a) The obtainment, consolidation, and analysis of information on foreign investment in the United States;

(b) the improvement of procedures for the collection and dissemination of information on such foreign investment;

(c) the close observation of foreign investment in the United States;

(d) the preparation of reports and analyses of trends and of significant developments in appropriate categories of such investment;

(e) the compilation of data and preparation of evaluations of significant investment transactions; and

(f) the submission to the Committee of appropriate reports, analyses, data and recommendations relating to foreign investment in the United States, including recommendations as to how information on foreign investment can be kept current.

Sec. 3. The Secretary of the Treasury is authorized, without further approval of the President, to make reasonable use of the resources of the Exchange Stabilization Fund, in accordance with section 10 of the Gold Reserve Act of 1934, as amended (31 U.S.C. 822a), to pay any of the expenses directly incurred by the Secretary of Commerce in the performance of the functions and activities provided by this order. This authority shall be in effect for one year, unless revoked prior thereto.

Sec. 4. All departments and agencies are directed to provide, to the extent permitted by law, such information and assistance as may be requested by the Committee or the Secretary of Commerce in carrying out their functions and activities under this order.

Sec. 5. Information which has been submitted or received in confidence shall not be publicly disclosed, except to the extent required by law; and such information shall be used by the Committee only for the purpose of carrying out the functions and activities prescribed by this order.

Sec. 6. Nothing in this order shall affect the data-gathering, regulatory, or enforcement authority of any existing department or agency over foreign investment, and the review of individual investments provided by this order shall not in any way supersede or prejudice any other process provided by law.

The White House,
May 7, 1975.

[FR Doc.75-12405 Filed 5-7-75; 2:28 pm]
Inspection of Income, Estate, and Gift Tax Returns by the Senate Committee on Government Operations

By virtue of the authority vested in me by Section 6103(a) of the Internal Revenue Code of 1954 (26 U.S.C. 6103(a)), it is hereby ordered that any income, estate, or gift tax return for the years 1955 to 1975, inclusive, shall, subject to the conditions imposed herein, during the Ninety-fourth Congress, be open to inspection by the Senate Committee on Government Operations or any duly authorized subcommittee thereof, in connection with its studies of the operation of Government activities at all levels with a view to determining the economy and efficiency of the Government.

Such inspection shall be in accordance and upon compliance with the rules and regulations prescribed by the Secretary of the Treasury in Treasury Decision 6132, relating to the inspection of returns by committees of the Congress, approved by the President on May 3, 1955.

The Commissioner of Internal Revenue shall ensure compliance with the applicable provisions of the Privacy Act of 1974 (5 U.S.C. 552a) by seeing that no such inspection is permitted unless (1) the Committee or subcommittee has furnished a written statement specifying the purpose of the inspection; and (2) such statement establishes that the inspection relates to a matter within the jurisdiction of the Committee or subcommittee, or the Commissioner has received the written consent of the taxpayer to the inspection.

The White House,
May 7, 1975.

[Signature]
PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

This regulation fixes the quantity of California-Arizona lemons that may be shipped to fresh market during the week, regulations in said section, May 11-17, 1975. It is issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 910. The quantity of lemons so fixed was arrived at after consideration of the total available supply of lemons, the quantity of lemons currently available for market, the fresh market demand for lemons, lemon prices, and the relationship of said prices to the parity price for lemons.

§ 910.991 Lemon Regulation 691.

(a) Findings. (1) Pursuant to the marketing agreement, as amended, 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 said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

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

(1) The committee has submitted its recommendation with respect to the quantity of lemons it deems advisable to be handled during the ensuing week. Such recommendation resulted from consideration of the factors enumerated in the order. The committee further reports the demand for lemons began the week of May 4-10 active but is easing due to inclement weather. Average f.o.b. price was $6.25 per carton the week ended May 8, 1975, compared to $6.35 per carton the previous week. Track and rolling supplies at 139 cars were down 3 cars from last week.

(b) Order. (1) The quantity of lemons grown in California and Arizona which may be handled during the period May 11, 1975 through May 17, 1975, is hereby fixed at 280,000 cartons.

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

Dated: May 7, 1975.

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

[FR Doc. 75-12430 Filed 5-8-75; 8:45 am]
RULI'NGS AND REGULATIONS

§ 90.503 Requests for records.

Requests for records under 5 U.S.C. 552(a)(3) shall be made in accordance with § 1.3(e) of this title. Authority to make determinations regarding initial requests, in accordance with § 1.3(e) of this title, is hereby delegated to each Division Director of AMS. Requests shall be addressed to the appropriate Director, as follows: Director, Cotton Division; Director, Dairy Division; Director, Federal-State Marketing Improvement Program; Director, Fruit and Vegetable Division; Director, Grain Division; Director, Livestock Division; Director, Poultry Division; Director, Tobacco Division; Director, Transportation and Warehouse Division; Director, Information Division; Director, Administrative Services Division; Director, Financial Services Division; Director, Personnel Division; Director, Technical Services Division. The remainder of the address for each of the Directors listed above is as follows: Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250. In cases where a request cannot be addressed to the Director to contact, the request shall be addressed to Director, Transportation Division, who will in turn refer it to the proper division.

§ 90.504 Appeals.

Any person whose request under § 90.503 above is denied shall have the right to appeal such denial in accordance with § 1.3(e) of this title. Appeals shall be addressed to the Administrator, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250.

Effective date. This revision shall be effective May 2, 1975.

Signed at Washington, D.C., on May 6, 1975.

EVIN L. PETERSON,
Administrator, Agricultural Marketing Service.

[FR Doc. 75-12906 Filed 5-8-75:8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airworthiness Docket No. 76-WF-26-AD; Amtd. 26-2198]

PART 39—AIRWORTHINESS DIRECTIVES

Certain AllResearch Model TPE331—1, -2, -3, -5, and -6 Series Engines

There have been failures of the fuel pump and control drive gears on AllResearch Model TPE331—1, -2, -3, -5, and -6 series engines which can result in complete power loss. Since this condition is likely to exist or develop in other engines of the same type design, an airworthiness directive is being issued to require: inspection of the fuel pump and control drive backlash; modification of the torque sensor assembly mounting arm, as necessary; and, installation of this modification before exceeding the engine operating time in service at the manufacturer's recommended mid-term inspection or overhaul.

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

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697), § 80.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

ARIZONA MANUFACTURING COMPANY of Arizona. Applies to certain Models and serial numbers of TPE331 series engines as follows:

<table>
<thead>
<tr>
<th>Model:</th>
<th>Serial number effectiveness</th>
</tr>
</thead>
<tbody>
<tr>
<td>TPE331-1-101B...</td>
<td>F-9009 through P-9004</td>
</tr>
<tr>
<td>TPE331-1-151A...</td>
<td>P-2249 through P-2256</td>
</tr>
<tr>
<td>TPE331-1-151K...</td>
<td>P-9118 through P-9126</td>
</tr>
<tr>
<td>TPE331-2-151G...</td>
<td>P-9118 through P-9126</td>
</tr>
<tr>
<td>TPE331-2-201A...</td>
<td>P-9029 through P-9034</td>
</tr>
<tr>
<td>TPE331-2-201K...</td>
<td>P-9029 through P-9034</td>
</tr>
</tbody>
</table>

An aircraft may be flown to a base for modification before exceeding 400 hours service, or an additional 25 hours time in service, or an additional 25 hours time in service in those instances where the torque sensor assembly mounting arm is modified per paragraph (a), above, must be repeated at intervals not to exceed 400 hours service, or an additional 25 hours time in service after the effective date of this AD, in accordance with AiResearch Service Bulletin TFE331-72-0086, dated April 18, 1975, or later FAA-approved revision. If the fuel pump and control drive backlash exceed the limits specified in the above referenced service bulletin, modify the torque sensor assembly mounting arm as contained in paragraph 2.D. of that bulletin before further flight.

Any engine which has been modified in accordance with the instructions contained in paragraph 2.D. of that bulletin and which has not exceeded 200 hours total time in service since new or overhaul shall, before exceeding an additional 100 hours total time in service after the effective date of this AD, inspect and correct the torque sensor assembly mounting arm as contained in paragraph 2.D. of that bulletin before further flight.

If the fuel control drive backlash exceeds the limits specified in the above referenced service bulletin, modify the torque sensor assembly mounting arm as contained in paragraph 2.D. of that bulletin before further flight.

If the fuel control drive backlash exceeds the limits specified in the above referenced service bulletin, modify the torque sensor assembly mounting arm as contained in paragraph 2.D. of that bulletin before further flight.

 Tribunal: United States Court of Appeals, District of Columbia Circuit. In re: FAA, Order No. 20-041-91, in the matter of: ...
This amendment becomes effective May 15, 1975.

1975-05-15—That airspace extending upward from the surface to and including 7,000 feet MSL within a 7-mile radius of the New Orleans International Airport—Mossant Field (Lat. 29°39′30″N, Long. 90°15′37″W). This airspace shall be effective 0901 GMT, July 17, 1975, by adding the New Orleans Group III Terminal Control Area (TCA) north of the south shore of Lake Pontchartrain, that airspace within and underlying Area C described hereinafter, and that airspace within Area F described hereinafter.

Area B.—That airspace extending upward from 600 feet MSL to and including 7,000 feet MSL north of the south shore of Lake Pontchartrain within a 7-mile radius of the New Orleans International Airport—Mossant Field, and within a 1.5-mile radius of the New Orleans International Airport—Mossant Field to the point of beginning, that airspace within the New Orleans Group III TCA north of the south shore of Lake Pontchartrain to the point of beginning.

Area D.—That airspace extending upward from 2,000 feet MSL to and including 7,000 feet MSL within a 15-mile radius of the New Orleans International Airport—Mossant Field excluding Areas A, E, and C previously described, Area F described hereinafter, the airspace within the New Orleans Group III TCA north of the south shore of Lake Pontchartrain, and the airspace within the New Orleans Group II TCA north of the south shore of Lake Pontchartrain, to the point of beginning.

Airspace Docket No. 75-EM-17

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

Transition Area, Correction

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to delete reference to “Price” VOR in the description of the Price, Utah transition area and substitute “Carbon” therefore. This name change will become effective on June 19, 1975.

Also, in the description of Domestic VOR Federal Airway V134 substitute “Carbon” for “Price”.

The name change will become effective on June 19, 1975. Since this amendment is editorial in nature and no substantial change in regulation is effected, notice and public procedure thereon are unnecessary. In view of the foregoing, § 71.121(c) and § 71.121(39 FR 335) are amended by deleting “Price” in the description of VOR Federal Airways and transition area and substituting “Carbon” therefore. Effective date. This amendment shall be effective 0901 GMT, June 19, 1975.

Issued in Aurora, Colorado, on May 12, 1975.

I. H. HOOVER,
Acting Director.
Rocky Mountain Region.

Airspace Docket No. 73-WA-13

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

Designation of Terminal Control Area at New Orleans, Louisiana

On January 14, 1974, a notice of proposed rule making (NPRM) was published in the Federal Register (39 FR 1759) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate a Group II Terminal Control Area (TCA) for New Orleans, La.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. Numerous comments were received and were given due consideration.

The comments received in response to the Notice raised several objections, namely that the proposed TCA would force single-engine aircraft to overfly Lake Pontchartrain at low altitudes; the cost of transponder equipment; the impact to pilot training; lack of justification; and a cost estimate that the economic burden to install transponders on large numbers of helicopters and that tourists would avoid New Orleans.

The major objection to a TCA for New Orleans was that the area described, as described in the NPRM, would force single-engine aircraft to overfly Lake Pontchartrain to the north; or when flying south of the proposed TCA surface area through the Des Allemands swamp south of Highway 90.

In response to these objections the surface area, as proposed in the NPRM, has been redesigned to the north of the area north of the south shore of Lake Pontchartrain (Area A), an area along Highway 99 to the south (Area C), and remove a corridor from 1,000 feet MSL to 4,000 feet MSL in which to overfly Mossant Airport. These new areas (Areas B, C, and F) will eliminate the requirement of extended flight to avoid the lake and swamp areas, also, the objection of increased fuel consumption, will no longer be valid. Additionally, the floor of the TCA that overlies the Lakefront Airport has been raised from 3,000 feet to 4,000 feet MSL.

Federal Aviation Regulations 71.24(b) allows for the operation of helicopters without a transponder below 1,000 feet AGL if a letter of agreement is so do has been reached between the operator(s) and the New Orleans Approach Control. This will eliminate the economic burden to the large numbers of helicopters that operate within the area.

We do not feel that the statement that tourists will avoid New Orleans because of a TCA is a valid statement. We also believe that pilot training will not be affected to any great extent.

The establishment of terminal control areas at 22 large hub airports was proposed in Notice 69-41 and supplemental notices thereinto, and adopted on May 20, 1970 (35 FR 7782), to create a safer environment in congested terminal areas. Notice 73-WA-13 asked for information necessary to design an appropriate airspace configuration that can provide the safest environment with the least impact on the airport and its users. Substantial changes have been made in the New Orleans TCA configuration due to comments received to that notice.

As a result of objections, meetings have been held with the FAA and users in the New Orleans area. The results of these meetings are also reflected in the airspace configuration for the TCA.

An effort will be made to accommodate nontransponder-equipped aircraft based at New Orleans Lakefront Airport under the provisions of FAR 91.24. This will provide for transiat between Lakefront and the airports north of New Orleans when there is an actual need.

Operation will require an operational two-way radio and an air traffic control clearance and would be based on traffic flow and an effort will be made to accommodate nontransponder-equipped aircraft based at New Orleans Lakefront Airport under the provisions of FAR 91.24. This will provide for transiat between Lakefront and the airports north of New Orleans when there is an actual need.
FR 3, and was made effective with respect to first claims under the UCX program which were filed on and after January 5, 1975.

While the revised schedule was made effective immediately after publication, interested persons were invited to submit comments on revised § 614.19, through January 31, 1975. No comments were received, and no further change in 20 CFR 614.19 is contemplated at this time.

Submitted at Washington, D.C., this 5th day of May 1975.

John T. Dunlop,
Secretary of Labor.

[FR Doc.75-12205 Filed 5-8-75; 8:45 am]

PART 616—INTERSTATE ARRANGEMENT FOR COMBINING EMPLOYMENT AND WAGES

Definition of Paying State

Pursuant to section 3304(a)(9) and (B) of the Federal Unemployment Tax Act (29 U.S.C. 3304(a)(9) and (B) ), as amended by section 121 of the Employment Security Amendments of 1970, Pub. L. 91-373, 84 Stat. 702, and pursuant to 20 CFR 616.11, Title 20, chapter V, Part 616, of the Code of Federal Regulations was amended, effective December 31, 1974, by revising § 616.6(e), which defines the term "Paying State" for the purposes of the Interstate Arrangement for Combining Employment and Wages. The revisions were published in the Federal Register, 39 FR 45314, on December 31, 1974.

While the revisions were made effective upon publication in the Federal Register, interested persons were invited to submit comments on the revisions through January 31, 1975, as if the document were a proposal. No comments were received, and no further change in 20 CFR 616.6(e) is contemplated at this time.

Signed at Washington, D.C., this 30th day of April 1975.

John T. Dunlop,
Secretary of Labor.

[FR Doc.75-12206 Filed 5-8-75; 8:45 am]

PART 510—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEED

Tylosin

The Commissioner of Food and Drugs has evaluated a new animal drug application (96-2737V) filed by Kent Feeds, Inc., Muscatine, IA 52761, proposing safe and effective use of a tylosin premix for manufacture of animal feed. The application is approved, effective on May 9, 1975.

The Commissioner is amending Parts 510 and 558 (formerly Parts 135 and 135e prior to recodification published in the Federal Register of March 27, 1975 (40 FR 13802)) to reflect this approval.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(1), 82 Stat. 347 (21 U.S.C. 360b(1))) and under authority delegated to the Commissioner (21 CFR 2.120), Parts 510 and 558 are amended as follows:

1. Part 510, Subpart G, is amended in § 510.600 (formerly § 135.501) by adding a sponsor alphabetically to paragraph (c)(1) and numerically to paragraph (c)(2), as follows:

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

(c) * * *

(1) * * *

(2) * * *

2. Part 558, Subpart B, is amended in § 558.626 (formerly § 135e.10) by adding paragraph (b) (36) to read as follows:

§ 558.625 Tylosin.

(b) * * *

(36) To 013975: 0.8 gram per pound; paragraph (f) (1)(vi) (a) of this section. * * *

 Effective date: This amendment shall be effective on May 9, 1975.

(82 Stat. 347 (21 U.S.C. 360b(1)).)


Fred J. Kingma,
Acting Director, Bureau of Veterinary Medicine.

[FR Doc.75-12228 Filed 5-8-75; 8:45 am]

PART 510—NEW ANIMAL DRUGS

PART 558—NEW ANIMAL DRUGS: FOR USE IN ANIMAL FEED

Tylosin

The Commissioner of Food and Drugs has evaluated a new animal drug application (96-2302V) filed by J. C. Feed Mills, Waterloo, IA 50704, proposing safe and effective use of a tylosin premix for manufacture of swine feed. The application is approved, effective on May 9, 1975.

The Commissioner is amending Parts 510 and 558 (formerly Parts 135 and 135e prior to recodification published in the Federal Register of March 27, 1975 (40 FR 13802)) to reflect this approval.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic
Act (sec. 512(1), 82 Stat. 347 (21 U.S.C. 360b(1))) and under authority delegated to the Commissioner (21 CFR 2.120), Parts 510 and 558 are amended as follows:

1. Part 510, Subpart G, is amended in §510.600(c) (formerly §135.501(c)) by adding alphabetically to paragraph (c)(1) and numerically to paragraph (c)(2) a sponsor as follows:

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

(c) * * *

(1) * * *

Firm name and address: Drug listing No.

1. Allied Mills, Inc., 110 N. Wacker Drive, Chicago, IL 60604. 012323

(2) * * *

Drug listing No.: Firm name and address

012323. Allied Mills, Inc., 110 N. Wacker Drive, Chicago, IL 60606.

2. Part 558 is amended in §558.625 (formerly §135e.10) by adding paragraph (b)(3) to read as follows:

§558.625 Tylosin.

(b) * * *

(3) To 023741: 2 grams per pound; paragraph (f)(1)(vi) (a) of this section.

Effective date. This amendment shall become effective on May 9, 1975.

(Doc. No. 2242)

PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS

List of Communities; Correction

On November 5, 1973, in 38 FR 30441, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas and the map number and locations where Flood Hazard Boundary Maps were available for public inspection. This list included the Village of Lincolnshire, Illinois, as an eligible community and included Map No. H 170078 01 which indicates that the property at 20 Londonderry Lane, Deerfield, Illinois, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administrator, after further technical review of the above map in light of additional, recently acquired flood information, that the above property is not within the Special Flood Hazard Area. Accordingly, effective September 21, 1973, Map No. H 390598 01 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area.

(Doc. No. FT-242)

PART 510—NEW ANIMAL DRUGS

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Tylosin

The Commissioner of Food and Drugs has evaluated a new drug application (99-468V) filed by Allied Mills, Inc., 110 N. Wacker Drive, Chicago, IL 60606, proposing safe and effective use of a tylosin premix for manufacture of swine feed. The application is approved, effective on May 9, 1975.

The Commissioner is amending Parts 510 and 558 as follows:

1. Part 510 is amended in §510.600(c) (formerly §135.501(c)) by adding alphabetically to paragraph (c)(1) and numerically to paragraph (c)(2) a sponsor as follows:

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

(c) * * *

(1) * * *

Firm name and address: Drug listing No.

Allied Mills, Inc., 110 N. Wacker Drive, Chicago, IL 60604. 012323

(2) * * *

Drug listing No.: Firm name and address

012323. Allied Mills, Inc., 110 N. Wacker Drive, Chicago, IL 60606.

2. Part 558 is amended in §558.625 (formerly §135e.10) by adding paragraph (b)(3) to read as follows:

§558.625 Tylosin.

(b) * * *

(3) To 023741: 2 grams per pound; paragraph (f)(1)(vi) (a) of this section.

Effective date. This amendment shall become effective on May 9, 1975.

(Doc. No. 2242)

Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FT-211]

PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS

List of Communities; Correction

On September 30, 1973, in 38 FR 26368, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas and the map number and locations where Flood Hazard Boundary Maps were available for public inspection. This list included the Village of Lincolnshire, Illinois, as an eligible community and included Map No. H 170078 01 which indicates that the property at 20 Londonderry Lane, Deerfield, Illinois, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administrator, after further technical review of the above map in light of additional, recently acquired flood information, that the above property is not within the Special Flood Hazard Area. Accordingly, effective November 9, 1973, Map No. H 170078 01 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area.

(Doc. No. FT-242)
PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS

List of Communities; Correction

On December 28, 1973, in 38 FR 35458, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas and the map number and locations where Flood Hazard Rate Maps were available for public inspection. This list included the City of Mishawaka, Indiana, as an eligible community and included Map No. H 180227 03 which indicates that the One Hundred Center Complex, Mishawaka, Indiana, as recorded in Plat Record 1, Page 19, and Plat Record 6, Page 103 in the office of the Recorder of St. Joseph County, Indiana, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional recently acquired flood information, that the above property is not within the Special Flood Hazard Area.


Issued: April 25, 1975.


[FR Doc. 75-12246 Filed 5-8-75; 8:45 am]

[Docket No. FI-274]

PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS

List of Communities; Correction

On December 28, 1973, in 38 FR 35458, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas and the map number and locations where Flood Hazard Rate Maps were available for public inspection. This list included the Borough of Rumson, New Jersey, as an eligible community and included Map No. H 345316 07 which indicates that property located at 19 Highland Avenue, Rumson, New Jersey, as recorded in Deed Book 3883, Pages 296 and 297, in the office of the County Clerk of Monmouth County, New Jersey, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the structure on the above property is not within the Special Flood Hazard Area. Accordingly, effective December 28, 1973, Map No. H 345316 07 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area.


[FR Doc. 75-12246 Filed 5-8-75; 8:45 am]

[Docket No. FI-288]

Issued: April 17, 1975.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.75-12245 Filed 5-8-75;8:45 am]

[Docket No. FI-340]

PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS

List of Communities; Correction

On August 21, 1974, in 39 FR 30122, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas and the map number and locations where Flood Hazard Boundary Maps were available for public inspection. This list included the City of Lawton, Oklahoma, as an eligible community and included Map No. H 400049 05 which indicates that Lots No. 40 through 45, Block 10, Woodland Hills Addition, Lawton, Oklahoma, as recorded in Book 931, Page 707 in the county records of the Comanche County, Oklahoma, are in their entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that Lots No. 44 and 45 and the structures on Lots No. 44 through 45 of the above property are not within the Special Flood Hazard Area. Accordingly, effective August 9, 1974, Map No. H 400049 05 is hereby corrected to reflect that Lots No. 44 and 45 and the structures on Lots No. 44 through 45 of the above property are not within the Special Flood Hazard Area.


Issued: May 1, 1975.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.75-12245 Filed 5-8-75;8:45 am]

[Docket No. FI-341]

PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS

List of Communities; Correction

On August 29, 1974, in 39 FR 31526, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas and the map number and locations where Flood Hazard Boundary Maps were available for public inspection. This list included the City of Newport News, Virginia, as an eligible community and included Map No. H 510103 15 which indicates that Lots No. 1,1A, 2 through 15, 15A, 16, 16A, 17, 18, 18A, 19, 19A, 20 through 30, 30A, 31, 31A, 32, 32A, 33, 33A, 34, and 38 through 42, Beechwood Subdivision, Section 25, Newport News, Virginia, as recorded in Plat Book 9, Page 20 in the office of the Clerk of City Court of Newport News, Virginia, in their entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above property is not within the Special Flood Hazard Area. Accordingly, effective August 16, 1974, Map No. H 510103 15 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area.


J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.75-12242 Filed 5-8-75;8:45 am]

Title 45—Public Welfare

CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 182—COOPERATIVE EDUCATION PROGRAMS

Notice of proposed rulemaking was published in the Federal Register on January 17, 1975 (40 FR 5097) setting forth regulations governing the administration of cooperative education programs under Part D of Title IV of the Higher Education Act of 1965. As amended, this provision provides funds to institutions of higher education for administration of cooperative education programs; grants to or contracts with institutions of higher education for training or research related to cooperative education; and grants to public or nonprofit private agencies or organizations, or contracts with public or private agencies or organizations, in order to give students in cooperative education programs the opportunity to receive credit toward the degree which grants or contracts will make a significant contribution to obtaining the objectives of the program. Pursuant to section 503 of the Education Amendments of 1972, (Pub. L. 92-318), a public hearing on the proposed regulations was held in Washington, D.C. on February 18, 1975. In addition, interested persons were invited to submit written comments to the Office of Education.

Summary of comments. Both the written comments and the testimony received at the hearing requested that the regulations be changed to reflect a broader concept of cooperative education which would encompass "parallel type" as well as alternate type cooperative education programs. No other suggested changes in the regulations was proposed.

Response. The regulations are in accord with the statutory definition of cooperative education program. The suggested changes would require a legislative amendment. Accordingly, no changes have been made in the proposed regulations.

Effective date. Pursuant to section 451(d) of the General Education Provisions Act, as amended by Pub. L. 92-138, these regulations were transmitted to Congress concurrently with the publication of the notice of proposed rulemaking in the Federal Register. The statutory period for Congressional action under section 451(d) expired without action having been taken.

Pursuant to section 503(d) of the Education Amendments of 1972 (Pub. L. 92-138), these regulations become effective on or before June 9, 1975.
sec.

182.4 General provisions.

20 U.S.C. 1087a-1087c.

182.2 Definitions.

20274

182.11 Eligible programs.

§ 182.1 Scope and purpose.

182.23 Funding criteria for training proj­

182.22 Eligible projects.

182.24 Trainee stipends and dependency

182.26 Reporting requirements.

182.25 Funding criteria for research and

Subpart C—Training, Demonstration, and

Research Projects

Subpart B—Cooperative Education Programs

§ 182.12 Funding criteria for institutional

programs.

Subpart A—General

§ 182.1 Scope and purpose.

This part establishes regulations im­
plementing the Cooperative Education
Programs (Part IV-D of the Higher Educa­
tion Act of 1965, as amended). The

program through enrollment of the student
during the work experience and through

efforts of the Act has not resulted in a re­
balance in the student's work experience
and his academic study;

(c) Provide for compensation to the

student by the employer at the prevailing
rate for other employees in comparable
positions; provided, however, that an
exception may be made for a student who
chooses to work for a social or educa­
tional agency without pay or at a rate
less than the prevailing rate for compa­
able full-time employees; and

(d) Require the student to be present

on the job for the same number of hours,
or otherwise spend the same amount of
time, as the employer has established as
full-time employment for purposes other

than programs under this part.

"Full-time student" means a student

who is carrying a full-time academic work
load, other than by correspondence,
measured in terms of (a) the tuition and

fees customarily charged for full-time
study by the institution and (b) the

student's work experience and his

academic study.

"Institution of higher education" or

"institution" means an institution of

higher education under this part.

"Cooperative education" means a

group of institutions that have entered into a
cooperative arrangement for the purposes of
carrying out a mutual objective in the field of
cooperative education or a public or pri­

career objectives;

(b) Are incorporated, as a regular and

integrated part of the educational

mission of the group of institutions;

(c) Are related to the student's educa­
tional, professional, or career objectives;

(d) Are authorized to make grants to

institutions of higher education for planning

establishing, expanding, or carrying out a pro­

gram of cooperative education as defined in

§ 182.2;

(e) An institution may not receive

annual grants under this subpart for more

than three fiscal years.

§ 182.12 Funding criteria for institu­
tional programs.

The Commissioner shall evaluate appli­
cations under this subpart in accord

both with the criteria set out in § 100a-

26(b) of this chapter and with the fol­

lowing:

(1) Comprehensive and in-depth plan­
ing;

(2) Direct liaison between the institu­
tion and the student's employing agency;

(3) Supervision by the institution of the
placement of students in education­

ally related work experience;

(4) Securing by the institution of an
adequate number of employment oppor­
tunities;

(5) Provision of adequate guidance and

counseling by the institution; and

(6) Efforts by the institution to pro­
mote interaction between the student's

work experience and his academic study;

(b) Whether the period of education­
ally related work experience is of suffi­
cient duration to make a significant contri­

bution toward meeting the student's
educational and career goals;

(c) The extent to which the proposal
reflects institutional commitment to co­
operative education as evidenced by;

(1) The involvement of administra­
tors, trustees, faculty, students, prospec­
tive employers, and cooperative educa­
tion specialists;

(2) The establishment of procedures
for making curriculum and calendar
changes needed to reflect the particular
needs of students participating in the
cooperative education program; and

EC 02074 RULES AND REGULATIONS
(Catalog of Federal Domestic Assistance, Pro­
gram No. 13.510; Cooperative Education)

Dated: April 17, 1975.

T. H. Bell,

U.S. Commissioner of Education.

Approved: May 1, 1975.

Caspar W. Weinberger,

Secretary of Health, Education,
and Welfare.

Subpart A—General

§ 182.2 Definitions.

Cooperative education means a

course of study at an institution of

higher education under which full-time students
enrolled in the institution undertake, as

a prescribed program of study, full-time
academic study for specified periods of
time in sequence with at least two sepa­
rate periods of full-time educationally
related work experience in government,
industry, business, or social or educa­
tional agencies, for a specified period of
time of not less than one week for each
period.

"Full-time educationally related work
experience" means employment or serv­

ice in which a student undertakes activi­

ties which:

(a) Are related to the student's educa­
tional, professional, or career objectives;

(b) Are incorporated, as a regular and

essential part of the student's educational

mission, into the academic curriculum of the

institution's cooperative education pro­

gram through enrollment of the student

during the work experience and through

efforts of the Act has not resulted in a re­
balance in the student's work experience
and his academic study;

(c) Provide for compensation to the

student by the employer at the prevailing
rate for other employees in comparable
positions; provided, however, that an
exception may be made for a student who
chooses to work for a social or educa­
tional agency without pay or at a rate
less than the prevailing rate for compa­
able full-time employees; and

(d) Require the student to be present

on the job for the same number of hours,
or otherwise spend the same amount of
time, as the employer has established as
full-time employment for purposes other

than programs under this part.

"Full-time student" means a student

who is carrying a full-time academic work
load, other than by correspondence,
measured in terms of (a) the tuition and

fees customarily charged for full-time
study by the institution and (b) the

student's work experience and his

academic study.

"Institution of higher education" or

"institution" means an institution of

higher education under this part.

"Cooperative education" means a

group of institutions that have entered into a
cooperative arrangement for the purposes of
carrying out a mutual objective in the field of
cooperative education or a public or pri­

career objectives;

(b) Are incorporated, as a regular and

integrated part of the educational

mission of the group of institutions;

(c) Are related to the student's educa­
tional, professional, or career objectives;

(d) Are authorized to make grants to

institutions of higher education for planning

establishing, expanding, or carrying out a pro­

gram of cooperative education as defined in

§ 182.2;

(e) An institution may not receive

annual grants under this subpart for more

than three fiscal years.

§ 182.12 Funding criteria for institu­
tional programs.

The Commissioner shall evaluate appli­
cations under this subpart in accord

both with the criteria set out in § 100a-

26(b) of this chapter and with the fol­

lowing:

(1) Comprehensive and in-depth plan­
ing;

(2) Direct liaison between the institu­
tion and the student's employing agency;

(3) Supervision by the institution of the
placement of students in education­

ally related work experience;

(4) Securing by the institution of an
adequate number of employment oppor­
tunities;

(5) Provision of adequate guidance and

counseling by the institution; and

(6) Efforts by the institution to pro­
mote interaction between the student's

work experience and his academic study;

(b) Whether the period of education­
ally related work experience is of suffi­
cient duration to make a significant contri­

bution toward meeting the student's
educational and career goals;

(c) The extent to which the proposal
reflects institutional commitment to co­
operative education as evidenced by;

(1) The involvement of administra­
tors, trustees, faculty, students, prospec­
tive employers, and cooperative educa­
tion specialists;

(2) The establishment of procedures
for making curriculum and calendar
changes needed to reflect the particular
needs of students participating in the
cooperative education program; and

FEDERAL REGISTER, VOL. 40, NO. 91—FRIDAY, MAY 9, 1975

30654, November 6, 1973, as amended 39 FR 19211, May 31, 1974)

Subpart B—Cooperative Education

Programs

§ 182.11 Eligible programs.

(a) Grants may be awarded under this
subpart to institutions of higher educa­
tion for the purpose of planning, estab­
lishing, expanding, or carrying out a pro­
gram of cooperative education as defined in

§ 182.2;

(b) An institution may not receive
annual grants under this subpart for more

than three fiscal years.

(c) Grants awarded to any institution
under this subpart shall not exceed
$75,000 in any fiscal year.

(20 U.S.C. 1067b)

§ 182.12 Funding criteria for institu­
tional programs.

The Commissioner shall evaluate appli­
cations under this subpart in accord

both with the criteria set out in § 100a-

26(b) of this chapter and with the fol­

lowing:

(1) The extent to which the proposed
program gives evidence of:

(2) Direct liaison between the institu­
tion and the student's employing agency;

(3) Supervision by the institution of the
placement of students in education­

ally related work experience;

(4) Securing by the institution of an
adequate number of employment oppor­
tunities;

(5) Provision of adequate guidance and

counseling by the institution; and

(6) Efforts by the institution to pro­
mote interaction between the student's

work experience and his academic study;

(b) Whether the period of education­
ally related work experience is of suffi­
cient duration to make a significant contri­

bution toward meeting the student's
educational and career goals;

(c) The extent to which the proposal
reflects institutional commitment to co­
operative education as evidenced by;

(1) The involvement of administra­
tors, trustees, faculty, students, prospec­
tive employers, and cooperative educa­
tion specialists;

(2) The establishment of procedures
for making curriculum and calendar
changes needed to reflect the particular
needs of students participating in the
cooperative education program; and

FEDERAL REGISTER, VOL. 40, NO. 91—FRIDAY, MAY 9, 1975

30654, November 6, 1973, as amended 39 FR 19211, May 31, 1974)
§ 182.13 Maintenance of effort.

An institution receiving a grant under this subpart shall, during the period of the grant, provide support, from sources other than this part, for the program or programs assisted under the grant at a level not less than it expended from sources other than Title IV-D of the Higher Education Act on such program or programs during the fiscal year preceding such grant.

(20 U.S.C. 1087b)

§ 182.14 Ineligible expenditures.

(a) Assistance provided under this subpart shall not be used for:

(1) Compensating any student for his educationally related work experience or providing financial assistance to any student to meet the costs of his education;

(2) Compensating any person serving in a cooperative education program, in an administrative or clerical position, if such person is receiving payment for services on a full-time basis during the same period under another Federal grant or contract;

(3) Purchasing or leasing equipment, unless specifically authorized by the Commissioner;

(4) Purchasing or leasing land or purchasing, leasing, constructing, or improving any building.

(20 U.S.C. 1087b)

(b) Assistance provided under this subpart shall not be used for any program which involves sectarian training or which is intended primarily to prepare students to be ministers or teachers of religious subjects.

(20 U.S.C. 1087a, 1087b)

§ 182.15 Records and reports.

(a) An institution receiving a grant under this subpart shall make such reports and shall keep such records as the Commissioner may require and shall afford access to such records on the part of the Commissioner at any reasonable time.

(b) The institution shall submit a performance report within 60 days after the conclusion of the grant period.

(20 U.S.C. 1087b)

Subpart C—Training, Demonstration and Research Projects

§ 182.21 Eligible grantees and contractors.

The following agencies are eligible to receive awards for projects under this subpart:

(a) Grantees. Institutions of higher education, combinations of such institutions, and, when the Commissioner determines that such grant will make an especially significant contribution to attaining the objectives of this subpart, other public or nonprofit private agencies or organizations.

(20 U.S.C. 1087c)

§ 182.22 Eligible projects.

The Commissioner may make grants or contracts under this subpart to grantees and contractors who are eligible under § 182.21 for the following purposes:

(a) To train persons for planning, establishing, administering, or coordinating programs of cooperative education;

(b) To demonstrate or explore the feasibility or value of innovative methods of cooperative education; or

(c) To research methods of improving, developing, or promoting the use of programs of cooperative education.

(20 U.S.C. 1087c)

§ 182.23 Funding criteria for training projects.

The Commissioner shall evaluate applications for training projects under this subpart in accord both with the criteria set out under § 106a.26(b) of this chapter and with the following:

(a) The extent to which the project proposes to make trainees aware of the need to modify existing undergraduate teaching practices, and the student calendar, and curricula in order to inaugurate and administer cooperative education programs;

(b) The extent to which the training project incorporates prior experience in or builds upon prior successful cooperative education programs or introduces successful innovations;

(c) The extent to which the proposed training project provides for clearly defined procedures that give evidence of comprehensive and indepth planning;

(d) The extent to which the proposed training project shows promise of developing trainees who may apply their expertise in more than one type of cooperative education program; and

(e) The extent to which the applicant demonstrates its commitment to a cooperative education training program by proposing to utilize resources other than those which may be made available by the Federal Government.

(20 U.S.C. 1087c)

§ 182.24 Trainee stipends and dependency allowances.

(a) Stipends. The Commissioner shall include in any grant or contract for a training project an amount sufficient to pay each trainee attending a full-time training institute of at least one week's duration a stipend of $75 per week.

(b) Dependency allowances. The Commissioner shall include in any grant or contract for a training project an amount sufficient to pay dependency allowances up to $15 per week for each dependent of a trainee in a full-time institute which is four weeks or more in duration. For purposes of this subparagraph, "dependent" means any of the following persons, if the trainee to whom the allowance is paid is providing over half of such person's support for the calendar year in which the training institute begins:

1. A spouse;

2. A son or daughter of the trainee or a descendant of either;

3. A stepson or stepdaughter of the trainee;

4. A brother, sister, stepbrother or step­sister of the trainee;

5. A father or mother of the trainee or an ancestor of either;

6. A stepfather or stepmother of the trainee;

7. A son or daughter of a brother or sister of the trainee;

8. A brother or sister of the father or mother of the trainee;


10. An individual (other than the trainee's spouse) who during the calendar year in which the training begins, has been living in the trainee's home and is a member of the trainee's household (but not if the relationship between the individual and the trainee is in violation of local law); or

11. An individual who—

(i) Is a descendent of a brother or sister of the father or mother of the trainee;

(ii) For the academic year of the trainee receives institutional care required by reason of a physical or mental disability; and

(iii) Before receiving such institutional care was a member of the same household as the trainee.

(20 U.S.C. 1087c)

§ 182.25 Funding criteria for research and demonstration projects.

The Commissioner shall evaluate applications for research or demonstration projects under this subpart in accord both with the criteria set out in § 106a.26(b) of this chapter and with the following:

(a) The extent to which the research project proposes to test the degree of change necessary to modify existing undergraduate teaching practices, the student calendar, or curricula to meet the needs of students participating in a cooperative education program;

(b) The extent to which the research project provides for:

(1) Well delineated methodologies;

(2) Realistically designed work schedules; and

(3) A logical relationship between stated objectives and research design;
proposes to demonstrate the feasibility of approaches to the operation of cooperative education programs and evaluate

Various methods of information dissemination.

(20 U.S.C. 1087c) 

§ 182.26 Reporting requirements. 

(a) A recipient of a grant or contract under this subpart shall submit quarterly reports as the Com- misioner may require, which shall include information on;

(1) The extent to which the objectives of the projects have been accomplished;

(2) What factors, if any, have prevented the accomplishment of project objectives; and what corrective measures are being taken; and

(3) Any highly significant aspects of the project.

(b) The recipient of a grant or contract under this subpart shall also submit a final report to the Commissioner within 60 days after conclusion of the project.

(20 U.S.C. 1087c) 

Title 49—Transportation

SUBTITLE A—OFFICE OF THE SECRETARY OF TRANSPORTATION

[OST Docket No. 2, Amdt. 7-11] 

PART 7—PUBLIC AVAILABILITY OF INFORMATION

Freedom of Information Act and Locations of Public Inspection Facilities

The purpose of this amendment is to revise and renumber some of the portions of Part 7 of the Regulations of the Office of the Secretary, which contain the locations of public inspection facilities and the indexes to materials available under the Freedom of Information Act. Appendices A through F are revised; Appendices G and H remain unchange1ed and are not republished here.

Since this amendment relates to Departmental management, procedures and practices, notice and public procedure thereon are unnecessary and it may be made effective in fewer than 30 days after publication in the Federal Register.

In consideration of the foregoing Appendices A through E of Part 7 of title 49, Code of Federal Regulations, are amended to read as follows:

APPENDIX A—OFFICE OF THE SECRETARY

1. General. This appendix describes the location and hours of operation of the document inspection facility of the Office of the Secretary. It contains the kinds of records that are available for public inspection and copying at the facility and the procedures by which members of the public may make requests for records.

2. Document inspection facility. The document inspection facility for the Office of the Secretary is maintained by the Office of Public Affairs, Room 10105, Newseum Building, 400 Seventh Street, SW., Washington, D.C. 20590. Records may be inspected from 9 a.m. to 5:30 p.m. local time, Monday through Friday except Federal holidays.

3. Records available through the document inspection facility. The following records are available through the document inspection facility:

(a) Any material issued by the Office of the Secretary and published in the Federal Register, including regulations.

(b) Final opinions and orders made in the adjudication of cases and issued from within the Office of the Secretary.

(c) Any policy or interpretation issued within the Office of the Secretary, including any policy or interpretation concerning a particular factual situation, if that policy or interpretation can reasonably be expected to have precedential value in any case involving a member of the public in a similar situation.

(d) Any administrative staff manual or procedure that affects any member of the public, including the provisions of any standard, procedure, or policy that when implemented requires or permits any action by any member of the public or pre­scribes the manner of performance of any activity by any member of the public.

(e) DOT Orders. DOT orders which are issued by the Department of Transportation and used primarily to promulgate internal DOT policy, instructions, and general guidance.

(f) OST Notices. OST notices which are issued by the Office of the Secretary and used primarily to promulgate internal OST policy, instructions, and general guidance.

(g) OST Orders. OST orders which are issued by the Office of the Secretary and used primarily to promulgate internal OST policy, instructions, and general guidance.

4. Requests for records under Subpart E of this part. Each person desiring to have a record, or to obtain a copy thereof, submit his request in writing to the Director of Public Affairs, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590.

APPENDIX B—UNITED STATES COAST GUARD

1. General. This appendix describes the document inspection facilities of the U.S. Coast Guard, the kinds of records that are available for public inspection and copying at those facilities and the procedures by which members of the public may make requests for identifiable records.

2. Document inspection facilities. The document inspection facilities are located at the offices of the Commandant and the district commanders. These facilities are open to the public during regular working hours at the following addresses:

Commandant (A), U.S. Coast Guard, Wash­ington, D.C. 20590. The facility is located at the Coast Guard Headquarters, Office of Public and International Affairs, 400 7th Street, SW.

Commandant (B), U.S. Coast Guard, Wash­ington, D.C. 20002. The facility is located at the Coast Guard Headquarters, Office of Public and International Affairs, 400 7th Street, SW.

Commandant (C), U.S. Coast Guard, Wash­ington, D.C. 20590. The facility is located at the Coast Guard Headquarters, Office of Public and International Affairs, 400 7th Street, SW.
RULES AND REGULATIONS

Federal Aviation Administration.

20277

Federal Register, Vol. 40, No. 91—Friday, May 9, 1975

The decision of the Commandant or his designee is administratively final.

APPENDIX C—FEDERAL AVIATION ADMINISTRATION

Fees are refundable when the request is made in writing to the Assistant Administrator, Office of Information Services, FAA Headquarters. The address of FAA Headquarters and the Regions and Centers are listed in paragraph 2 of this appendix. If the location of the record is not known, the request may be submitted to the Assistant Administrator, Office of Information Services, FAA Headquarters. Each request must be accompanied by the appropriate fee prescribed in Subpart H of this part, which amount may be waived by the Administrator, Deputy Administrator and the Regional or Center Director concerned upon the making of a member of the public in a similar situation.

All such policies and interpretations made by the Administrator, Deputy Administrator, Assistant Administrator, Directors and Heads of Offices are available at the FAA Headquarters and Regional Center document inspection facility; only those policies and interpretations made by the Administrator, Deputy Administrator and the Regional or Center Director concerned shall be available at the National and Center document inspection facilities.

(3) Administrative staff manuals or instructions to staff that affect any member of the public, including the prescribing of any standard, procedure, or policy that, when implemented, requires or limits any action of a member of the public or prescribe the manner of performance of any activity by any member of the public. Such documents are available at the inspection facilities of the organizational unit which has issued them.

(a) An index of the records located at each of the inspection facilities is maintained at that facility.

(b) The records and the index may be inspected, at the facility, without charge. Copies of the records may be obtained in writing to the Assistant Administrator, Office of Information Services, FAA Headquarters. The address of FAA Headquarters is located at FAA Headquarters. The address of the FAA Headquarters and the Regions and Centers are listed in paragraph 2 of this appendix. If the location of the record is not known, the request may be submitted to the Assistant Administrator, Office of Information Services, FAA Headquarters. Each request must be accompanied by the appropriate fee prescribed in Subpart I of this part. In some instances, the amount of the fee will have to be determined after the request has been received due to the circumstances peculiar to each case. The following table gives illustrations of records and where they are located:

<table>
<thead>
<tr>
<th>Category</th>
<th>Locations</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Airman certificates and ratings for pilots licensed instrument pilots, flight engineers, aircraft dispatchers, mechanics, repairmen, air traffic control operators, air traffic controllers, and ground instructor certificates are maintained at the Aeronautical Center.</td>
<td></td>
</tr>
<tr>
<td>(b) Aircraft registration certificates, and airworthiness certificates are maintained at the Aeronautical Center.</td>
<td></td>
</tr>
<tr>
<td>(c) Aircraft type certificates and production certificates are maintained at the regional office within which the issuance was made.</td>
<td></td>
</tr>
<tr>
<td>(d) Ferry permits and special flight authorizations are maintained at the district office of the region within which the issuance was made.</td>
<td></td>
</tr>
<tr>
<td>(e) Air carrier operating certificates, commercial operator certificates, aircraft operator certificates, repair station certificates, and type certificates are maintained at the Aeronautical Center.</td>
<td></td>
</tr>
</tbody>
</table>

6. Reconsideration of determinations not to disclose records. Any person who has been notified in writing that a record or part of a record has been requested and cannot be disclosed may apply in writing to the Commandant, U.S. Coast Guard, for reconsideration of that request. The decision of the Commandant or his designee is administratively final.

APPENDIX C—FEDERAL AVIATION ADMINISTRATION

1. General. This appendix describes the document inspection facilities of the Federal Aviation Administration, the kinds of records that are available for public inspection and copying at these facilities, and the procedure for making requests for reasonably described records.

2. Document inspection facilities. Document inspection facilities are maintained for FAA Headquarters, each FAA regional office, the Aeronautical Center, and the National Aviation Facilities Experimental Center. The document inspection facility for the European Region is located at FAA Headquarters. These facilities are open to the public during regular working hours at the following addresses:

<table>
<thead>
<tr>
<th>Region</th>
<th>Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>Central Region</td>
<td>FAA Headquarters, 800 Independence Avenue, SW, Washington, D.C. 20591.</td>
</tr>
<tr>
<td>Alaskan Region</td>
<td>FAA Headquarters, 822 Sixth Avenue, Anchorage, Alaska 99501.</td>
</tr>
<tr>
<td>Pacific Region</td>
<td>FAA Headquarters, 4400 Whipple Street, East Point, Ga. (Mailing Address: Post Office Box 90680, Atlanta, Ga. 30320.)</td>
</tr>
<tr>
<td>Southern Region</td>
<td>FAA Headquarters, 4400 Blue Mound Road (Mailing Address: Post Office Box 9010), Fort Worth, Tex.</td>
</tr>
<tr>
<td>Western Region</td>
<td>FAA Headquarters, 1610 West Manchester Avenue (Mailing Address: Post Office Box 92000), Los Angeles, Calif. 90045.</td>
</tr>
<tr>
<td>Eastern Region</td>
<td>FAA Headquarters, 632 Sixth Avenue, Anchorage, Alaska 99501.</td>
</tr>
<tr>
<td>Southwest Region</td>
<td>FAA Headquarters, 4400 Blue Mound Road (Mailing Address: Post Office Box 9010), Fort Worth, Tex.</td>
</tr>
<tr>
<td>Northwest Region</td>
<td>FAA Headquarters, 531 West Manchester Avenue (Mailing Address: Post Office Box 92000), Los Angeles, Calif. 90045.</td>
</tr>
</tbody>
</table>

The decision of the Commandant or his designee is administratively final.

Appendix C—Federal Aviation Administration
c. Records covering civil rights violations determinations under title VI Civil Rights Act of 1964 are located at FAA Headquarters.

d. Records located at the regional office within which the grant was made.

e. Records of approvals for navigational aids and similar systems under FAA Authority.

Regional Federal Highway Administrator, Region 9, Federal Highway Administration, P.O. Box 9234, Building 102, Federal Center, Denver, CO 80202 (7:45-4:15 Mountain Time).

Regional Federal Highway Administrator, Region 10, Federal Highway Administration, Rm. 313, Mohawk Bldg., 222 SW, Morris- old, Portland, OR 97204 (8:00-4:45 Pacific Time).

Regional Federal Highway Administrator, Region 15, Federal Highway Administration, 1000 North Glebe Road, Arlington, VA 22201 (7:45-4:15 Eastern Time).

DIVISION OFFICES

Alabama, 441 High Street, Montgomery, AL 36104 (7:45-4:30 Central Time).

Arkansas, Room 3128, Federal Building, 7th and Capitol Avenue, Little Rock, AR 72201 (7:45-4:30 Central Time).

California, Federal Bldg., 2nd Floor, 901 I Street, Sacramento, CA 95814 (7:45-4:30 Pacific Time).

Colorado, 1948 W. 6th Place, Denver, CO 80215 (7:45-4:30 Mountain Time).

Connecticut, 990 Wethersfield Avenue, Hartford, CT 06114 (7:45-4:30 Eastern Time).

Delaware, Federal Office Building, 2nd Floor, 300 Concord Street, Dover, DE 19901 (8:00-4:30 Eastern Time).


Florida, Ackerman Bldg., 223 W. College Ave., Tallahassee, FL 32301 (8-4:30 Eastern Time).

Georgia, Suite 700, 1422 Peachtree Street, NW, Atlanta, GA 30309 (8-4:30 Eastern Time).


Idaho, 3010 W. State Street, Boise, ID 83703 (8-5:00 Mountain Time).

Illinois, 3085 East Stevenson Drive, Spring­field, IL 62707 (7:30-4:15 Central Time).

Indiana, I.S.T.A. Center, Room 707, 150 W. Market Street, Indianapolis, IN 46204 (7:30-4:30 Eastern Time).

Iowa, 106 Sixth Street, Ames, IA 50010 (7:45-4:30 Central Time).

Kansas, 1263 Topeka Avenue, Topeka, KS 66612 (8-4:30 Central Time).

Louisiana, Federal Bldg., Room 239, 750 Florida St., Baton Rouge, LA 70801 (8-4:30 Central Time).

Kentucky, 151 Elkhorn Court, Frankfort, KY 40601 (8-4:30-4:45 Eastern Time).

Louisiana, Federal Bldg., Room 239, 750 Florida St., Baton Rouge, LA 70801 (8-4:30 Central Time).

Maine, Federal Building, U.S. Post Office, Room 614, 40 Western Avenue, Augusta, ME 04330 (7:45-4:30 Central Time).

Maryland, The Rotunda, 220, 711 West 40th Street, Baltimore, MD 21211 (8-4:30 Eastern Time).

Massachusetts, John F. Kennedy Federal Building, Government Center, Room 612, Boston, MA 02203 (8:15-4:15 Eastern Time).

Michigan, Federal Building, 315 West Allegan Street, Room 211, Lansing, MI 48901 (8-4:45 Eastern Time).

Minnesota, Metro Square Building, Suite 400, Seventh & Robert Streets, St. Paul, MN 55101 (7:30-4: Central Time).

Mississippi, 665 North Street, Suite 105, Jackson, MS 39202 (7:45-4:15 Central Time).

Missouri, 209 Adams Street, Jefferson City, MO 65101 (7:45-4:15 Central Time).

Montana, 501 N. First Street, Helena, MT 59601 (7:45-4:15 Central Time).

Nebraska, 1701 South 17th Street, Lincoln, NE 68502 (8-4:30 Central Time).


New Hampshire, Federal Building, 55 Pleasant Street, Concord, NH 03301 (7-4:45 Eastern Time).

New Jersey, Suburban Square Building, 25 Scotch Road, Trenton, NJ 08628 (8-4:30 Eastern Time).

New Mexico, 117 U.S. Courthouse, Santa Fe, NM 87501 (7-30-4:30 Mountain Time).


North Carolina, 310 New Bern Avenue, Raleigh, NC 27601 (8-4:30 Eastern Time).

North Dakota, New Federal Bldg., P.O. Box 1735, Bismarck, ND 58501 (7:45-4:30 Central Time).

Ohio, Bryson Building, Room 333, Columbus, OH 43215 (8-4:30 Eastern Time).

Oklahoma, 209 North Main, Oklahoma City, OK 73102 (8-4:30 Central Time).

Oregon, Standard Insurance Building, 477 Cottage Street, NE Salem, OR 97308 (7:45-4:30 Pacific Time).

Pennsylvania, 228 Walnut Street, Harrisburg, PA 17108 (8-4:30 Eastern Time).

Puerto Rico, Castillo Court, Rm. 605, 1250 Ponce de Leon Avenue, San Juan, PR 00907 (8-30-4:30 Atlantic Time; 7-30-4:30 Eastern Time).

Rhode Island, 2001 Assembly Street, Suite 208, Providence, RI 02901 (8:15-4:15 Eastern Time).

South Carolina, P.O. Box 700, Federal Office Building, 5th Floor, Columbia, SC 29201 (8:15-4:45 Eastern Time).

South Dakota, 2051 Assembly, Suite 208, May Avenue, Pierre, SD 57501 (8-4:30 Central Time).

Tennessee, Suite 236, 4000 Hillsboro Road, Nashville, TN 37215 (8-4:30 Central Time).

Texas, Rm. 326, Federal Office Building, 300 East Eighth Street, Austin, TX 78701 (7:45-4:35 Central Time).

Utah, Federal Bldg., 125 South State Street, Salt Lake City, UT 84111 (7-4-30 Mountain Time).

Vermont, Federal Building, Montpelier, VT 05602 (8-4:30 Eastern Time).

Virginia, Federal Building, 5th Floor, 400 North Ninth Street, Richmond, VA 23246 (7-45-4:35 Eastern Time).

Washington, 1001 5th Avenue, Suite 100, WA 98101 (8-4:30 Central Time).

West Virginia, Rm. 200 Federal Office Building, 500 Quarter Street, Charleston, WV 25301 (8-4:30 Eastern Time).

Wisconsin, 1400 W. St. Mary's St., Madison, WI 53706 (7:45-4:30 Eastern Time).

Wyoming, O’Maloney Federal Center, 2129 Capitol Street, Cheyenne, WY 82003 (7:45-4:45 Mountain Time).


Any person to whom a record has been requested cannot be denied access unless the records are available to the public.

4. Final opinions (including concurring and dissenting opinions, if any) and orders made in the adjudication of cases and issued from within the Federal Highway Administration.

5. Reconsideration of determination not to disclose records. Any person to whom a record has been requested cannot be denied access unless the records are available for public inspection and copying at these facilities, and the procedures by which members of the public may make requests for records.

6. Document Inspection Facilities. Document inspection facilities are maintained at the FHWA Headquarters office, each FHWA regional office, and each FHWA division office. These facilities are open to the public during regular FHWA working hours which are included parenthetically after each address below. Written requests for information should be sent to the address of the Federal Highway Administration, Office of Information Services, and the envelope in which the request is sent must be prominently marked with the letters "FOIA."
case involving a member of the public in a similar situation.

The following records are available thru all FHWA document inspection facilities:

1. FHWA Orders. These orders are issued by FHWA Administration and used primarily to promulgate internal FHWA policy, instructions, and general guidance.

2. Reconsideration is available, thru the Federal Highway Administration and contain short term instructions or information which is expected to remain in effect for less than 60 days or for a predetermined period of time normally not to exceed one year.

3. FHWA Bulletins. These bulletins are issued by the Federal Highway Administration and are used to promulgate one time announcements, seminars or topical reports, publications, and other similar material.

4. FHWA/NHTSA Orders. These orders issued jointly by the Federal Highway Administration and the National Highway Traffic Safety Administration and contain policies, procedures, and information pertaining to the joint administration of the Interstate and Community Highway Safety Programs.

5. FHWA Manuals. These manuals are issued by the Federal Highway Administration and contain detailed procedures relating to policies and program responsibilities. They include:

   (i) Federal-Aid Highway Program Manual. This Manual contains policies, procedures, standards and guidelines relating to the administration of the Federal-Aid Highway Program and the Direct Federal Construction Program.
   (iii) Administrative Manual.
   (ix) Research and Development Program Manual.
   (xi) Motor Carrier Safety Operations Manual. These Manuals contain details of compliance with applicable Federal-aid and safety standards, and guides relating to the administration of the Federal Highway Administration, apply to the aspects of state highway safety programs for which responsibility resides within the Federal Highway Administration under the Highway Safety Act of 1966 and delegations of authority by the Secretary of Transportation.
   (xii) Motor Carrier Safety Administrative Rulings.
   (xiii) Motor Carrier Safety Waivers From Regulations.

6. Indexes for the above records.

4. Requests for Records under Subpart E of this part. Each person desiring to inspect a record, or to obtain a copy thereof, may submit his request, in writing, to the FHWA Records Officer for Administration, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590 for reconsideration of his request. The decision of the Associate Administrator for Administration is administratively final.

APPENDIX E—FEDERAL RAILROAD ADMINISTRATION

1. General. This appendix describes the document inspection facility of the Federal Railroad Administration, the kinds of records that are available for public inspection and copying at that facility and the procedures by which the public may make requests for identifiable records.

2. Document inspection facility. The document inspection facility of the Federal Railroad Administration is maintained at the headquarters of the Federal Railroad Administration, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590. This facility is open to the public during regular working hours.

3. Records available at the document inspection facility:

   (a) Any material issued by the Federal Railroad Administration and published in the Federal Register, including regulations.
   (b) Final opinions (including concurrence and dissenting opinions) made in the adjudication of cases and issued from within the Federal Railroad Administration, including the issuance of orders and orders issued under the Safety Appliance Acts, Hours of Service Act, Signal Inspection Act, Locomotive Inspection Act, Accident Reports Act, and the Federal Railroad Safety Act.
   (c) Any policy or interpretation issued within the Federal Railroad Administration, including policy or interpretation containing a particular factual situation, if that policy or interpretation can reasonably be expected to have a precedential value in any case involving a member of the public in a similar situation.
   (d) Any administrative staff manual or instruction, issued within the Federal Railroad Administration, that affects any member of the public, including the issuance of an order or policy that, when implemented, requires or limits any action of any member of the public or prescribes the manner of performance of any activity by any member of the public.
   (e) Public Notice of pending administrative action.
   (f) Office of Safety Annual Report.
   (g) Accident Bulletin.
   (h) Railroad Grade-Crossing Bulletin.
   (i) Locomotive Specifications.
   (j) Documents related to loans, loan guarantees, or grant programs conducted by the Federal Railroad Administration.
   (k) An Index to the material described in (a) through (d).

The records and the Index may be inspected, at the facility, with or without charge. Copies of records may be obtained upon payment of the fee prescribed in Subpart H of this part.

4. Records that are available records under Subpart E of this part. Each person desiring to inspect a record, or to obtain a copy thereof, must submit his request in writing to the Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590. Each request must be accompanied by the appropriate fee prescribed in Subpart H of this part.

5. Reconsideration of determination not to disclose Records. Any person to whom a record has been made available within the time limits established by this part, and any person who has been given a determination that a record has been requested will not be disclosed may apply, in writing, to the Associate Administrator for Administration, Federal Railroad Administration, Nassif Build-
opposed to the odorization of gas in transmission lines. As a consequence, the Office of Pipeline Safety (OPS) issued Notice 70–11 (35 FR 13470, August 22, 1970), requesting additional comments on several problems of odorizing gas in transmission lines and information from States that required such odorization.

Comments on Notice 70–11 were also generally opposed to odorizing gas in transmission lines. Several States, however, urged adoption of the original proposal, indicating that their experience did not support the objections raised by other commenters. Because the record contained conflicting information as to odorization of gas in transmission lines, the applicability of the original proposal was limited in the final rule to mains and service lines (35 FR 13248, August 19, 1970).

To help determine the advisability of further action, OPS held a public hearing on September 17, 1970 (Notice 70–13, 35 FR 13470, August 22, 1970). On the basis of information received at that hearing and in response to the extended Amendment 192–2 (35 FR 13753, November 11, 1970) to extend the cutoff date of the interim standards temporarily to maintain the required level of safety, those States requiring odorization of gas in transmission lines. The extension allowed additional time for OPS to study the safety benefits and problems of transmission line odorization. To provide time to evaluate the results of its study, OPS issued Amendment 192–6 (36 FR 25423, December 31, 1971), again temporarily extending the application of State law as Federal odorization standards for transmission lines.

A report of the study of odorization conducted by OPS is included in the docket for this proceeding. The study was based on contacts with interstate transmission operators, distribution operators, and State commissions experienced in the transportation of odorized gas in transmission lines.

It appeared to OPS, from the information in the docket, and the information in Docket No. OPS–3E, that limited odorization requirements and additional inspections might be warranted for transmission lines in populated areas. Therefore, on August 9, 1973, OPS issued Notice 73–2 (38 FR 20944, August 15, 1973) to begin a new rulemaking proceeding (Docket No. OPS–24) on odorization of gas in transmission lines. Accordingly, the interim standards were extended to provide time for completion of this proceeding. (Amdt. 192–7, 37 FR 1790, September 2, 1972; Amdt. 192–14, 38 FR 14943, June 7, 1973; Amdt. 192–15, 38 FR 35471, December 26, 1972; and Amdt. 192–16, 39 FR 45353, December 31, 1974.)

In Notice 73–2, OPS discussed two main advantages to requiring odorization of gas in transmission lines: (1) Odorization allows the early detection of leaks in open air by the public; and (2) Without a requirement for odorization, high pressure gas transmission lines which run parallel with distribution lines under stress may continue to be operated with out odorization while the distribution lines must be odorized. The notice also discussed conclusions drawn by OPS from its study and other relevant information pertaining to the problems of transmission line odorization.

In addition to proposing that gas in transmission lines in Class 3 and Class 4 locations be odorized, the proposed Amendment 192–2 directed toward alleviating several problems and unjustifiable expenses associated with transmission line odorization. For example, the smallest traces of sulfur compounds in gas going to underground storage fields. Notice 73–2 proposed to exclude gas going to underground storage facilities from any requirement of the rule. In addition, the notice proposed an exception for gas in Class 3 lines en route to a predominantly Class 1 or Class 2 location because of the apparently low ratio of safety benefit to cost and the burden of the application of State law as Federal odorization standards for transmission lines. Therefore, following the precedent in Part 192 of subjecting gathering lines in populated areas to the standards for transmission lines, the comment was not adopted.

At some locations, liquid condensates in gas are extracted to provide dry gas for customers. The National Gas Association of America (INGAA) pointed out that these condensates are an important source of energy and that odorants in gas would render them uneconomical to process. In a further comment, INGAA noted that the notice did not provide for this situation, under § 192.625(b) (2) (2) the final rule excepts from the odorization requirement a transmission line used in transmission lines not the exception for gas in Class 4 locations.

Many comments to Notice 73–2 favored the rules as proposed. Others, however, suggested changes considered necessary in view of the cost and technical problems associated with odorizing gas in transmission lines. Still other comments contained the suggestion that odorization does not enhance the detection of leaks in transmission lines and that normal odorization is ineffective in open air. On these comments, OPS believes that odorants in gas would render them uneconomical to process. As a result of these comments, the proposal in Notice 73–2 is changed in the final rule as indicated in the following discussion.

In consideration of several comments and the views of the Technical Pipeline Safety Standards Committee (TPSSC), the proposed exception for gas in Class 3 locations en route to predominantly Class 1 or Class 2 locations is adopted, but modified in § 192.625(b) (1) to also apply to gas in similarly situated Class 4 locations. High costs are involved in odorizing gas in those situations, and as a result of the comments received, the exception only applies to gas in lines which transport odorized gas before this amendment is issued.

In a further comment, INGAA noted that when large volumes of odorized gas are blown to the atmosphere during normal transmission line maintenance, the odorant could be annoying to the public. Also, INGAA asserted that the proposed notice is given to prevent a false gas.

FEDERAL REGISTER, VOL. 40, NO. 91—FRIDAY, MAY 9, 1975
would create odorization problems for distribution companies. Also, intermittent odorization would hamper the necessary stabilization of an odorant level in the transmission line. For these reasons, the wording in the final rule in § 192.625(b) is changed to exempt the odorant itself, rather than the gas, from the odorization requirement.

Another problem raised by commenters is that most lateral transmission lines serving distribution centers are of short duration. OPS believes that any requirement for odorization be required in Class 1 and Class 2 locations as well as Classes 3 and 4. OPS believes that any requirement for odorizing gas in transmission lines is most economically practicable in Classes 3 and 4 because of the greater risk in those areas. Perhaps the most significant detrimental impact on air or water quality. The precise nature of air pollution due to gas odors arising in Class 3 and Class 4 locations may be just as detrimental as odors during blow-downs is infrequent and not sustained for long periods. Also, proper planning can minimize any adverse effects. As for water pollution, admitted some pollution of hydrostatic test water by odorants may present a disposal problem. These occurrences should be dealt with under exceptional circumstances arising in the future. OPS prefers to deal with these problems on an individual basis in the waiver under section 3(e) of the Natural Gas Pipeline Safety Act of 1969 when petitioned to do so. Waivers may be granted upon a petition showing that required odorization is inappropriate or of unreasonable application and if the waiver would be consistent with pipeline safety.

In addition to odorization, the notice proposed increased surveillance requirements for transmission lines carrying odorized gas and for transmission lines in Class 3 and Class 4 locations. Regarding the proposed § 192.705, one commenter stated that improved safety could be achieved by allowing each operator to establish its own frequency of patrols rather than specifying maximum intervals between patrols. OPS believes a more frequent requirement must be flexible enough to allow for inspection periods to provide a minimum level of safety regardless of an operator's system. Also, OPS believes that any additional periods for inspection at those locations. In addition to the proposed § 192.705, one commenter suggested that odorization be required in Class 1 and Class 2 locations as well as Classes 3 and 4. OPS concurs: Odorization of gas destined for industrial processes in Class 3 and Class 4 locations is less reasonable where fewer people are available to smell an odor, as in Class 1 and Class 2 locations.

Section 192.625(b)(3) in the notice proposed to exempt odorization of gas in a Class 3 location where the odorant would be detrimental to an industrial process. OPS notes that the same rationale for the proposed exemption also applies in Class 4 locations. OPS concurs: Odorization of gas destined for industrial processes in Class 4 locations is less reasonable than as in Class 3 locations. In addition to adopting this comment, the proposed exemption is restated in § 192.625(b)(2)(iv) in more precise and restrictive terms. To exempt an entire transmission line from odorization based on the indefinite test of whether the odorant is "detrimental" to an industrial process, would result in a rule difficult to apply and enforce. As a result, the regulation of plants where the presence of an odorant in an industrial process makes the end product unfit for the purpose for which it is intended, reduces the activity of a catalyst, or reduces the percentage completion of an exothermic chemical reaction. OPS believes that these criteria provide the same exemption as that intended by use of the term "detrimental" in the notice.

In the final rule, all the exceptions provided by § 192.625(b)(2) are limited to situations existing when this amendment is issued. As written, the exceptions are grandfather clauses which alleviate some of the technical problems and economic hardships associated with odorizing gas in transmission lines under existing circumstances. Also, by so limiting the exceptions, operators cannot provide new service to a storage field or certain plants and thereby, avoid odorizing a line. OPS believes that with adequate planning, economic hardships associated with the new requirement for odorizing gas in transmission lines would still be less for circumstances arising in the future. OPS realizes that similar technical problems relevant to odorizing gas in current situations may occur, for example, if a new industrial plant is added to an existing or new transmission line. Nevertheless, OPS prefers to deal with these problems on an individual basis in the waiver section 3(e) Natural Gas Pipeline Safety Act of 1969 when petitioned to do so. Waivers may be granted upon a petition showing that required odorization is inappropriate or of unreasonable application and if the waiver would be consistent with pipeline safety.

Another commenter objected to the proposed additional requirements for testing NH3 as being burdensome and costly. OPS does not agree. The notice proposed a refinement of the existing requirements which is based on operating conditions. Section 192.705(b) requires operators to examine odorization lines at highway and railroad crossings more frequently than elsewhere. The final rule merely establishes minimum periods for inspection at those locations. Also, OPS believes that any additional costs some operators may encounter are justified by the additional protection that will be afforded the public in the Class 3 and Class 4 areas.

A number of commenters and the TPSSC objected to the proposed requirement in § 192.706 that operators conduct leakage surveys. Operators indicated that other leakage survey plans. Generally, these objections were that requiring the use of gas detectors would unnecessarily restrict an operator's flexibility in conducting a leakage survey and that other methods of conducting leakage surveys are satisfactory.

OPS does not agree with these objections. Gas detectors surveys were proposed under § 192.706 to provide a compensatory measure of protection for the
unodorized gas in Class 3 and Class 4 locations even when gas is odorized. In the opinion of OPS, to conduct leakage surveys without using detector equipment would not yield a level of safety comparable to that provided by odorization. In light of these arguments, however, the final rule does not require the use of detector equipment in Class 4 locations where transmission lines carry unodorized gas. Also the term "gas detector" is changed to "leak detector" in the final rule to better identify and broaden the range of equipment that may be used.

OPS considers the use of leak detection devices to provide the most satisfactory opportunity to protect in the absence of odorization for the following reasons. Without instruments, gas leaks are detected by sight, sound, smell, or by dye or gas detectors. In painted areas, leaks are visible or audible, and without odor natural gas cannot be detected by smell. It follows that observing vegetation is the only reasonable alternative to using gas detectors. At the same time, observing vegetation is not always effective. The effect of a gas leak on vegetation is only noticeable during the growing season; and a leak must exist for a long time to have a noticeable effect on vegetation. Further, many areas subject to the exceptions under §192.625(b) from odorizing gas in transmission lines have a large amount of pavement and a sparse amount of vegetation. For these reasons, a requirement for using detector equipment is adopted.

In light of other comments, OPS wants to point out that neither §192.705 nor §192.706 specifies how patrols or leakage surveys are to be accomplished. The rules are written in performance language. That is, the rules require that patrols and aerial leakage surveys be acceptable where they are appropriate and effective.

The Committee reviewed the proposals of the Technical Pipeline Safety Standards Committee concerning the Committee's action related to five proposed amendments to 49 CFR Part 192. Mr. Mendonsa, filed a minority view, George W. White, concurred with the majority as follows:

"My objection is to proposed §192.625(b) (3) (ii) a large high pressure transmission line could traverse a major metropolitan area, New York City or its suburbs, for example, or Florida or Massachusetts, or the Portland, Maine, area could effectively eliminate the need of odorization in transmission lines from Texas and Louisiana and through the eastern states, regardless of class locations traversed. At least six states (shall we say the more prosperous ones) require odorization of transmission line gas for many years. Such gas has been served to many types of industry with no ill effects. Moreover, if the required number of plants could be served as a unit, the industrial plant would have no choice but to receive odorized gas, in some cases at a higher level than the minimum specified in 49 CFR Part 192.

For the foregoing reasons, we have voted to disapprove Item 5 as submitted.

A third minority view, stated by W. L. Walls, is set forth below:

My objection is to proposed §192.625(b) (3) (ii) a large high pressure transmission line could traverse a major metropolitan area, New York City or its suburbs, for example, or Florida or Massachusetts, or the Portland, Maine, area could effectively eliminate the need of odorization in transmission lines from Texas and Louisiana and through the eastern states, regardless of class locations traversed. At least six states (shall we say the more prosperous ones) require odorization of transmission line gas for many years. Such gas has been served to many types of industry with no ill effects. Moreover, if the required number of plants could be served as a unit, the industrial plant would have no choice but to receive odorized gas, in some cases at a higher

Effective date. Section 3(e) of the Natural Gas Pipeline Safety Act of 1968 requires that standards and amendments thereto prescribed under the Act be effective 30 days after the date of issuance unless the Secretary determines good cause exists for an earlier or later effective date as a result of the period reasonably necessary for compliance. Accordingly, the amendments to Part 192 of Title 49 of the Code of Federal Regulations are revised to read as follows:

§ 192.625 Odorization of gas.

(a) A combustible gas in a distribution line must contain a natural odorant or be odorized so that at a concentration in air of one-fifth of the lower explosive limit, the gas is readily detectable by a person with a normal sense of smell.

(b) After December 31, 1976, a combustible gas in a transmission line in a Class 3 or Class 4 location must comply with the requirements of paragraph (a) of this section unless...
§ 192.705 Transmission lines: Patroling.

(a) Each operator shall have a patrol program to observe surface conditions on and adjacent to the transmission line right-of-way for indications of leaks, construction activity, and other factors affecting safety and operation.

(b) The frequency of patrols is determined by the size of the line, the operating pressures, the class location, terrain, weather, and other relevant factors, but intervals between patrols may not be longer than prescribed in the following table:

<table>
<thead>
<tr>
<th>Class location of line</th>
<th>At highway and railroad crossings</th>
<th>At all other places</th>
</tr>
</thead>
<tbody>
<tr>
<td>1, 2</td>
<td>6 months</td>
<td>1 year</td>
</tr>
<tr>
<td>3</td>
<td>3 months</td>
<td>6 months</td>
</tr>
<tr>
<td>4</td>
<td>3 months</td>
<td>6 months</td>
</tr>
</tbody>
</table>

3. Section 192.705 is added to read as follows:

§ 192.706 Transmission lines: Leakage surveys.

(a) Each operator of a transmission line shall provide for periodic leakage surveys of the line in its operating and maintenance plan.

(b) Leakage surveys of a transmission line must be conducted at intervals not exceeding 1 year. However, in the case of a transmission line which transports gas in conformity with § 192.625 without an odor or odorant, leakage surveys using leak detector equipment must be conducted:

1. In Class 3 locations, at intervals not exceeding 6 months; and
2. In Class 4 locations, at intervals not exceeding 3 months.

4. In the table of contents, § 192.706 is added to read as follows:

Sec. 192.706 Transmission lines: leakage surveys.

This amendment is issued under the authority of section 3 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. 1672) § 1.58(d) of the regulations of the Office of the Secretary of Transportation (49 CFR 1.58(d)), and the delegation of authority to the Director, Office of Pipeline Safety, set forth in Appendix A to Part 1 of the regulations of the Office of the Secretary of Transportation (49 CFR Part 1).

Issued in Washington, D.C., on May 5, 1975.

JOSEPH C. C. CALDWELL, Director, Office of Pipeline Safety. [FR Doc.75-12238 Filed 5-8-75:8:45 am]
DEPARTMENT OF THE INTERIOR
National Park Service
[36 CFR Part 7]
GRAND CANYON NATIONAL PARK, ARIZONA
Revocation of Proposed Rulemaking

The proposed rulemaking contained in the Federal Register of Friday, March 14, 1975, Volume 40, Number 51, Page 11876 entitled "Grand Canyon National Park, Arizona, Designation of Snowmobile Routes" is hereby revoked. This revocation is necessary because there has not yet been an environmental assessment prepared for public review. Public comment on the desirability of designated snowmobile routes will be obtained at public meetings on the North Rim Development Concept Plan scheduled for mid-summer 1975.

MEBBLE E. STITT, Superintendent, Grand Canyon National Park.

[FR Doc. 75-12272 Filed 5-8-75; 8:45 a.m.]

DEPARTMENT OF AGRICULTURE
Farmers Home Administration
[7 CFR Part 1823]
[FR Doc. 74-12272 Filed 5-8-75; 8:45 a.m.]
COMMUNITY FACILITY LOANS
Determination of Security and Facility Design in Certain Instances

Notice is hereby given that the Farmers Home Administration has under consideration the proposed amendment of § 1823.6 of Subpart A of Part 1823, Title 7, Code of Federal Regulations (38 FR 20245, 20248) by the addition of paragraphs (a)(3) and (b)(1)(iii) to allow that other than full time residents may be considered in determining security and facility design in certain instances. Former paragraphs (a)(3), (4), (5) and (6) of this section are redesignated as paragraphs (4), (5), (6), and (7) without change; former paragraphs (a)(1)(iii) and (b)(1)(iv) and (v) without change.

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed amendment to the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6315, South Building, Washington, D.C. 20250, on or before June 9, 1975. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Chief, Directives Management Branch during regular business hours. (8:15 a.m.-4:45 p.m.)

As proposed, § 1823.6(a)(3) and (b)(1)(iii) read as follows:

§ 1823.6 Security.

(a) . . .

(3) In those cases involving water and waste disposal projects where there is a substantial number of other than full time residents and facility costs result in a higher than reasonable rate for such full time residents, the loan will be secured by the assignment or pledge of general obligation bonds, taxes or assessments from public bodies or other organizations having the authority to issue bonds, taxes or assessments.

(b) . . .

(1) . . .

(iii) General obligation bonds, taxes or assessments. In those cases involving water and waste disposal projects where there is a substantial number of other than full time residents and facility costs result in a higher than reasonable rate for such full time residents, the loan will be secured by an assignment or pledge of general obligation bonds, taxes or assessments from public bodies or other organizations having the authority to issue bonds, taxes or assessments.


FRANK E. ELLIOTT, Administrator, Farmers Home Administration.

[FR Doc. 75-12233 Filed 5-8-75; 8:45 a.m.]

Food and Nutrition Service
[7 CFR Part 271]
[Amndt. No. 59]

FOOD STAMP PROGRAM
Proposed Rulemaking

Pursuant to the authority contained in the Food Stamp Act of 1964, as amended (78 Stat. 703, as amended (7 U.S.C. 2011-2026)), notice is hereby given that the Food and Nutrition Service, Department of Agriculture, proposes to amend the regulations governing the Food Stamp Program to extend the implementation date of Public Assistance Withholding (PAW) by State agencies from July 1, 1975 to January 1, 1976.

The consideration behind this change is that several bills have been introduced in the Congress to make PAW optional. Many States still have much work to accomplish in implementing PAW which will require substantial expenditures. The Department feels that the States should not be forced to proceed with implementation until Congress has the time to act on the proposed legislation.

Interested persons may submit written comments, suggestions, or objections regarding the proposed amendments to the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Washington, D.C. 20250, not later than May 27, 1975. All comments, suggestions, or objections received by this date will be considered before the final regulations are issued. All written comments, suggestions, or objections will be open to public inspection pursuant to 7 CFR 1.27(b) at the Office of the Director, Food Stamp Division, during regular business hours (8:30 a.m. to 5 p.m.) at 100 12th Street, SW., Washington, D.C., Room 650.

The proposed amendment is as follows: Section 271.6(d)(2) of Chapter II, Title 7 of the Code of Federal Regulations is amended to read:

§ 271.6 Methods of distributing, issuing, and accounting for coupons and receipts.

(d) . . .

(2) The State agency shall permit no later than January 1, 1975, any household participating in the Program, if it so elects, to have the cost of its full monthly coupon allotment deducted from any grant or payment such household may be entitled to receive under Title IV of the Social Security Act, and have its full monthly coupon allotment distributed to it.

(78 Stat. 703, as amended (7 U.S.C. 2011-2026))

(Catalog of Federal Domestic Assistance Programs No. 10.551, National Archives Reference Service)

RICHARD L. FELTNER, Assistant Secretary.

May 6, 1975.

[FR Doc. 75-12397 Filed 5-8-75; 8:45 a.m.]

DEPARTMENT OF LABOR
Office of the Secretary
[29 CFR Part 5]

PAYROLL REPORTING REQUIREMENTS FOR TRUCK OWNER-OPERATORS

Extension of Time for Comments on Proposed Revision

This Department has proposed to revise its policy with regard to the payroll...
requirements for truck owner-operators by the addition in Part 5 of a new § 5.16. This proposal was published in the Federal Register on Friday, February 21, 1975, at 70 FR 20285. In that document all interested parties were invited to submit written comments on or before April 7, 1975, for consideration by the Department of Labor.

Proposed Rulemaking

Pursuant to section 812 of the Elementary and Secondary Education Act of 1965, as amended (20 U.S.C. 887e), notice is hereby given that the Commissioner of Education, with the approval of the Secretary of Health, Education, and Welfare, proposes to amend Title 45 of the Code of Federal Regulations by adding a new Part 100d to read as set forth below. This part will contain regulations governing the requirements for truck owner-operators of an application for a State administered program to the Commissioner of Education, as set forth below. This part will contain regulations governing the requirements for truck owner-operators of a local educational agency certifying to the administration of such a program.

PART 100d—CERTIFICATION WITH RESPECT TO OPEN MEETINGS BY LOCAL EDUCATIONAL AGENCIES IN CERTAIN PROGRAMS

Sec. 100d.1 Purpose and scope.

Sec. 100d.2 Requirement for open meetings by local educational agencies.

Sec. 100d.3 Certification of open meetings.


§ 100d.1 Purpose and scope.

(a) Purpose. The purpose of this part is to implement the provisions of section 812 of the Elementary and Secondary Education Act of 1965, as added by sec-
Office of Child Support Enforcement

[45 CFR Part 304]

PROPOSED RULES

FEDERAL FINANCIAL PARTICIPATION

Proposed Rulemaking

Notice is hereby given that the regulations set forth in tentative form below are proposed by the Administrator of the Social and Rehabilitation Service, as the Secretary's designee to implement and administer the new Title IV-D of the Social Security Act as amended by Part B of Pub. L. 89-647 with the approval of the Secretary of Health, Education, and Welfare. The regulations would be located in a new Chapter III of Title 45 of the Code of Federal Regulations. The proposed regulations would establish a new Part 304 which defines when Federal financial participation is available at the 75 percent rate for the Title IV-D program.

These provisions would:
1. Require States to meet the requirements of 45 CFR Part 74 as a condition for Federal financial participation. (§ 304.10)
2. Provide that Federal financial participation will be available for expenditures made pursuant to the IV-D plan in accordance with State laws and procedures. (§ 304.11)
3. Prescribe the conditions for Federal financial participation and describe the services which are matchable by the Federal Government at the 75 percent rate. (§ 304.20)
4. Describe the expenditures of court and law enforcement officials made as a result of cooperative agreements entered into pursuant to § 302.24 for which Federal financial participation is available. (§ 304.21)
5. Provide Federal financial participation for purchased child support enforcement services in accordance with rates of payment which are determined by the IV-D agency to be reasonable and necessary to assure the quality of services purchased and for costs reasonably assignable to such services and require the IV-D agency to maintain records supporting the determination of Federal financial participation. (§ 304.22)
6. Specify those expenditures for which Federal financial participation is not available. (§ 304.23)
7. Place conditions on Federal financial participation in the costs of non-expendable property. (§ 304.24)
8. Establish a deadline for submission of claims in which the Federal Government will participate. (§ 304.25)
9. Prescribe the rate to be used to determine the Federal share of child support collections retained by the State as reimbursement for assistance payments pursuant to section 407 of the Act. (§ 304.26)
10. Prescribe the State funds which may be used by the State in meeting its share of the expenditures of the IV-D program. (§ 304.27)

Good cause exists for shortening the period in public comment in view of the overriding legal necessity for having final regulations implementing Part B of Pub. L. 89-647 in effect as of July 1, 1975.

Prior to the adoption of the proposed regulations, consideration will be given to any comments, suggestions or objections thereto which are received in writing by the Administrator, Social and Rehabilitation Service, Department of Health, Education, and Welfare, 1 Washington, D.C. 20201, by June 2, 1975.

Comments received will be available for public inspection in Room 3026 of the Department's Office at 330 C Street, SW., Washington, D.C. on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (area code 202-245-0950).

Dated: May 1, 1975.

JAMES S. DWIGHT, Jr.,
Administrator.

Approved: May 6, 1975.

STEPHEN KUREMAN,
Acting Secretary.

Title 45, Chapter III of the Code of Federal Regulations is amended by adding a new Part 304 as set forth below:

PART 304—FEDERAL FINANCIAL PARTICIPATION

Sec.
304.10 General administrative requirements.
304.11 Effect of State rules.
304.20 Availability and rate of Federal financial participation.
304.21 Federal financial participation in costs of cooperative agreements.
304.22 Federal financial participation in purchased child support enforcement services.
304.23 Expenditures for which Federal financial participation is not available.
304.24 Federal financial participation in non-expendable personal property.
304.25 Deadline for submission of claims for Federal financial participation.
304.26 Treatment of collections.
304.27 Treatment of Federal financial participation.
304.30 Public sources of State's share.

§ 304.10 General administrative requirements.

As a condition for Federal financial participation, the provisions of Part 74 of this title (with the exception of Subpart G, Matching and Cost Sharing, and Subpart I, Financial Reporting Requirements) establishing uniform administrative requirements and cost principles shall apply to all grants made to States under this part.

§ 304.11 Effect of State rules.

Subject to the provisions and limitations of Title IV-D of the Act and Chapter III, Federal financial participation will be available in expenditures made under the State plan (including the administrative services) in accordance with applicable State laws, rules, regulations, and standards governing expenditures by State and local child support enforcement agencies.

§ 304.20 Availability and rate of Federal financial participation.

(a) Federal financial participation at the 75 percent rate is available for:
(1) Necessary expenditures under the State title IV-D plan for the child support enforcement services and activities described in § 304.21 provided to individuals from whom an assignment of support rights has been obtained pursuant to § 302.11 of this title;
(2) Collection services pursuant to § 302.15 of this chapter; and
(3) Parent locator services for individuals eligible pursuant to § 302.23 of this chapter.

(b) Services and activities for which Federal financial participation will be available shall be those made pursuant to the approved title IV-D State plan which are determined by the Secretary to be necessary expenditures properly attributable to the child support enforcement program including the following:
(i) The administration of the State Child Support Enforcement Program, including, but not limited to the following:
(1) The establishment and administration of the State plan;
(2) Monitoring the progress of program development and operations and evaluating the quality, efficiency, effectiveness and scope of child support enforcement services available in each political subdivision;
(3) The establishment of all necessary agreements with other State and local agencies or private providers for the provision of services in support of child support enforcement in accordance with Subpart P, Procurement Standards, 45 CFR Part 74. These agreements may include:
(A) Necessary administrative agreements for support services;
(B) Utilization of State and local information resources;
(C) Cooperation with courts and law enforcement officials pursuant to § 302-74 of this chapter;
(iv) Securing compliance with the requirements of the State plan in operations under any agreements;
(v) The development and maintenance of systems for fiscal and program records and reports required to be made to the Office based on these records;
(vi) The development of a cost allocation system pursuant to § 302.16 of this chapter;
(vii) The development of and operation under standards for personnel administration pursuant to § 302.17 of this chapter;
(viii) The financial control of the State plan including the administration of Federal grants pursuant to § 301.15 of this chapter;
(ix) The establishment of agreements with agencies administering the State's...
Title IV-A plan in order to establish criteria for:

(A) Referral of cases to the IV-D agency;
(B) Reporting on a timely basis information necessary to the determination and enforcement of support eligibility and amount of assistance payments;
(C) Determining if individuals receiving assistance under the IV-A plan are cooperating adequately as required in § 304.20(b)(1) of this chapter;
(D) The procedures to be used to transfer collections from the IV-D agency to the IV-A agency after the distribution described in § 302.51 of this chapter.
(2) The establishment of paternity including:

(i) Reasonable attempts to determine the identity of the child's father such as:
   (A) Investigation
   (B) The development of evidence including the use of the polygraph and blood tests;
   (C) Pre-trial discovery;
   (D) Other actions to establish paternity pursuant to procedures established under State statutes or regulations having the effect of law;
(ii) Identifying competent laboratories to perform blood tests and making a list of those laboratories available;
(iii) Referral of cases to the IV-D agency of another State to establish paternity when appropriate;
(3) The establishment and enforcement of support obligations including:

(i) Investigation, the development of evidence and when appropriate, bringing court actions;
(ii) Determination of the amount of the support obligation including developing the information necessary for a financial assessment;
(iii) Referral of cases to the IV-D agency of another State to establish a support obligation when appropriate;
(4) The collection and distribution of support payments including:

(i) Activities related to requests for certification of collection of child support delinquencies by the Secretary of the Treasury pursuant to § 302.71 of this chapter;
(ii) Referral of requests for location of an absent parent to the IV-D agency of another State;
(iii) Cooperation with another State in locating an absent parent;
(iv) The distribution of funds as required by this chapter;

(b) Federal financial participation is not available for the ordinary administrative costs of the judiciary system. Under this provision:

(1) Subject to the conditions of § 304.20(a) of this chapter, the activities, including administration of such activities, specified in § 304.20(b) (2)–(8) of this chapter are available.
(2) The distribution of funds as required by this chapter;

(v) Making the IV-A agency aware of the amount of assistance distributed and documented to the family for the purposes of determining eligibility for, and amount of, assistance under the State title IV-A plan;
(vi) The establishment and operation of the State parent locator service including:

(i) Utilization of appropriate State and local locate sources to locate absent parents;
(ii) Utilization of the Federal Parent Locator Service;
(iii) Collection of the fees pursuant to §§ 302.35(e) and 302.70(d) of this chapter;
(iv) Referral of cases to the IV-D agency of another State to establish a support obligation when appropriate;
(v) Cooperation with another State in establishing a support obligation when appropriate;
(vi) Activities related to requests for certification of collection of child support delinquencies by the Secretary of the Treasury pursuant to § 302.71 of this chapter.

§ 304.21 Federal financial participation in the costs of cooperative agreements with courts and law enforcement officials.

(a) Federal financial participation at the 75 percent rate is available in the costs of cooperative agreements with appropriate courts and law enforcement officials pursuant to § 302.34 of this chapter. "Law-enforcement officials" means district attorneys, attorneys general, district attorneys, and prosecutors and their staff. When performed pursuant to written agreement, cost of the following activities are subject to reimbursement:

(1) Services furnished under the conditions of § 304.20(a) of this chapter, the activities, including administration of such activities, specified in § 304.20(b) (2)–(8) of this chapter;
(2) Services furnished under the conditions of § 304.20(a) of this chapter, the activities, including administration of such activities, specified in § 304.20(b) (2)–(8) of this chapter.

(b) Federal financial participation is not available for the ordinary administrative costs of the judiciary system. Under this provision:

(1) Service of process and court filing fees are reimbursable only if the law enforcement agency would normally be required to pay the cost of such fees;
(2) Compensation of individuals (other than judges) employed by the court is reimbursable at the 75 percent rate if such individual performs any of the activities described in paragraph (b) (2)–(8) of § 304.20 of this chapter;
(3) No other court or judicial costs are subject to Federal financial participation.

§ 304.22 Federal financial participation in purchased child support enforcement services.

Federal financial participation is available at the 75 percent rate for the purchase of child support enforcement services as provided for in the State plan to the extent that payment for purchased services is in accordance with rates of payment established by Federal public agencies, the cost reasonably assignable to such services. The determination that the amounts are reasonable and necessary and that the costs are reasonably assignable must be fully documented.

§ 304.23 Expenditures for which Federal financial participation is not available.

Federal financial participation is not available under this part for:

(a) Activities related to administering title I, IV-A, X, XIV, XVI, LIX or XX of the Act.

(b) Purchased child support enforcement services which are not secured in accordance with § 304.22.

(c) Construction and major renovations.

(d) Education and training programs and educational services except direct cost of short term training provided to IV-D agency staff or pursuant to § 304.21.

(e) Any expenditures which have been reimbursed by fees collected as required by this chapter.

(f) Costs of caseworkers who also perform the assistance payments function under title IV-A of the Act, except to the extent necessary to comply with § 235.70 of this title. In the case of a sparsely populated geographic area, upon justification by the IV-D agency demonstrating a lack of administrative feasibility in not utilizing staff of the IV-A agency, the office may approve alternate arrangements that include sufficient reporting and cost allocation methods that will assure compliance with Federal requirements and proper claims for Federal financial participation. Under this provision:

(1) "Caseworker" means any person who has decision-making authority over individual cases on a day-to-day basis and includes, but is not limited to, such designations as intake worker, eligibility technician, caseworker, and social worker.
(2) The "assistance payments function" means activities related to determination of eligibility for, and amount of financial assistance under the approved State plan under title I, IV-A, X, XIV or XVI, State Supplemental income payments under title XVI of the Act, and...
§ 304.24 Federal financial participation in non-expendable personal property.

(a) Conditions for Federal financial participation. Federal financial participation is available at the 75 percent rate in amounts expended by the IV-D agency for a unit of non-expendable personal property which has a useful life of more than one year only to the extent of the depreciation expense (or annual use allowance of 6% percent of acquisition cost) applicable to the period for which the property was used under a Federal program activity; except that:

(1) Amounts expended for non-expendable personal property costing less than $5,000 may be subject to Federal financial participation for the full cost at the 75 percent rate at the time of acquisition at the option of the IV-D agency, except as provided in paragraphs (a), (2) and (3) of this section.

(2) Non-expendable personal property acquired under reimbursement contracts with the IV-D agency or for use under contracts with other agencies or providers shall be capitalized and depreciated (or subject to a use allowance when it has an acquisition cost of $300 or more).

(3) Non-expendable personal property acquired and assigned for use to organizational elements of the IV-D agency that are treated as indirect costs centers or pools in a Departmental Indirect Cost Rate or in a department wide cost allocation plan, shall be capitalized and depreciated (or subject to a use allowance when it has an acquisition cost of $300 or more).

(b) Definitions. (1) Acquisition cost is the cost of the property to the IV-D agency for the property (excluding interest) plus, in the case of property acquired with a trade-in, the book value (acquisition cost less amount depreciated through the date of trade-in) of the property traded in. Property which was expensed when acquired which is traded in has a book value of zero.

(2) Depreciation expense for any time period is the portion of the acquisition cost of property which is assignable to that time period. The acquisition cost of the property shall be divided by the number of years (or the number of full years) of the service life of the property to arrive at the depreciation expense per year. This method shall be used unless a State obtains approval from the Regional Child Support Enforcement Office to use another method, which must be demonstrated to be more consistent with the using up of the asset.

(3) The number of years of estimated useful service life of property shall be based on the Department of Treasury, Internal Revenue Service policies on depreciation for tax purposes. However, the calculation of the Child Support Enforcement Office will approve a shorter period, if the IV-D agency can document that such period is justified.

(c) Other administrative requirements—(1) Distribution of costs. Amounts expended by the IV-D agency for non-expendable personal property may be directly charged to the Child Support Enforcement Program, if the property is being exclusively used for the program or activity at the time of the expenditures for the property. Amounts expended for such property not exclusively used for the Child Support Enforcement Program shall be allocated to such program and to other programs or activities by using one of the following methods:

(I) Using cost centers or pools and allocation bases which will distribute the costs consistent with program or activity usage of the property at the time of the expenditures. Any credits for property usage or distribution bases used for such property expenditures at the time of acquisition; or

(ii) Using a common distribution factor for all property or for classifications of property (e.g., desks distributed based on number of staff employed in each program or activity). Credits for property sold or retained for use in non-Federal programs shall be distributed to programs or activities consistent with the distribution methods used for such property expenditures at the time of acquisition.

(II) Using a common distribution factor for other activities by using one of the following methods:

(a) Treatment of expenditures. Expenditures are considered to be made on the date on which the cash disbursements occur or the date to which allocated in accordance with Part 74 of this title. In the case of local administration, the date of disbursements by the local agency governs. In the case of purchase of services from another public agency, the date of disbursement by such other public agency governs. Different rules may be applied with respect to a State, either generally or for particular classes of expenditures only upon justification by the State to the Office of Child Support Enforcement and approval by the Office.

(b) Due date for expenditure statements. The due date for the submission of the quarterly statement of expenditures under § 301.15 of this chapter is 30 days after the end of the quarter.

(c) Deadline for the submission of claims. The deadline for the submission of claims for Federal financial participation in expenditures incurred in any Federal fiscal year is the due date of the quarterly statement of expenditures for the second quarter subsequent to the end of the fiscal year.

§ 304.26 Treatment of collections.

(a) In the determination of the amount of reimbursement to the Federal Government of amounts retained by the State to reimburse it for assistance payments made to the State under § 302.51(b) and (4) of this chapter, if in the computation of the Federal share of assistance payments the State uses:

(1) The Federal medical assistance percentage under section 1115 of the Act, this percentage shall be used in the computation of the Federal reimbursement of retained child support payments.

(b) The computation in section 403 of the Federal reimbursement of amounts retained by the State to reimburse it for an assistance payment shall be to the extent of the Federal participation in the financing of the individual payment.

(c) If an incentive payment is made to a jurisdiction under § 302.52 of this chapter for the enforcement and collection of support obligations, such payment shall be made from the amounts computed in paragraphs (a) or (b) of this section which would otherwise constitute the Federal share.

§ 304.30 Public sources of State's share.

(a) Public funds, other than those derived from private resources, used by the IV-D agency for its child support enforcement program may be considered as the State's share in claiming Federal reimbursement where such funds are:

(1) Appropriated directly to the IV-D agency; or

(2) Funds of another public agency which are transferred to the IV-D agency and are under its administrative control.

(b) Public funds used by the IV-D agency for its child support enforcement program may not be considered as the State's share in claiming Federal reimbursement where such funds are:

(1) Federal funds, unless authorized by Federal law to be matched by other Federal funds;

(2) Used to match other Federal funds.

[FED REG NO. 91 FRIDAY, MAY 9, 1975]
DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

PROPOSED RULES

[Docket No. 14 CFR Ch. 1]

DISTANCE-TO-GO RUNWAY MARKERS

Advance Notice of Proposed Rulemaking

The Federal Aviation Administration is considering rulemaking to require that "distance-to-go" marker boards be installed every 1000 feet on all runways used by turbine-powered airplanes to provide a pilot with runway length information to assist in making takeoffs and landings.

This advance notice of proposed rulemaking is being issued in accordance with the FAA's policy for early institution of public proceedings in actions related to rulemaking. An "advance" notice is issued to invite early public participation in the identification and selection of a course or set of courses of action with respect to a particular rulemaking problem.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: AGC-24, 800 Independence Avenue SW., Washington, D.C. 20591. All communications received on or before August 7, 1975, will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

By letter of October 9, 1973, the Air Line Pilots Association (ALPA) petitioned the Federal Aviation Administration to amend the Federal Aviation Regulations to require distance-to-go marker boards every 1000 feet on all runways utilized by turbine-powered airplanes. ALPA asserts that these marker boards would greatly assist a pilot in determining the safest action to follow in the event of an emergency situation and could thereby prevent an accident.

ALPA points out that the FAA does not presently require a minimum coefficient of friction, consideration of runway contaminants (e.g., rubber, soot, water, ice, snow), nor provide information on the progress of takeoff acceleration. ALPA states that variables such as gross weight of the aircraft, runway slope, temperature, airport altitude, wind conditions, dragging brakes, and undulating runway surfaces all affect takeoff distance. ALPA contends that distance-to-go marker boards every 1000 feet on the runway would provide the pilot with his location on the runway and thereby provide the best indication of compliance with programmed aircraft performance which has been established on the basis of the capability to stop safely on the runway using normal operating techniques.

The FAA has not yet determined that runway distance-to-go marker boards are necessary for safety, but the agency believes it is important to review all relevant data that may be applicable to any adoption of such a requirement. To this end, the FAA solicits data, views, and arguments from all interested persons on the questions set forth below. Data supporting an answer should be submitted and sufficiently identified so that the FAA may make the most effective use of it.

1. Should runway distance markers be required on runways used by turbine-powered airplanes?
2. If runway distance markers were to be required, how should they be designed?
3. How would runway distance markers be used operationally under all conditions to effectively correlate actual airplane performance with programmed performance?
4. Would the use of runway distance markers increase crew workload or cause serious distractions from normal cockpit duties?

Issued in Washington, D.C., on May 1, 1975.

J. A. Ferrarese, Acting Director, Flight Standards Service.

[FR Doc. 75-12178 Filed 5-8-75; 8:45 am]

PROPOSED AIRWORTHINESS DIRECTIVES

PRATT & WHITNEY MODEL TF33 ENGINES

Proposed Airworthiness Directives

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation Regulations by adding an airworthiness directive applicable to Pratt & Whitney Model TF33 aircraft engines containing certain thirteenth, fourteenth, and sixteenth stage compressor disks made from PWA 1022 material. Due to recent failures of other disks of the same material specification, the manufacturer has reevaluated the disk life of the PWA 1022 disk material used in these parts. As a result of this reevaluation, it has been determined that the web strength of the PWA 1022 disk material is not significantly greater than that of material used in earlier disks; and, therefore, it is necessary to reduce the current cyclic life limits effective for these disks. Since this condition exists in all engines with disks of the same part number, the proposed airworthiness directive would reduce the disks cyclic life to designated lower limits in order to prevent possible engine failures. In view of the fact that the total cycles accumulated by engines in operation is significantly below the revised life limit, this AD is being published as a notice of proposed rulemaking.

Interested parties are invited to participate in the making of the proposed rule by submitting such written data, views, and arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the Department of Transportation, Federal Aviation Administration, New England Region, Attention: Regional Counsel, Airworthiness Rules Docket, 12 New England Executive Park, Burlington, Massachusetts 01803. All communications received on or before June 9, 1975 will be considered before taking action upon the proposed rule. The proposals contained in this notice may be changed in light of comments received. All comments will be available in the Office of the Regional Counsel for examination by interested parties.

Issued in Burlington, Massachusetts, on

QUENTIN S. TAYLOR, Director, New England Region.

[FR Doc. 75-12180 Filed 5-8-75; 8:45 am]

LITTON SYSTEMS, INC. LTN-72 INERTIAL NAVIGATION SYSTEMS

Proposed Airworthiness Directives

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation Regulations by adding an airworthiness directive applicable to Litton Systems, Inc. LTN-72 inertial navigation systems. Although installations of the LTN-72 inertial navigation system by Litton Systems are not an exclusionary course of action (49 U.S.C. 657913), fifteen stage compressor disk, P/N 659713, fourteenth stage compressor disk, P/N 657914, fifteenth stage compressor disk, P/N 659715, and sixteenth stage compressor disks prior to exceeding the revised life limit listed below.

Issued in Burlington, Massachusetts, on

L. D. Whitney, Assistant Regional Counsel, New England Region.

[FR Doc. 75-12181 Filed 5-8-75; 8:45 am]

FEDERAL REGISTER, VOL. 40, NO. 91—FRIDAY, MAY 9, 1975
PROPOSED RULES

Of the flight crew to immediately recognize a compass system failure due to loss of system power. Since this condition is likely to exist in all unmodified LTN-72 inertial navigation systems which use the 72-0 program, the proposed airworthiness directive would require that all LTN-72 inertial navigation systems be modified in accordance with Litton Systems Inc. Service Bulletin No. 34-72-80 dated February 20, 1975.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in triplicate to the Federal Aviation Administration, Office of Regional Counsel, FAA Western Region: Attention: Airworthiness Rules Docket, PO. Box 32007, Worldway Postal Center, Los Angeles, California 90008. All communications received on or before June 16, 1975, will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2000 East Devon Avenue, Des Plaines, Illinois 60018. All communications received on or before June 9, 1975, will be considered before action is taken on the proposed amendments. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposals contained in this notice may be changed in the light of comments received.

Issued in Los Angeles, Calif., on May 1, 1975.
LYNN L. HERN, Acting Director, FAA Western Region.

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to alter the control zone and transition area at Rhinelander, Wisconsin.

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Director, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018. All communications received on or before June 9, 1975, will be considered before action is taken on the proposed amendment.

A new instrument approach procedure has been developed for the Rhinelander Oneida County Airport and the instrument approach procedure to Drott Airport, Tomahawk, Wisconsin has been cancelled. These changes require an amendment of the Rhinelander, Wisconsin control zone and transition area.

A public docket will be available for examination by interested persons in the office of the Regional Counsel, Federal Aviation Administration, 2000 East Devon Avenue, Des Plaines, Illinois 60018. All communications received on or before June 9, 1975, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposals contained in this notice may be changed in the light of comments received.

Issued in Des Plaines, Ill., on April 21, 1975.

R. O. ZIEGLER, Acting Director, Great Lakes Region.

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to designate a transition area at Sheridan, Indiana.

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Director, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018. All communications received on or before June 9, 1975, will be considered before action is taken on the proposed amendment.

A new instrument approach procedure has been developed for the Sheridan Airport, Sheridan, Indiana. Consequently, it is necessary to provide controlled airspace protection for aircraft executing this new approach procedure by designating a transition area at Sheridan, Indiana.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

Issued in Des Plaines, Ill., on April 21, 1975.

R. O. ZIEGLER, Acting Director, Great Lakes Region.

[FR Doc.75-12181 Filed 5-8-75; 8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 75-GL-23]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to designate a transition area at Sheridan, Indiana.

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Director, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018. All communications received on or before June 9, 1975, will be considered before action is taken on the proposed amendment.

A new instrument approach procedure has been developed for the Sheridan Airport, Sheridan, Indiana. Consequently, it is necessary to provide controlled airspace protection for aircraft executing this new approach procedure by designating a transition area at Sheridan, Indiana.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

Issued in Des Plaines, Ill., on April 21, 1975.

R. O. ZIEGLER, Acting Director, Great Lakes Region.

[FR Doc.75-12181 Filed 5-8-75; 8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 75-GL-24]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to designate a transition area at Sheridan, Indiana.

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Director, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018. All communications received on or before June 9, 1975, will be considered before action is taken on the proposed amendment.

A new instrument approach procedure has been developed for the Sheridan Airport, Sheridan, Indiana. Consequently, it is necessary to provide controlled airspace protection for aircraft executing this new approach procedure by designating a transition area at Sheridan, Indiana.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

Issued in Des Plaines, Ill., on April 21, 1975.

R. O. ZIEGLER, Acting Director, Great Lakes Region.

[FR Doc.75-12181 Filed 5-8-75; 8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 75-GL-24]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to designate a transition area at Sheridan, Indiana.

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Director, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018. All communications received on or before June 9, 1975, will be considered before action is taken on the proposed amendment.

A new instrument approach procedure has been developed for the Sheridan Airport, Sheridan, Indiana. Consequently, it is necessary to provide controlled airspace protection for aircraft executing this new approach procedure by designating a transition area at Sheridan, Indiana.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

Issued in Des Plaines, Ill., on April 21, 1975.

R. O. ZIEGLER, Acting Director, Great Lakes Region.
PROPOSED RULES

[14 CFR Part 71]  
[Airspace Docket No. 75-GL-26]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to alter the transition area at Park Rapids, Minnesota.

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as may become available. Communications should be submitted in triplicate to the Director, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018. All communications received on or before June 9, 1975, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018. All communications received on or before June 9, 1975, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A new public instrument approach procedure has been developed for the Park Rapids Municipal Airport; Park Rapids, Minnesota. Accordingly, it is necessary to alter the Park Rapids transition area in order to adequately protect the aircraft executing this new approach procedure.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.181 (40 FR 441), the following transition area is amended or read:

**PARK RAPIDS, MINN.**

That airspace extending upward from 700 feet above the surface within a 61/2 mile radius of Park Rapids Municipal Airport (Latitude 49°30'00" N., Longitude 94°04’00" W.); within 3 miles each side of the 120° bearing from the airport extending from the 61/2 mile radius area to 8 miles from the airport.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348); sec. (c), Department of Transportation Act (49 U.S.C. 1665(c).))

Issued in Des Plaines, Ill., on April 21, 1975.

R. O. Ziegler, Acting Director,  
Great Lakes Region.

[FR Doc.75-12186 Filed 5-8-75;8:45 am]

PROPOSED RULES

[14 CFR Part 71]  
[Airspace Docket No. 75-GL-27]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to designate a transition area at Standish, Michigan.

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as may become available. Communications should be submitted in triplicate to the Director, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018. All communications received on or before June 9, 1975, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018. All communications received on or before June 9, 1975, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A new instrument approach procedure has been developed for the Standish City Airport; Standish, Michigan. Consequently, it is necessary to alter the Standish transition area to adequately protect the aircraft executing this new approach procedure.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.181 (40 FR 441), the following transition area is amended or read:

**STANDBISH, MICH.**

That airspace extending upward from 700 feet above the surface within a six-mile radius of the Standish City Airport (Latitude 48°38'48", N., Longitude 83°58'25" W.); within 3 miles each side of the 132° bearing from the airport extending from the 6 mile radius area to 8 miles from the airport; and that airspace extending upward from 700 feet above the surface within a six-mile radius of the Standish City Airport (Latitude 48°38’48", N., Longitude 83°58’25" W.); within 3 miles each side of the 132° bearing from the airport extending from the 6 mile radius area to 8 miles from the airport; and that airspace extending upward from 700 feet above the surface within a six-mile radius of the Standish City Airport (Latitude 48°38’48", N., Longitude 83°58’25" W.); within 3 miles each side of the 320° bearing from the airport extending from the 6 mile radius area to 8 miles from the airport; and that airspace extending upward from 700 feet above the surface within a six-mile radius of the Standish City Airport (Latitude 48°38’48", N., Longitude 83°58’25" W.); within 3 miles each side of the 320° bearing from the airport extending from the 6 mile radius area to 8 miles from the airport.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348); sec. (c), Department of Transportation Act (49 U.S.C. 1665(c).))

Issued in Des Plaines, Ill., on April 21, 1975.

R. O. Ziegler, Acting Director,  
Great Lakes Region.

[FR Doc.75-12186 Filed 5-8-75;8:45 am]
PROPOSED RULES

[14 CFR Part 71]
[Airspace Docket No. 75-GL-28]

PROPOSED RULES

[14 CFR Part 71]
[Airspace Docket No. 75-GL-29]

PROPOSED RULES

[14 CFR Part 71]
[Airspace Docket No. 75-GL-30]

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to designate a transition area at Paris, Illinois.

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Director, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018. All communications received on or before June 9, 1975, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time. However, arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

A new instrument approach procedure has been developed for the Edgar County Airport, Paris, Illinois. Consequently, it is necessary to provide controlled airspace for aircraft executing this new approach procedure in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

A new standard instrument approach procedure has been developed for the Terry Airport, Zionsville, Indiana. Accordingly, it is necessary to alter the Zionsville transition area to adequately protect the aircraft executing the new approach procedure.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.181 (40 FR 441), the following transition area is amended to read:

LINCOLN, ILL.

That airspace extending upward from 700 feet above the surface within a five-mile radius of the Logan County Airport (Latitude 40°09'38" N., Longitude 89°20'07" W.); within 2½ miles each side of the Capitol, Illinois VORTAC 040° radial extending from the five-mile radius area to 17 miles northeast of the VORTAC; within 3 miles each side of the 047° bearing from the airport extending from the 5-mile radius area to 3 miles northeast of the airport.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)(i)))

Issued in Des Plaines, Ill., on April 21, 1975.

R. O. Ziegler, Acting Director, Great Lakes Region.

[FR Doc. 75-12183 Filed 5-8-75; 8:45 am]

ZIONSVILLE, IND.

That airspace extending upward from 700 feet above the surface within a five-mile radius of Indianapolis Terry Airport (Latitude 40°09'38" N., Longitude 86°15'18" W.); within 3 miles each side of the VORTAC 040° radial extending from the five-mile radius area to 17 miles north of the VORTAC; within 3 miles each side of the 047° bearing from the airport extending from the airport to 6 miles north.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)(i)))

Issued in Des Plaines, Ill., on April 23, 1975.

R. O. Ziegler, Acting Director, Great Lakes Region.

[FR Doc. 75-12182 Filed 5-8-75; 8:45 am]
CONSUMER PRODUCT SAFETY COMMISSION

NON-FULL-SIZE BABY CRIBS

Banning of Hazardous Articles and Establishment of Safety Requirements

The purpose of this document is to propose regulations banning hazardous non-full-size baby cribs and establishing safety requirements for non-full-size baby cribs (16 CFR 1500.18(a) (14) and Part 1509).

Section 2(1)(D) of the Federal Hazardous Substances Act (15 U.S.C. 1261) provides for the classification of any toy or other article intended for use by children as a hazardous substance upon a determination by regulation, in accordance with section 3(e)(1) of the act (15 U.S.C. 1262), that it presents a mechanical hazard. Section 2(1)(A) of the act provides that such toy or article is also a banned hazardous substance. “Mechanical hazard” is defined by section 2(q)(1)(A) of the act, and banned toys and other banned children’s articles are listed in 16 CFR 1500.18.

BACKGROUND

In the FEDERAL REGISTER of November 21, 1973 (38 FR 32139), the Commission promulgated banning and safety-requisite regulations for full-size baby cribs (16 CFR 1500.18(a)(13) and Part 1508). Under-size, over-size, specialty, and portable baby cribs were not covered by that promulgation because it was necessary to gather additional technical information on the dimensions of the cribs to supplement the accumulated data applicable to all baby cribs. The Commission’s National Electronic Injury Surveillance System (NEISS) estimates that 8,900 injuries associated with cribs occurred requiring medical care in hospital emergency rooms. NEISS also estimates that 102 infants were hurt in suffocation-related accidents involving portable cribs during the same period.

Commission staff in-depth investigations of 136 FY-74 accidents associated with cribs reveal that most of the injuries associated with crib design are caused by three types of accidents: Falling from the crib (102 cases), entrapment of body part (12 cases), and striking crib part either inside or outside of the crib (16 cases). Four of the 136 cases resulted in the victim’s death.

In addition, a review of 163 death certificates reveals that widespread crib slats and improper mattress slats and dimensions present serious hazards. In several cases, hangings were caused by head entrapment between slats and the wedging of the head between the crib sides and the mattress.

The regulations proposed below are intended to prevent or reduce crib design-related deaths and injuries. The requirements concerning the size of spaces between component parts should prevent or reduce the occurrence of hanging and wedging deaths and many of the injuries. The requirements concerning rail height, ledges, construction, and components should also prevent or reduce crib design-related accidents.

TECHNICAL REQUIREMENTS

The following rationale supports the technical requirements contained in proposals for Part 1509 below.

1. Crib-side height dimension of 127 centimeters (5 inches) when crib side is in its lowest position and mattress support is in its highest position. Most mattresses supplied with or intended for non-full-size cribs are 2 inches or less thick. The intent of the above requirement is to provide a minimum of 3 inches clearance from the mattress top. This will give approximately 1 inch clearances from the mattress support. To ensure that mattresses have a proper thickness and purchased and used, a warning label is required informing the consumer of the recommended mattress thickness for a replacement or original mattress.

2. Crib-side height dimension of 55.9 centimeters (22 inches) when crib side is in its highest position and mattress support is in its lowest position. NEISS injury data show that 72 percent of crib-related accidents occur to children under 2 years of age. Therefore, anthropometric data for 1-month-old children were used as the basis for determining the minimum crib-side height of 22 inches. The data show that the center of gravity in 18-month-old children is between 1.73 and 1.82 inches above the crib-top. The data show that the crib-side height of 22 inches is proper for a crib when the child stands on a 2-inch thick non-compressed mattress. However, since any mattress compresses under a child’s weight, the margin of safety is increased because of the lowered center of gravity.

3. Between slats dimension of 5 centimeters (2 inches). A University of Michigan crib slat study (“Selected Infant Anthropometry Crib Slat Sub-Study,” December 18, 1972) was conducted on small infants, ages 2½ to 6½ months, who present the greatest risk of slipping-feet first through crib slats. The study indicates that the space of 2½ inches (2 inches) is the space allow for purposes of preventing children from passing through the slats.

4. Loading wedge. The loading wedge test is designed to ensure a sufficient amount of lateral structural rigidity in crib slats. To measure this rigidity, a specific force is applied to two adjacent slats and the resulting deflection is measured. The required deflection of 0.25 inch is believed to be the maximum allowable for purposes of preventing children from passing through the slats.

a. Size of block A. Based on anthropometric data, the 2.5 inch dimension is intended to simulate the buttock depth of a 5th percentile child, as determined by the previously mentioned study. The 4-inch dimensions are intended to ensure...
that the crib slats conform to the 2%-
inch requirements for a reasonable ver­
tical distance to allow for the addi­
tional 1% -inch deflection permitted in the
requirement. Block B is shorter than
block A by three-fourths of an inch to
account for tissue compressibility when
the slats exert a force on the infant.

5. Application of the leading wedge
with an additional 1% -inch force. The
intention of this requirement is to prevent
the elimination of toeholds. Any pro­
posal to provisions for a reasonable verti­
cal distance.

Accordingly, pursuant to provisions of
the Federal Hazardous Substances Act
(see 2(f) (1) (D), (q) (1), (A), (q), (e) (1),
974 Stat. 972, 974, 975, as amended
Stat. 930-926, 93 Stat. 187-88; (15
U.S.C. 1321, 1262)) and under authority
vested in the Commission by the Con­
sumer Product Safety Act (see 30(a),
86 Stat. 1231; (15 U.S.C. 2079(a))),
the Commission proposes to amend Title
16, Chapter II, Subchapter C, by adding
a new paragraph (a) (14) to §1500.18
and by adding a new Part 1509 as follows
(although without proposed change, the in­
troductions of $1500.18(a) is in­
cluded below for context):

PART 1509—HAZARDOUS SUBSTANCES AND ARTICLES; ADMINISTRATION AND ENFORCEMENT REGULATIONS

§1500.18 Banned toys and other banned articles intended for use by children.

(a) Toys and other children's articles presenting mechanical hazards. Under the authority of section 2(f) (1) (D) of the act and pursuant to provisions of section 2(c) of the act, the Commission has determined that the following types of toys or other articles intended for use by children: a mechanical hazard within the meaning of section 2(c) of the act because in normal use, or when sub­ject to reasonably foreseeable damage or abuse, the design or manufacture pre­
sects an unreasonable risk of personal
injury or illness:

(14) Any non-full-size baby crib (as defined in § 1509.2 of this chapter) that is introduced into interstate commerce on or after the date 120 days after publication of the final regulation in the Federal Register, and that does not comply with the requirements of Part
1509 of this chapter.

PART 1509—REQUIREMENTS FOR NON-FULL-SIZE BABY CRIBS

Sec. 1509.1 Scope of Part 1509.
1509.2 Definitions.
1509.3 Crib-side height.
1509.4 Spacing of unit components.
1509.5 Component-spacing test apparatus.
1509.6 Component-spacing test method.
1509.7 Hardware.
1509.8 Construction and finishing.
1509.9 Mattresses.
1509.10 Assembly instructions.
1509.11 Identifying marks, caution state­
mment, and compliance declaration.
1509.12 Recordkeeping.

(Authority: Secs. 2 (f) (1) (D), (q) (1) (A),
974 Stat. 972, 974, 975, as amended
Stat. 930-926, 93 Stat. 187-88; (15

§1509.1 Scope of Part 1509.

This Part 1509 sets forth the require­
ments whereby non-full-size baby cribs,
are defined in §1509.2, and are not banned articles under §1500.18(a) (14) of this chapter. For purposes of compliance with this part the metric figures shall be used. The English approximations are provided for convenience and in­formation only.

§1509.2 Definitions.

For the purposes of this Part 1509:
(a) "Crib" or "baby crib" means a bed
designed to provide sleeping accommodation
for an infant.
(b) "Full-size baby crib" means a crib that
is intended for use in the home and (2) is within a range of ±5.1 centi­
meters (±2 inches) of the interior length and width dimensions specified for full-size baby cribs in §§1508.1(a) and
1508.2 of this chapter.
(c) (1) "Non-full-size baby crib" means a crib that (1) is intended for use in or around the home, hospitals, other insti­
tutions, for travel, and other purposes
such as playpen or cribs in other chil­
care facilities, for travel, and that does not
comply with the requirements of Part
1509 of this chapter.
(2) "Non-full-size baby crib" includes,
but is not limited to, the following:
(ii) Portable crib. A non-full-size baby
crib designed so that it may be folded or
collapsed, without disassembly, to occu­
py a volume substantially less than the vol­
ume it occupies when it is unassembled.

(iii) Crib-pen. A non-full-size baby crib
the legs of which may be removed or
adjusted to provide a play pen or play yard
for a child.

(iv) Specialty crib. An unconven­tion­
ally shaped (circular, hexagonal, etc.)
non-full-size baby crib incorporating a
special mattress or other unconventional
components.

(v) Undersize crib. A non-full-size
baby crib with dimensions less than
either or both of the interior length and
width dimensions of a full-size baby crib
as defined in paragraph (b) of this sec­
tion (that is, less than 84.3 centimeters
(33% inches) wide and/or less than 126.3
centimeters (49% inches) long).

(vi) Oversize crib. A non-full-size baby
crib with dimensions exceeding either or
both of the interior length and width
dimensions of a full-size baby crib as
defined in paragraph (b) of this section
(that is, greater than 77.7 centimeters
(30% inches) wide and/or greater than
139.7 centimeters (55 inches) long).

§1509.3 Crib-side height.

(a) With the mattress support in its
highest adjustable position and the crib
side in its lowest adjustable position, the
vertical distance from the upper surface
of the mattress support to the upper
surface of the crib side and/or end panel
shall not be less than 12.7 centimeters (5 inches).

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(b) With the mattress support in its lowest adjustable position and the crib side in its highest adjustable position, the vertical distance from the upper surface of the mattress support to the upper surface of the crib side and/or end panel shall not be less than 58.9 centimeters (23 inches).

§ 1509.4 Spacing of unit components.

(a) Uniformly spaced components. The distance between adjacent, uniformly spaced components (such as slats, spindles, and/or corner posts) shall not be greater than 5 centimeters (2% inches). The distance between any such adjacent components shall not exceed 6.3 centimeters (2% inches) at any point when subjected to the test procedure specified in § 1509.6.

(b) (1) Nonuniformly spaced components. The distance between adjacent nonuniformly spaced components (such as slats, spindles, and/or corner posts) shall not exceed the passage of block A, specified in § 1509.3(b), when inserted in any orientation.

(2) The spacing between any such adjacent components shall preclude passage of block B, specified in § 1509.5(a), when inserted in any orientation immediately above and below the loading wedge specified in § 1509.5(a) while the components are being subjected to the test procedure specified in § 1509.6.

§ 1509.5 Component-spacing test apparatus.

(a) Loading wedge. The loading wedge shall be a right triangular prism constructed of a smooth, rigid material conforming to measurements shown in Figure 1.

(b) Block A. Block A shall be a rectangular block, constructed of a smooth, rigid material, measuring 6 centimeters wide by 10 centimeters long (2% inches wide by 4 inches long), and having a thickness of 4.5 centimeters (1% inch).

(c) Block B. Block B shall be a rectangular block, constructed of a smooth, rigid material, measuring 6 centimeters wide by 10 centimeters long (2% inches wide by 4 inches long), and having a thickness of 5.1 centimeters (2% inches).

§ 1509.6 Component-spacing test method.

The apex of the wedge (see § 1509.5(a)) shall be placed midway between two vertical components and midway between the uppermost and lowermost horizontal surfaces of the crib side. A 9-kilogram (20-pound) tensile force shall be applied to the wedge perpendicular to the plane of the crib side.

§ 1509.7 Hardware.

(a) The hardware in a non-full-size baby crib shall be designed and constructed to eliminate pinching, bruising, pinching, crushing, amputating and/or other potentials for injury.

(b) Non-full-size baby cribs shall incorporate locking or latching devices for drop sides, or folding sides or end panels. These devices shall require either a minimum force of 4.5 kilograms (10 pounds) for activation or at least two distinct actions to release them.

(c) Wood screws shall not be used in the assembly of any components that must be removed by the consumer in the normal disassembly of a non-full-size baby crib.

§ 1509.8 Construction and finishing.

(a) All wood surfaces of non-full-size baby cribs shall be smooth and free from splinters.

(b) All wood parts of non-full-size baby cribs shall be free from splits, cracks, or other defects that might lead to structural failure.

(c) Ends and sides of non-full-size baby cribs shall have no horizontal bar, ledge, projections, or other surface accessible to the child inside the crib that could be used as a toehold or ledge or projection with a depth dimension greater than 1 centimeter (3/8 inch) located less than 40.6 centimeters (16 inches) above the mattress support in its lowest position and when the crib side is in its highest position.

§ 1509.9 Mattresses.

(a) (1) Mattress thickness. A mattress supplied with a non-full-size crib shall, in a noncompressed state, have a thickness that will provide a minimum effective crib-side height dimension of at least 50 centimeters (19 inches) as measured from the upper surface of the mattress to the upper surface of the crib side and/or end panel. For this measurement, the crib side shall be in its highest adjustable position and the mattress support in its lowest adjustable position.

(b) A mattress supplied with a non-full-size baby crib shall, in a noncompressed state, have a thickness that will provide a minimum effective crib-side height dimension of at least 50 centimeters (19 inches) as measured from the upper surface of the mattress to the upper surface of the crib side and/or end panel. For this measurement, the crib side shall be in its highest adjustable position and the mattress support in its lowest adjustable position.

(2) Mattress thickness. A mattress supplied with a non-full-size baby crib shall, in a noncompressed state, have a thickness that will provide a minimum effective crib-side height dimension of at least 7.6 centimeters (3 inches) as measured from the upper surface of the mattress to the upper surface of the crib side and/or end panel. For this measurement, the crib side shall be in its highest adjustable position and the mattress support in its lowest adjustable position.

§ 1509.10 Assembly instructions.

Unassembled non-full-size baby cribs shall be accompanied by detailed instructions that shall:

(a) Exhibit the assembly drawing;

(b) Include a list and description of all parts and tools required for assembly;

(c) Include a full-size diagram of the required bolts and other fasteners;

(d) Be so written that an unskilled person can assemble the crib without making errors that would result in improper and unsafe assembly;

(e) Include cautionary statements concerning the secure tightening and maintaining of bolts and other fasteners;

(f) Contain a cautionary statement that when a child's height reaches 35 inches, the child should be placed in a youth bed; and

(g) Contain a warning relative to mattress size for the non-full-size baby crib that specifies a dimension of the non-full-size baby crib to be used with the crib as determined under § 1509.9.

§ 1509.11 Identifying marks, caution statement, and compliance declaration.

(a) Non-full-size baby cribs shall be clearly marked to indicate:

(1) The name and place of business (city and State) of the manufacturer, importer, distributor, and/or seller; and

(2) A model number, stock number, catalog number, item number, or other symbol expressed numerically, in code, or otherwise, such that only cribs of identical construction, composition, and dimensions shall bear identical markings. The model number shall appear on an inside surface of a non-full-size baby crib in a type size of at least .75 inch.

(1) For rectangular cribs:

CAUTION: Check proper fit of mattress. Should be no more than .... inches thick.

The maximum gap between mattress and inside or crib border (or edge) should be no more than 1 inch.

The label is to be filled in with dimensions complying with § 1509.9(a) and (b).

(2) For nonrectangular cribs:

CAUTION: Check proper fit of mattress.

The maximum gap between mattress and inside or crib border (or edge) should be no more than 1 inch.

The label is to be filled in with dimensions complying with § 1509.9(a).

(3) The dimensions to be inserted in the blanks in the caution statements in paragraph (a) of this section shall be determined by the manufacturer according to the provisions of § 1509.9.

The markings shall appear in block lettering and shall contrast sharply with the background (by color, projection, or indentation), and shall be clearly visible and legible.

(c) Except for markings required under paragraphs (d) and (e) of this section, markings on non-full-size baby cribs shall be of a permanent nature such as paint-stenciled, die-stamped, molded, or indelibly stamped directly thereon or permanently affixed, fastened, or attached thereto by means of a tag, token, or other suitable medium. The markings shall not be readily removable or subject to deformation or weakening normal use of the article or when the article is subjected to reasonably foreseeable damage or abuse.

(d) The retail cartons of non-full-size baby cribs shall clearly indicate:

(1) The name of the business (mailing address including ZIP code) of the manufacturer, importer, distributor, and/or seller; and

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ENVIRONMENTAL PROTECTION AGENCY
[40 CFR Parts 33, 35]
[FR 365-7]

MINIMUM STANDARDS FOR PROCUREMENT UNDER EPA GRANTS

Subagreements

Notice is hereby given that the Environmental Protection Agency proposes to amend its general grant regulations to incorporate minimum standards for procurement under grants awarded to States and local assistance grant recipients. These policies and procedures governing procurement of personal and professional services under construction for construction of treatment works.

On August 7, 1973, the Environmental Protection Agency published proposed amendments to Part 33 (38 FR 21342), implementing certain portions of Office of Management and Budget Circular A-102 (now General Services Administration Federal Management Circular 74-7). Interim general grant regulations for all EPA grants (Part 30) had been published in the Federal Register on November 27, 1971 (36 FR 22716). Both these documents contained policies and procedures governing procurement by grantees under grants awarded by EPA. Deleted from Part 33 which was published as final rules on May 8, 1975, were the policies and procedures governing procurement under grants awarded by EPA. Those policies and procedures have been expanded and are here being proposed as Part 33, Subagreements. Part 33 does not apply to subagreements under grants for construction of treatment works.

It would have been possible to considerably reduce the volume of the amendments to Part 35 by utilizing extensive cross referencing to Part 33. However, we believe that State and local government procurement of personal and professional services can be better assured of meeting all applicable requirements for construction grants if such requirements were located in a single Part of the regulations.

Part 33 defines minimum standards as guidance to grantees concerning a satisfactory procurement system. Specific areas of guidance include standards of conduct, grantor/grantee responsibilities, subagreement approval requirements, procurement by formal advertising, procurement by negotiation (including negotiation authorizations, competition requirements, price, cost and profit considerations, contract award, architectural or engineering services, small purchases), required contract provisions and protests against award. Part 33 and §33.937 further provide that a contract shall not be awarded on a cost-plus-a-percentage-of-cost or a percentage-of-construction-cost basis.

Interested parties and government agencies are encouraged to submit written comments, views, or data to the Director, Grants Administration Division, Environmental Protection Agency, Washington, D.C. 20460. All such submissions received on or before June 9, 1975 will be considered prior to the promulgation of final regulations.

It is therefore proposed to add Part 33 and amend Part 35 of Title 40, Code of Federal Regulations, in the manner set forth below.

Dated: May 2, 1975.

JOHN QUARLES,
Acting Administrator.

Chapter I of Title 40 of the Code of Federal Regulations is proposed to be amended by adding a new Part 33, reading as follows:

PART 33—SUBAGREEMENTS

Sec. 33.000 Applicability and scope.
33.005 Definitions.

Subpart A—Policy
33.100 Grantee procurement systems.
33.105 Competition.
33.110 Profits.
33.115 Type of contract.
33.120 Grantee responsibility.
33.125 EPA responsibility.
33.130 Small and minority business.
33.135 Privity of contract.
33.140 Disputes.

Subpart B—General
33.200 Federal procurement regulations.
33.205 General requirements.
33.210 Documentation.
33.215 State and local law.
33.220 Required approvals.
33.225 Limitations on contract award.
33.230 Project costs.
33.235 Eligible costs.

Subpart C—Code of Standards of Conduct
33.300 Grantee responsibility.
33.310 EPA responsibility.
33.315 Fraud and other unlawful or corrupt practices.

Subpart D—Procurement by Formal Advertising
33.400 Applicability.
33.405 Type of contract.
33.410 Procedures.
33.410-1 Adequate public notice and solicitation of bids.
33.410-2 Adequate time for preparing bids.
33.410-3 Adequate bidding documents.
33.410-4 Nonrestrictive specifications.
33.410-5 Bid evaluation.
33.410-6 Sealed bids.
33.410-7 Amendments to bidding documents.
33.410-8 Bid modifications.
33.410-9 Public opening of bids.
33.410-19 Award to the low, responsive, responsible bidder.

Subpart E—Procurement by Negotiation
33.500 Applicability.
33.505 Authorization.
33.506 Type of contract.
§ 33.105 Competition.

It is the policy of the Environmental Protection Agency to encourage free and open competition for project work performed by contract.

§ 33.110 Profits.

Only fair and reasonable profits may be earned by contractors in subagreements under EPA grants. See § 33.510-5 for discussion of profits under subagreements.

§ 33.115 Type of contract.

Grantees shall utilize fixed price subagreements whenever possible. The cost reimbursement types of contract (e.g., cost-plus-fixed-fee, cost-plus-incentive-fee, etc.) may be utilized if the cost of contract performance cannot be adequately estimated for fixed price purposes. However, the cost-plus-a-percentage-of-cost ceiling which the contractor may not exceed without formally amending the contract.

§ 33.120 Grantee responsibility.

The grantee is responsible for the administration and successful accomplishment of the project for which EPA grant assistance is awarded. The grantee is responsible for the settlement and satisfaction of all contractual and administrative issues arising out of subagreements entered into under the grant (except as provided in § 33.125 below). This includes the determination concerning compliance with Federal requirements.

§ 33.125 EPA responsibility.

Generally, EPA is responsible only for reviewing grantee compliance with Federal requirements applicable to a grantee's procurement (see § 33.120). However, where specifically provided in this Part, EPA is responsible for making the determination concerning compliance with Federal requirements.

§ 33.130 Small and minority business.

Positive efforts shall be made by grantees to utilize small business and minority-owned business sources of supplies and services. Such efforts should allow these sources the maximum feasible opportunity to compete for contracts to be performed utilizing Federal grant funds.

§ 33.135 Privity of contract.

Neither the Environmental Protection Agency nor the United States shall be a party to any subagreement (including contract, subcontract, etc.) between a grantee, or to any solicitation or request for proposals therefor (see §§ 33.615 and 33.625-1 for the required solicitation statement and contract provision).

§ 33.140 Disputes.

Only an EPA grantee may initiate and prosecute an appeal under the disputes procedures provided for in this Subchapter with respect to its subagreements thereunder for its own name and benefit (see Subpart J of Part 30 of this Subchapter). Neither a contractor nor a subcontractor of a grantee may prosecute an appeal under the disputes provisions of a grant in its own name or interest.

Subpart B—General

§ 33.200 Federal procurement regulations.

Requirements applicable to direct Federal contracts shall not be applicable to subagreements under grants except to the extent that those or similar requirements may be stated in this Subchapter.

§ 33.205 General requirements.

Subagreements must comply with the following general requirements:

(a) Must be necessary for and directly related to the accomplishment of the project work (grantees shall avoid purchasing unnecessary or duplicative items);

(b) Must be in the form of a bilaterally executed written agreement (except for small purchases);

(c) Must be for monetary or in-kind consideration; and

(d) May not be in the nature of a gift or grant.

§ 33.210 documentation.

(a) Procurement records and files for purchases in excess of $10,000 shall include the following:

(1) Basis for contractor selection;

(2) Justification for lack of competition when competitive bids or offers are not obtained;

(3) Basis for award cost or price.

(b) Procurement documentation required by § 33.805 (Records) of this Subchapter and this Part 33, including a copy of each subagreement, must be retained by the grantee or contractors of the grantee for the period of time specified in § 30.885 and is subject to all the requirements of § 30.885. A copy of each subagreement must be furnished to the Project Officer upon request.

§ 33.215 state and local law.

(a) Where project work is accomplished through subagreements, such subagreements shall be governed by the applicable requirements of State, territorial, and local laws and ordinances, and the procurement system or procedures of the grantee (including institutional requirements), to the extent that such requirements do not conflict with Federal laws and meet the minimum standards of this Part 33.

(b) State or local laws, ordinances, regulations or procedures which are designed or operated to give local or in-State bidders or proposers preference over other bidders or proposers shall not be employed in evaluating bids or proposals for subagreements under a grant.
§ 33.220 Required approvals.
(a) A grantee must secure prior written approval of the Project Officer for the following procurement actions:
(1) Any not-to-exceed amount in excess of $100,000, each amendment to a subagreement in excess of $100,000, and the cost/price analyses of negotiated subagreements in excess of $100,000 (see § 33.516-4 for definition of cost and price considerations);
(2) Utilization of the force account method in lieu of subagreement for any construction activity in excess of $10,000, unless the force account method is stipulated in the grant agreement (as provided in § 30.645 of this Subchapter).
(b) In granting written approval, the Project Officer must assure that the proposed procurement complies with EPA policies set forth in this Part, including the policy regarding free and open competition.

§ 33.225 Limitations on contract award.
The grantee shall not award any contract and the Project Officer may not approve a contract:
(a) To any person or organization which does not meet the responsibility standards set forth in § 30.340-2 of this Subchapter;
(b) To any portion of the contract work will be performed at a facility listed by the Director, EPA Office of Federal Activities, in violation of the antipollution requirements of the Clean Air Act and the Federal Water Pollution Control Act, as set forth in § 30.420-3 of this Subchapter and 40 CFR Part 15;
(c) To any person or organization which is ineligible pursuant to the conflict of interest requirements of § 30.429-4 of this Subchapter.

§ 33.230 Project changes.
A contractor must notify the grantee of all proposed project changes. Certain changes require notification to the Project Officer by the grantee pursuant to § 30.900 of this Subchapter. A contractor shall not implement any project changes without the prior approval of the grantee. In granting such approvals, the grantee shall ensure compliance with the procedures for the approval and funding of project changes pursuant to §§ 30.900 through 30.900-4, and related prior approval requirements as those set forth in 40 CFR 40.44(b).

§ 33.235 Eligible costs.
Costs incurred under subagreements which are not awarded or administered in compliance with this Part shall not be eligible costs.

Subpart C—Code or Standards of Conduct
§ 33.300 Grantee responsibility.
(a) The grantee must maintain a code or standards of conduct which shall govern the performance of its officers, employees, or agents in the conduct of project work, including procurement and the expending of project funds. As a minimum, the grantee must exert diligent effort to ensure that its officers, employees or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from contractors or potential contractors. The grantee must avoid personal or organizational conflicts of interest or noncompetitive procurement practices which restrict or eliminate competition or otherwise restrain trade.
(b) To the extent permissible by State or local law or formal institutional requirements and procedures, the grantee must ensure that penalties, sanctions, or other adequate disciplinary actions are applied for project-related violations of law or of such code or standards of conduct by either the grantee officers, employees, or agents, or by contractors or their agents.
(c) The grantee must inform the Project Officer in writing of each violation of law or code or standards of conduct by its officers, employees, contractors, or by their agents, and of the prosubcutive or disciplinary action taken by the grantee with respect to such infractions, and must cooperate with Federal officials with respect to any Federal prosecutive or disciplinary actions instituted with respect to such infractions.

§ 33.310 EPA responsibility.
EPA shall cooperate with the grantee with respect to its disciplinary or prosecutive actions taken with respect to any apparent project-related violations of law or of the grantee's code or standards of conduct.

§ 33.315 Fraud and other unlawful or corrupt practices.
All procurements under grants are covered by the provisions of § 30.246 of this Subchapter relating to fraud and other unlawful or corrupt practices.

Subpart D—Procurement by Formal Advertising
§ 33.400 Applicability.
This Subpart is applicable to all procurements by formal advertising. Formal advertising means procurement by competitive bids and awards as described below and shall be the required method of procurement unless negotiation pursuant to Subpart E is necessary to accomplish sound procurement.

§ 33.405 Type of contract.
Each formally advertised subagreement must be a fixed price (lump sum or unit price or a combination of the two) contract.

§ 33.410 Procedures.
Formal advertising shall be conducted in accordance with the following procedures:

§ 33.410-1 Adequate public notice and solicitation of bids.
The grantee will cause adequate public notice to be given of the solicitation by publication in newspapers or journals of general circulation beyond the grantee's locality (Statewide, generally), inviting bids and stating the method by which bidding documents may be obtained and/or examined.

§ 33.410-2 Adequate time for preparing bids.
Adequate time, generally not less than 30 days, must be allowed between the date when public notice pursuant to § 33.410-1 is first published and the date by which bids must be submitted.

§ 33.410-3 Adequate bidding documents.
A reasonable number of bidding documents (invitations for bid) shall be prepared by the grantee and shall be furnished upon request on a first-come, first-serve basis. A complete set of bidding documents shall be maintained by the grantee and shall be available for inspection before the date set for the opening of bids. Such bidding documents shall include:
(a) A complete statement of work to be performed, including drawings and specifications, where appropriate, and the criteria for determining the award; (b) Specifications and other documentation may be made available for inspection instead of being furnished.

§ 33.410-4 Nonrestrictive specifications.
Invitations for bids shall include a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not contain features which unduly restrict competition. "Brand name or equal" description may be used as a means to define the performance or other salient requirements of a procurement, and when so used, the specific features of the named brand which must be met by offerors should be clearly specified.

(See: Section 204 of the Federal Water Pollution Control Act contains a more stringent requirement regarding nonrestrictive specifications which is applicable only to grants for construction of treatment works. See § 33.385-2 of this Subchapter.)

§ 33.410-5 Bid guarantee.
For construction contracts exceeding $100,000, each bidder must furnish a bid guarantee equivalent to five percent of the bid price. For all other contracts, the grantee shall require such guarantees.

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as it normally requires in its own procurement.

§ 33.410–6 Sealed bids.

The grantee shall provide for bidding by sealed bid and for the safeguarding of bids as required until public opening.

§ 33.410–7 Amendments to bidding documents.

If a grantee desires to amend any part of the bidding documents (including drawings and specifications) during the period when bids are being prepared, the amendments shall be communicated in writing to all firms who have obtained bidding documents in time to be considered prior to the bid opening time. If appropriate, the period for submission of bids shall be extended.

§ 33.410–8 Bid modifications.

A firm which has submitted a bid shall be allowed to modify or withdraw its bid prior to the time of bid opening.

§ 33.410–9 Public opening of bids.

The grantee shall provide for a public opening of bids at the place, date and time announced in the bidding documents.

§ 33.410–10 Award to the low, responsive, responsible bidder.

(a) After bids are opened, they shall be evaluated by the grantee in accordance with the methods and criteria set forth in the bidding documents.

(b) Unless all bids are rejected, award shall be made to the low, responsive, responsible bidder within the time specified in the invitation for bid or any extension of time granted.

(c) If award is intended to be made to a firm which did not submit the lowest bid, a written statement shall be prepared prior to any award and retained by the grantee explaining why each lower bidder was deemed not responsive or nonresponsible.

(d) If the proposed award requires EPA Project Officer approval, the subagreement shall not be executed until approval has been obtained (in accordance with § 33.229).

Subpart E—Procurement by Negotiation

§ 33.500 Applicability.

This subpart provides minimum standards for grantee negotiation of subagreements (i.e., award of contracts by any method other than procurement by formal advertising) which are applicable to all negotiated subagreements in excess of $10,000.

§ 33.502 Authorization

Negotiation of subagreements by the grantee is authorized if it is impracticable and infeasible to use formal advertising. All negotiated procurement shall be conducted in a manner to provide to the maximum practicable extent open and free competition. Generally, procurements may be negotiated by the grantee if any of the following conditions are applicable:

(a) Public exigency will not permit the delay incident to formally advertised procurement (e.g., an emergency procurement).

(b) The aggregate amount involved does not exceed $10,000 (see § 33.520 for small purchases).

(c) The material or service to be procured is available from only one person or entity. If the procurement is expected to aggregate more than $10,000, the grantee must document its file with a justification of the need for noncompetitive procurement, and provide such documentation to the Project Officer on request.

(d) The procurement is for personal or professional services or for any service to be rendered by a university or other educational institution.

(e) No responsive, responsible bids at acceptable price levels have been received after formal advertising.

(f) The procurement is for material or services where the prices are established by law.

(g) The procurement is for technical items or equipment requiring standardization and interchangeability of parts with existing equipment, or for technical or specialized supplies requiring substantial initial investment, like manufacturing equipment.

(h) The procurement is for experimental, developmental, or research services.

§ 33.505 Type of contract.

The preferred type of negotiated contract is the fixed price type. However, the cost reimbursement types of contract (e.g., cost-plus-incentive-fee, etc.) may be utilized if the cost of contract performance cannot be adequately estimated for fixed price purposes. The cost-plus-percentage-of-cost (including salary multiplier) and the percentage-of-construction-cost types of contract may not be utilized. Each cost reimbursement contract must clearly establish a cost ceiling which the contractor may not exceed without formally amending the contract.

§ 33.510 Procedures.

§ 33.510–1 Adequate public notice and requests for proposals.

(a) Adequate public notice must be given of the request for proposals for negotiated procurements anticipated to exceed $10,000 except where rates or prices are fixed by law or regulation or where a single source has been justified (see § 33.502(c)). Such notice of the request for proposals should be published in professional journals, newspapers, or public notices in general circulation beyond the grantee’s locality (Statewide, generally), and through posted public notices, or written notification directed to interested persons, firms, or professional organizations inviting proposals and stating the method by which request for proposal documents may be obtained or examined. Sources which request an opportunity to submit proposals, and which meet the criteria established for the purpose, shall be promptly furnished a copy of the request for proposal and shall be permitted to submit a proposal in response thereto.

(b) Requests for proposals must be in writing and must contain the information necessary to enable a prospective offeror to prepare a proposal properly. The request for proposals must inform offerors of all evaluation factors (in accordance with §§ 33.510–3 and 33.515(b)) and of the relative importance attached to each criterion (a numerical weighted formula need not be utilized).

(c) The request for proposal must clearly state the time and place for submission of proposals and must include a copy of Subparts E (Procurement by Negotiation), F (Required Provisions) and G (Protests Against Award) of this part.

§ 33.510–2 Submission of proposals.

All proposals must be supported by appropriate documentation to support the reasonableness of estimated costs or evidence of reasonable prices and other necessary matters.

§ 33.510–3 Evaluation factors.

A documented evaluation of proposals must be made solely on the basis of the technical and other evaluation criteria announced in the request for proposals and, as appropriate, the evaluation factors set forth below:

(a) The quality of the items or work, or of the same or similar items or work previously procured, with particular regard to the satisfaction of minimum project needs;

(b) Specialized experience and technical competence of key personnel who perform the work;

(c) Prices quoted, and consideration of other prices for the same or similar items or work (see § 33.5104 below);

(d) The business reputations, capabilities, responsibilities and past performance of the respective persons or firms who submit proposals;

(e) Delivery requirements;

(f) Capacity to perform work within required time limits;

(g) Contractual awareness of social, economic and geographic factors relevant to the project;

(h) The nature and extent of subcontracting;

(i) The existing and potential workload of the prospective contractor;

(j) The desirability of distributing procurement equitably among qualified firms;

(k) Requirements for the avoidance of personal and organizational conflicts of interest (as set forth in 40 CFR 30.410–4); and

(l) Capability to explore and develop innovative or advanced techniques or designs.

§ 33.510–4 Price and cost considerations.

(a) General. It is the policy of EPA that the cost or price of all subagreements must be considered. However, the grantee shall perform a formal cost or price analysis and prepare a written summary of findings for all negotiated subagreements in excess of $100,000 prior to execution of the subagreement.
without regard to the contractor's separate cost elements and proposed profit. Price analysis is used when the goods or services required lend themselves to price comparisons and may be accomplished in various ways including the following:

1. The comparison of the price quotations submitted;
2. The comparison of prior quotations and contract prices with current quotations for the same or similar end items;
3. The comparison of prices set forth in published price lists issued on a competitive basis, published market price commodities, and similar indices, together with discount or rebate arrangements;
4. The comparison of proposed prices with estimates of cost independently developed by personnel within the activity; or
5. The comparison of ratios (dollars per square foot, per drawing, and so forth) to highlight major deviations from past buys.

Cost analysis.

1. In those cases where there is less than adequate price competition, it is based on in single source procurement or in procurements where technical competition is the principal selection factor, a detailed analysis of the selectee's cost estimate and backup cost or pricing data is required as a substitute for price comparison.
2. Cost analysis includes the appropriate verification of cost data, the evaluation of specific elements of costs, and the projection of these data to determine the effect on prices of such factors as:
   (a) The necessity for certain costs;
   (b) The reasonableness of amounts estimated for certain costs;
   (c) Allowances for contingencies;
   (d) The basis used for allocation of overhead costs; and
   (e) The appropriateness of allocations of particular overhead costs to the proposed contract.
3. Appropriate consideration should be given to 40 CFR Part 30 Subpart F, which contains general cost principles and procedures for the determination and allowability of costs under grants.
4. Among the evaluations that should be made where the necessary data are available are comparisons of a contractor's or offeror's current estimated costs with:
   (a) Actual costs previously incurred by the contractor or offeror;
   (b) The contractor's or offeror's last prior cost estimate for the same or a similar item with a series of his prior estimates;
   (c) Current cost estimates from other possible sources; and
   (d) Prior estimates of historical costs of other contractors manufacturing the same or similar items.

Forecasting future trends in costs from historical cost experience is of primary importance. An adequate cost analysis must include consideration of future trends in costs when reasonably determinable.

In addition to the elements of cost, the amount of profit shall be set forth separately in the cost analysis.

Profits.

It is the policy of EPA that profit—i.e., the net proceeds obtained by deducting all eligible elements of cost (direct and indirect) from the price—on a subagreement and each amendment to a subagreement under a grant be sufficient to attract contractors who possess talents and skills necessary to the accomplishment of project objectives, and to stimulate efficient and expeditious completion of the project. Where effective price competition is lacking, or where cost analysis is performed, the estimate of profit should be based on the firm's assumption of risk and input to total performance and not merely the application of a predetermined percentage factor. For example, the ratio of profit to cost should be materially held for amendment and change orders than for initial contract agreements.

Negotiation.

(a) Written or oral interviews should be conducted with all responsible offerors who submit proposals within a competitive range, price and other factors considered except as provided in § 33.515(c)(5).
(b) Each proposer with whom negotiations are conducted shall be given reasonable opportunity (with a common cut-off date) to support, clarify, correct, improve, or revise its proposal.
(c) Information shall not be conveyed to one or more proposers which would give them a competitive advantage.

Award of contract.

(a) After the close of negotiations, the grantee shall award the contract to the proposer whose proposal offers the greatest advantage for the project—technical, economic and other factors considered.
(b) An unsuccessful offeror shall be notified at the earliest practicable time that its offer has not been selected for award.
(c) Upon written request of an unsuccessful offeror, the grantee shall disclose the reason(s) for rejection.
(d) The grantee must develop and retain adequate records of the basis for selection for negotiation and award.
(e) The grantee shall secure the written approval of the Project Officer of all subagreements in excess of $100,000 and their cost analyses prior to execution of the subagreement.

Procurement of architectural or engineering services.

(a) Architectural or engineering services are those professional services associated with research, development, design and construction, alteration, or repair of real property, as well as incidental services that members of these professions and those in their employ may logically or justifiably perform, including studies, investigations, surveys, evaluations, consultations, planning, programming, conceptual designs, plans and specifications, cost estimates, inspections, shop drawing reviews, sample recommendations, preparation of operation and maintenance manuals, and other related services.
(b) Candidates will be evaluated on the basis of competence and qualification for the type of service required.
(c) Not less than three candidates must be selected and ranked for negotiation of contracts, unless after good faith effort to solicit proposals in accordance with § 33.510-1 (Cost analysis) no more than two qualified candidates respond, in which case all qualified candidates must be selected and ranked for negotiation. The ranking should be accomplished by an objective process, including consideration of the recommendation of a board or committee which includes technical experts. Oral or written interviews should be conducted with proposers and information derived therefrom shall be the basis upon which the grantee shall award the contract.

Small purchases.

(a) A small purchase is the procurement of materials, supplies, and services when the aggregate amount involved in any one transaction does not exceed $10,000. The small purchase limitation of $10,000 applies to the aggregate total of an order, including all estimated handling and freight charges, overhead, and profit to be charged to the purchase. An order arriving at the aggregate amount involved in any one transaction, there must be included all items which should properly be grouped together.
(b) Small purchases shall be accomplished by negotiation, except when otherwise required by State or local law or where it is clearly in the best interest of the project to accomplish the purchase through some other means. Reasonable competition shall be obtained.
(c) Subagreements for small purchases need not be in the form of a bilaterally executed written agreement. Where appropriate, unilateral purchase orders, sales slips, memoranda of oral price quotations, and the like may be utilized in the interest of minimizing paperwork. Retention in the purchase files of written quotations received, or references to printed price lists used, will suffice as the record supporting the price paid.

Subpart F—Required Provisions

§ 33.600 General.

Each subagreement in excess of $10,000 must adequately define the scope of project work to be performed by the contractor for the grantee and must include adequate provisions to define a sound and complete agreement. All such
§ 33.625—1 Privity of contract.

Any contract or contracts awarded under this (invitation for bids or request for proposals) are expected to be funded in part by a grant from the United States Environmental Protection Agency. This contract will be subject to regulations contained in 40 CFR Subchapter B, and particularly Part 30 thereof. Neither the United States nor the United States Environmental Protection Agency is, nor will be, a party to this (invitation for bids or request for proposals) or any resulting contract.

§ 33.625 Required subagreement provisions.

§ 33.625—11 Contingent fees.

§ 33.625—1 Privity of contract.

Each subagreement in excess of $10,000 must contain a provision requiring the contractor to maintain records of contract performance for a period equal to the grantee's retention period, and to make them available for inspection, audit and copying by the grantee, EPA, the Comptroller General of the United States, the Department of Labor, or any authorized representative, to the extent and for the same length of time as is set forth with respect to grantee records in § 30.805 of this Subchapter.

§ 33.625—2 Amendment.

Each subagreement in excess of $10,000 must contain adequate provisions for amendment of work within the scope of the contract by the grantee.

§ 33.625—3 Termination; suspension.

Each subagreement in excess of $10,000 must contain adequate provisions for termination of all or any part of contract performance for default or for convenience, by the grantee, or for suspension of all or any part of contract performance by agreement or by the grantee, including the manner by which the termination or suspension will be effected and the basis for settlement.

§ 33.625—4 Remedies.

Each subagreement in excess of $10,000 must contain adequate contractual provisions, including administrative, contractual, or legal remedies in instances where grantees or contractors violate or breach contract terms or conditions, and must provide for such damages, costs, and penalties as may be appropriate.

§ 33.625—5 Employment practices.

Each subagreement in excess of $10,000 must contain a provision that the contractor shall not discriminate, directly or indirectly, on the grounds of race, color, religion, sex, age, or national origin in its employment practices under any project.

§ 33.625—5 Employment practices.

Each subagreement in excess of $10,000 must contain a provision that the contractor shall not discriminate, directly or indirectly, on the grounds of race, color, religion, sex, age, or national origin in its employment practices under any project.
in excess of 8 hours in any calendar day or 40 hours in the workweek. Section
107 of the Act is applicable to construc-

tion work and provides that no laborer
or mechanic shall be required to work in
surroundings or under working condi-
tions which are unsanitary, hazardous,
or dangerous to his health and safety
as determined under construction, safe-
ty, and health standards promulgated
by the Secretary of Labor. These re-

quirements do not apply to the trans-

cient conditions of construction, safe-

ity, and health standards issued under

construction, safety, and health stan-
dards promulgated by the Secretary of
Labor. These requirements do not ap-

ply to the trans-

cient conditions of construction, safe-

ity, and health standards issued under

§ 33.650—3 Davis-Bacon and related

statutes.

When required by the Federal grant
program legislation, all construction

contracts awarded by grantees and all

subcontracts awarded by contractors of

grantees in excess of $2,000 shall include

a provision for compliance with the

Davis-Bacon Act (40 U.S.C. 276a et seq.
Subpart A—General

§ 33.650—4 Copeland Act.

All contracts and subcontracts for

construction or repair shall include a pro-

vision for compliance with the Copeland

"Anti-Kickback" Act (18 U.S.C. 874), as

supplemented, by Department of Labor

regulations (29 CFR Part 3). This Act

provides that contractors and sub-

contractors are required to pay wages to

laborers and mechanics at a rate not less

than the minimum wages specified in a

wage determination made by the De-

partment of Labor. In addition, contractors

are required to pay wages not less often

than once a week. The grantee must

pay the wages as determined under con-

struction, safety, and health standards

promulgated by the Secretary of Labor.

§ 33.650—5 Equal employment oppor-

tunity.

Each subagreement in excess of $10,000

must include provisions in compliance

with Executive Order No. 11246 as

amended by Executive Order No. 11275

and regulations issued thereunder (40

CFR Part 8). Subpart B—Complaints and

Disputes

§ 33.700 Grantee responsibility.

The grantee is responsible for con-

ducting project procurement in accor-

dance with applicable requirements of

State, territorial, or local laws or ordi-

nances, as well as the specific require-

ments of Federal law or this Part direct-

ly affecting the procurement, and for

the initial resolution of complaints based

upon alleged violations of these Federal

requirements. As the EPA Project Officer

concerning an alleged violation of Federal law

or Part concerning procurement by an

EPA grantee, the grantee will be re-

ferred to law or, if the grantee directly

concerned, at a conference the basis for

their views concerning the proposed

procurement. The grantee must promptly

furnish to the complaining party and to

other affected bidders a copy of the cur-

rent prevailing wage determination

issued by the Department of Labor in each

solicitation and the award of a contract

must be conditioned upon acceptance of

the wage determination. All suspected or

reported violations must be reported to the

grantee and to the EPA Project Officer.

§ 33.705 EPA responsibility.

A party adversely affected by an ad-

verse determination of a grantee made

pursuant to § 33.700 concerning an al-

leged violation of a specific requirement

in this Subpart shall be entitled to make

a protest to the project officer. If a written

Complaint is made directly affecting a

grantee's procurement action may re-

quest the individual designated by the

Administrator as the EPA Protest Officer

to review such adverse determination,

including the basis for their views

concerning the proposed procurement. The

grantee must promptly determine each

complaint upon its merits permitting

the complaining party, as well as any

other interested party who may be

affected, an opportunity to present the

basis for their views concerning the pro-

posed procurement. See § 33.710 for appli-
cable time limitations.

§ 33.710 Time limitations.

A written protest should be made

pursuant to § 33.700 as early as possible

during the procurement process. A pro-

test against award of a contract by a

grantee must be mailed (certified mail,

return receipt requested) or delivered to

the Project Officer as soon as possible, but

in no event later than the fifth work-

day after receipt of the written Com-

plaint to which the protest pertains, or

if no notice is received, the fifth work-

day after the complaint first learns of the

action it desires to protest. A request for

review by the EPA Project Officer pursuant
to § 33.705 must be received by the Project

Officer within five working days after the

complaint party received the grantee's ad-

verse determination.

§ 33.715 Deferral of procurement

action.

Where the grantee has received a

written complaint pursuant to § 33.700,

it must defer the protested procure-

ment action (for example, defer its is-

surance of solicitation, bid opening date,

contract award) for ten days after mailing

or delivery of any written adverse de-

termination. Where the Project Officer

has received a written protest pursuant
to § 33.705, he must notify the grantee

promptly and the grantee must defer its

protested procurement action until after

it receives the determination by the EPA

Protest Officer. The determination is

made by either the grantee or the EPA

Protest Officer which is favorable to the

complainant, the grantee's procurement

action (for example, contract award)

must be taken in accordance with such
determination.

§ 33.720 Extensions of time.

The filing of a protest by a bidder shall

constitute an extension of the period for

acceptance of his bid and his bid bond

(a), if any, until 10 working days after final

determination of his protest. The grantee

must seek to obtain similar extensions

for its affected bidders.

§ 33.725 Enforcement.

Noncompliance with the provisions of

this Subpart affecting procurement may

result in (a) total or partial termination

of the grant pursuant to § 30.813 of this

Subchapter, (b) ineligibility for grant

assistance which may be awarded under

this Subchapter, or (c) disallowance of project costs incurred in

violation of the provisions of this Sub-

part or applicable Federal laws, as de-

termined by the Project Officer.
§ 35.937 Contracts for personal and professional services.

In the procurement of personal and professional services, grantees may use their own procurement systems and procedures which meet applicable requirements of State, territorial or local laws and ordinances to the extent that such systems and procedures do not conflict with Federal laws, regulations or policies. The applicable provisions of §§ 35.937 through 35.937–11 apply to all subagreements of grantees for personal and professional services where the aggregate amount of services involved is expected to exceed $10,000.

(a) Policy. Facilities planning (Step 1), project design work (Step 2), or administration or management of (Step 2) project work may be performed by negotiation of procurement of engineering, planning, architectural, accounting, fiscal, legal, or related services, as appropriate. The proper award and perform of contracts for such services is of crucial importance for the optimum design and construction of treatment works in accordance with the applicable policies set forth in Pub. L. 92-506, Federal Management Circular 74–7, and in this subpart. It is the policy of the Federal Government to encourage public announcement of the requirements for personal and professional services. Contracts for such services shall be negotiated with candidates selected on the basis of demonstrated competence and qualifications for the type of professional services required and at a price fair and reasonable price. All negotiated procurement shall be managed to provide to the maximum practicable extent open and free competition.

(b) Definitions. As used in §§ 35.937 through 35.937–12 the following words and terms shall have the meaning set forth below:

1. Architectural or engineering services are those professional services associated with research, development, design and construction, alteration, or repair of real property, as well as incidental services that members of these professions and those in their employ may logically or justifiably perform, including studies, investigations, surveys, evaluations, consultations, planning, programming, conceptual designs, plans and specifications, cost estimates, inspections, shop drawing reviews, sample recommendations, preliminary drawings, and maintenance manuals, and other related services.

2. Subagreement is a written agreement between a grantee and third party and any tier of agreement thereunder for the furnishing of services, supplies, or professional services and purchase orders. Subagreements must be necessary for and directly related to the accomplishment of the project work; must be in the form of a bilaterally executed written agreement; and may be for monetary or in-kind consideration; and may not be in the nature of a grant or gift.

§ 35.937–1 Type of contract.

The preferred type of negotiated contract is the fixed price type. However, the cost reimbursement types of contract (e.g., cost-plus-fixed-fee, cost-plus-incentive-fee, etc.) may be utilized if the cost of contract performance cannot be adequately estimated for fixed price purposes. The cost-plus-percentage-of-cost (including salary multiplier) and the percentage-of-construction-cost types of contract may not be utilized. Each cost reimbursement contract must clearly establish a cost ceiling which the contractor may not exceed without formally amending the contract.

§ 35.937–2 Public announcement.

(a) Adequate public notice must be given of the request for proposals for the furnishing of services, supplies with an anticipated price in excess of $10,000 except where single source procurement is permitted pursuant to § 35.937–11. Such notice of request for proposal must be published in professional journals, newspapers, or publications of general circulation beyond the grantee’s locality (Statewide, generally), and through the furnishing of written notices, solicitations or announcements directed to interested persons, firms, or professional organizations inviting proposals and stating the method by which request for proposal documents may be obtained or examined. Sources which request an opportunity to submit proposals, and which are not otherwise barred by law or regulation, shall be promptly furnished a copy of the request for proposals. The proposal must be submitted in accordance with the solicitation statement required pursuant to § 35.937–9(a) and must contain offers of all evaluation criteria (as applicable § 35.937–3) and of the relative importance attached to each criterion (a numerical weighted formula need not be utilized).

(b) The request for proposal must clearly state the time and place for submission of proposals.

§ 35.937–3 Evaluation criteria.

The grantee shall review submissions from eligible firms received in response to public notice of a particular project and shall uniformly evaluate the responding firms. Information shall not be disclosed to one or more candidates which would give them a competitive advantage.

(b) Criteria which must be considered in the evaluation and ranking of candidates and selection of a contractor shall as a minimum include:

1. Specialized experience and technical competence of the candidate or firm and its personnel (including a joint venture or association) in connection with the type of services required.

2. Past record of performance on contracts with the grantee, other government agencies or public bodies, and with private industry, including such factors as control of costs, quality of work, and ability to meet schedules;

3. Capacity of the candidate to perform the work required, including, where appropriate, demonstrated capability to explore and develop innovative or advanced techniques and designs;

4. Volume of work previously awarded to the candidate by the grantee with the object of effecting an equitable distribution of work among qualified firms;

5. Avoidance of personal and organizational conflicts of interest.

§ 35.937–4 Ranking and selection of candidates for architectural or engineering services.

Not less than three candidates must be selected and ranked for negotiation of contracts, unless after good faith efforts to solicit proposals in accordance with § 35.937–2, three or fewer qualified candidates respond, in which case all qualified candidates must be selected and ranked for negotiation. The ranking
should be accomplished by an objective process, such as the appointment of a board or committee which includes technical experts. Oral or written interviews should be conducted with proposers, and information derived therefrom shall be treated on a confidential basis, except as required to be disclosed to EPA pursuant to § 35.937–6 (Cost and price considerations).

§ 35.937–5 Negotiation.

Grantees are responsible for negotiation of contracts. This function may be performed by the grantee directly or by a person or firm retained for the purpose. Contract negotiations may include the services of technical, legal, audit or other specialists to the extent deemed appropriate. Negotiations shall be directed toward:

(a) Making certain that the candidate has a clear understanding of the essential requirements;
(b) Assuring that the candidate will make available the necessary personnel and facilities to accomplish the work within the required time;
(c) Assuring that the candidate will provide the required technical services in accordance with the criteria established for the project; and
(d) Reaching mutual agreement on the provisions of the contract, including a fair and reasonable price for the required work determined in accordance with the cost and profit considerations set forth in §§ 35.937–6 and 35.937–7.

§ 35.937–6 Price and cost considerations.

(a) General. It is the policy of EPA that the cost or price of all subagreements must be considered. For each subagreement expected to exceed $100,000, each proposer selected for negotiation shall submit to the grantee adequate documentation to enable the grantee to perform appropriate review of proposed costs. Documentation shall include the information described in paragraphs (b) and (c) of this section. The grantee, after reviewing the data, shall submit the proposer’s data, his findings and the proposed subagreement to the Project Officer for review. The Project Officer must approve the cost or price analysis prior to the award of the contract to assure compliance with appropriate procedures.

(b) Cost analysis. (1) In those cases where technical competition is the principal selection factor, a detailed analysis of the selectee’s cost estimate and backup cost or pricing data is required.

(2) The analysis includes the appropriate verification of cost data, the evaluation of specific elements on costs, and the projection of these data to determine the effect on prices of such factors:

(i) The necessity for certain costs;
(ii) The reasonableness of amounts estimated for the necessary costs;
(iii) Allowances for contingencies;
(iv) The basis used for allocation of overhead costs; and
(v) The appropriateness of allocations of particular overhead costs to the proposed contract.

(3) Appropriate consideration should be given to § 35.940, which contains general cost principles and procedures for the determination and allowability of costs under grants.

(4) Among the evaluations that should be made are the necessity of particular overhead costs and the level of effort merited by such evaluations. If comparisons of an contractor’s or offeror’s current estimated costs with:

(i) Currently approved (certified) rates (direct and indirect) based on recent Federal, State or local analysis or audit utilizing the allowable cost principles of § 35.940.

(ii) Actual costs previously incurred by the contractor or offeror.

(iii) The contractor’s or offeror’s last prior cost estimate for the same or a similar item or with a series of his prior estimates;

(iv) Current cost estimates of other possible sources; and

(v) Prior estimates of historical costs of other contractors performing services of a similar nature.

(b) Forecasting future trends in costs from historical cost experience is of primary importance. An adequate cost analysis must include consideration of future trends in costs when reasonably determinable.

(6) In addition to the elements of cost, the amount of profit shall be set forth separately in the cost analysis.

(c) Price analysis. Price analysis is the process of evaluating a prospective price without regard to the contractor’s separate cost elements and proposed profit. Price analysis is used when the services required lend themselves to price comparison.

§ 35.937–7 Profit.

It is the policy of EPA that profit—i.e., the net proceeds obtained by deducting all expenses, both direct and indirect, from the price—on a subagreement and each amendment to a subagreement under a grant be sufficient to attract contractors who possess talents and skills necessary for the accomplishment of project objectives, and to stimulate efficient and expeditious completion of the project. Where cost analysis is performed, the estimate of profit should be analyzed as are all other elements of price. The objective of negotiations shall be the exercise of sound business judgment including a fair and reasonable profit based on the firm’s assumption of risk and input to total performance and not merely the application of a predetermined percentage factor. For example, the ratio of profit to cost should normally be less for amendments and change orders than for initial contract agreements.

§ 35.937–8 Award of contract.

(a) After the close of negotiations, the grantee shall award the contract to the proposer whose proposal achieves the best technical product at a reasonable price as set forth in §§ 35.937–3, 35.937–5 and 35.937–8.

(b) An unsuccessful offeror shall be notified at the earliest practicable time that his offer has not been selected for award.

(c) Upon written request of an unsuccessful offeror, the grantee shall disclose the reason(s) for rejection.

(d) The grantee must develop and retain adequate records of the basis for selection for negotiation and award.

(e) The grantee shall secure written approval from the EPA Project Officer of all subagreements or amendments there­to in excess of $100,000 and their cost analyzes prior to execution of the subagreement or amendment to assure compliance with appropriate procedures.

§ 35.937–9 Required solicitation and subagreement provisions.

Each subagreement must adequately define the scope of project work to be performed by the contractor for the grantee and must include adequate provisions to define a sound and complete agreement. All such subagreements must include the appropriate provisions set forth in paragraph (b).

(a) Required solicitation statement. Requests for proposals must include the following statement:

An contract or contracts awarded under this request for proposals are expected to be funded in part by a grant from the United States Environ­mental Protection Agency. This procurement will be subject to regulations contained in 40 CFR 35.937 and 35.939. Neither the United States nor the United States Environmental Protection Agency is nor will be a party to this request for proposals or any resulting contract.

(b) Required subagreement provisions. (1) Priority of contract. Each subagreement must include the following:

This contract is funded in part by a grant from the U.S. Environmental Protection Agency. This contract is subject to regulations contained in 40 CFR 35.937 and 35.939. Neither the United States nor the U.S. Environmental Protection Agency is a party to this contract.

(2) Amendment. Each subagreement must contain adequate provision for amendment of work within the scope of the contract by the grantee.

(3) Termination; suspension. Each subagreement must contain adequate provisions for termination of all or any part of contract performance in default of the contractor, or for suspension of all or any part of contract performance by agreement or by the grantee, including the manner by which the termination or suspension will be effected and the basis for settlement.

(4) Remedies. Each subagreement must contain adequate contractual provi­sions or conditions to allow for adequate insurance, contractual or legal remedies in instances where grantees or contractors violate or breach contract terms or
conditions, and must provide for such damages, sanctions, and penalties as may be appropriate.

(5) Employment practices. Each subagreement must contain a provision whereby the contractor shall not discriminate, directly or indirectly, on the grounds of race, color, religion, sex, age, or national origin in its employment practices under any project, program, or activity receiving assistance from EPA, and that the contractor shall take affirmative steps to ensure that applicants are employed and are treated during employment without regard to race, color, religion, sex, age, or national origin.

(6) Patents; data; copyrights.—(1) Each subagreement shall contain a provision to the effect that the contractor is subject to the duties of the grantee relating to rights in data and copyrights contained in 40 CFR 30.530.

(ii) Each subagreement involving experimental, developmental, research or demonstration work shall contain a provision to the effect that the contractor is subject to the duties of the grantee relating to rights in inventions and patents contained in 40 CFR 30.515.

(7) Notice and evidence regarding patent and copyright infringement. Each subagreement must contain a clause substantially similar to that set forth in the grant agreement entitled “Notice and Assurance Regarding Patent and Copyright Infringement.”

(8) Records. Each subagreement must contain a provision requiring the contractor to maintain records of contract performance, unless otherwise approved by the Project Officer, and when appropriate.

(9) Access. Each subagreement must contain a provision to ensure that the Project Officer and any authorized representative of EPA or the Comptroller General of the United States, or any authorized representative, to the extent and for the same length of time as is set forth with respect to grantee records in §30.805 of this subchapter.

(10) Executive Order 11738. Each subagreement in excess of $100,000 must contain a provision whereby the contractor or subcontractor agrees to comply with all or shall be regarded, if not in accordance with the requirements of Executive Order 11738, as published in the Federal Register, as amended from time to time.

(11) Contingent fees. Each subagreement shall contain a prohibition against contingent fees as follows:

The Contractor warrants that no person or company has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employment, nor has the contractor paid or agreed to pay any person, company, corporation, individual or firm with which the contractor is or was affiliated, and any fee, commission, contribution, donation, percentage, gift, or any other consideration, contingent upon, or resulting from award of this contract. For any breach or violation of this provision, the Owner shall have the right to terminate this agreement, without liability and without prejudice, to deduct from the contract price, or otherwise recover, the full amount of such fee, commission, percentage, gift or consideration and all other damages, and shall be responsible for reporting the details of such breach or violation to the proper legal authorities, where and when appropriate.

§35.937–10 Subagreement payments—professional services.

Full and prompt payment should be made to grantees and contractors for eligible costs incurred as work proceeds under contracts for personal and professional services under an EPA grant. Grantees and contractors should not as a matter of policy withhold payment for eligible contract costs for professional services unless it is determined that the professional services rendered do not comply with contract objectives, terms, conditions, or reporting requirements. Withholding should be limited to only that amount necessary to assure contract compliance.

§35.937–11 Applicability to existing contracts.

(a) In some cases a negotiated subagreement may have been executed prior to the effective date of these regulations to cover work under more than one step of a grant. Such contracts already in existence may not have included a firm and definitive scope of work or a firm price for the later steps.

(1) When the scope of work has been sufficiently defined to negotiate a firm, unconditional agreement including a firm price, for subsequent phases of the work at the time of the initial negotiation, all phases covered by the firm agreement may proceed under that contract.

(2) When the scope of work is not sufficiently defined to negotiate a firm contractual agreement, including a firm price, for each phase of the work at the time of the initial negotiation, the grantee must, prior to moving into subsequent phases, either:

(I) Renegotiate the contract in accordance with §§ 35.937–5 (Negotiation), 35.937–6 (Price and cost considerations) and 35.937–7 (Performance), or

(II) Announce the subsequent phases and negotiate a contract with the successful proposer.

(b) The provisions of subparagraph (2) above shall apply to all negotiated contracts for personal and professional services spanning more than one step if the subsequent phases are made firm after the effective date of this regulation, even if the firm contract for the first phase was executed prior to that date.

(4) The announcement provision in subparagraph (2) above shall not apply to a grantee who desires to utilize the engineering firm which performed the design work under step 1 or step 2 of the grant for services during construction under step 3.

(b) When a single treatment works is segmented into two or more step 3 projects and if the step 2 work is accordingly segmented so that the initial contract for preparation of construction drawing and specifications does not cover the entire treatment works to be built under one grant, the grantee need not announce the requirement for architectural or engineering services for subsequent segments of design work under one grant. The grantee may use the same engineering firm that was selected for the initial segment of step 2 work for subsequent segments if he desires to do so. All other appropriate provisions of these sections, including cost analysis and negotiation requirements, will apply to each segment of work.

§35.938 Construction contracts of grantees.

§35.938–1 Applicability.

This section applies to contracts awarded by grantees for any Step 3 project except personal and professional service contracts.

§35.938–2 Performance by contract.

It is the policy of the Environmental Protection Agency to encourage free and open competition with regard to project work performed by contract. The project work shall be performed under one or more contracts awarded by the grantee to private firms, except for force account work authorized by §35.935–2.

§35.938–3 Type of contract.

Each contract shall be a fixed price (lump sum or unit price) or a combination of the two. Where the Regional Administrator gives advance written approval for the grantee to use some other method of contracting, the contractor shall be paid a plus-a-percentage-of-cost method of contracting shall not be used.

§35.938–4 Formal advertising.

Each contract shall be awarded by means of formal advertising, unless negotiated in accordance with §35.935–1. Formal advertising shall be in accordance with the following:

(a) Adequate public notice. The grantee will cause adequate notice to be given of the solicitation by publication in newspapers or journals of general circulation beyond the grantee’s locality (Statewide, generally), inviting bids on the project work, and stating the method by which bidding documents may be obtained and/or examined. Where the estimated prospective cost of Step 3 construction is ten million dollars or more, such notice must normally be published in trade journals of nationwide distribution. The grantee shall solicit bids directly from bidders if it maintains a bidders list.
(b) Adequate time for preparing bids. Adequate time, generally not less than 30 days, must be allowed between the date when public notice pursuant to paragraph (a) of this section is first published and the date by which bids must be submitted. Bidding documents (including specifications and drawings) shall be available to prospective bidders from the date when such notice is first published.

(c) Adequate bidding documents. A reasonable number of bidding documents (invitations for bid) shall be prepared by the grantee and shall be furnished upon request on a first-come, first-serve basis. A complete set of bidding documents shall be maintained by the grantee and shall be available for inspection and copying of any part. Such bidding documents shall include:

(1) A complete statement of the work to be performed, including necessary drawings and specifications, and the required completion schedule. (Drawings and specifications may be made available for inspection instead of being furnished);

(2) The terms and conditions of the contract to be awarded;

(3) If award is intended to be made to a firm which did not submit the lowest bid, a written statement shall be prepared by the responsible bidder explaining why the lower bidder was deemed not responsive or responsible;

(4) State or local laws, ordinances, regulations or procedures which are designed or operated to give local or State bidders preference over other bidders shall not be employed in evaluating bids.

§ 35.938-5 Negotiation of contract amendments.

(a) Amendments to formally advertised, sealed bids and negotiated contracts, including change order amendments, shall be negotiated utilizing the provisions of § 35.937-5 (Negotiation), § 35.937-6 (Price and cost considerations) and § 35.937-7 (Profit).

(b) Related work shall not be split into two amendments or change orders merely to keep it under $100,000 and thereby avoid the requirements of paragraph (a) of this section. Such work shall be evaluated by the grantee explaining why each lower bidder was deemed not responsive or responsible.

§ 35.938-6 Subagreement payments—construction, materials and equipment.

(a) It is EPA policy that, except as may be otherwise provided by State law, prompt and prompt payment should be made by grantees and contractors for eligible construction, materials, and equipment costs incurred under a contract under an EPA construction grant. In no event shall any payment for partial delivery and acceptance of items or equipment not requiring special manufacture be made by grantees and contractors for items (including manufactured items such as pipe) for which the net price of the change order exceeds $100,000 and the total price of the change order is over $100,000, the requirements of paragraph (a) shall be applicable.

(b) If no single additive or deductive item has a value of $100,000, but the total price of the change order is over $100,000, the requirements of paragraph (a) shall be applicable.

(c) If the total of additive items or equipment costs of work in the change order exceed $100,000, or the total of deductive items of work in the change order exceed $100,000, and the net price of the change order is less than $100,000, the requirements of paragraph (a) shall apply.
Grantee must document its file with procurements may be negotiated by items or equipment requiring standardization to aggregate more than $5,000.

To be rendered by a university or other governing body, the grantee if any of the following conditions are applicable:

(1) Public exigency will not permit the delay incident to formally advertised procurement (e.g., an emergency procurement).

(2) The aggregate amount involved does not exceed $10,000 (see §35.939-3 for small purchases).

(3) The material or service to be procured is available from only one person or entity. If the procurement is expected to aggregate more than $10,000, the grantee must document its file with a justification of the need for noncompetitive procurement, and provide such documentation to the Project Officer on request.

(4) The procurement is for personal or professional services or for any service to be rendered by a university or other educational institution.

(5) No responsive, responsible bids at acceptable prices have been received after formal advertising.

(6) The procurement is for materials or services where the prices are established by law.

(7) The procurement is for technical items or equipment requiring standardization and interchangeability of parts with existing equipment, or for technical or specialized supplies requiring substantial initial investment for manufacture.

(8) The procurement is for experimental, developmental, or research services.

The open negotiation of subagreements is authorized pursuant to (a) above, such subagreements shall be negotiated utilizing the applicable provisions of §§35.977 through 35.977-11.

§35.939-2 Code or standards of contract.

(a) The grantee must maintain a code or standards of conduct which shall govern the performance of its officers, employees, or agents in the conduct of project work, including procurement and the expending of project funds. As a minimum, the grantee must exert diligent effort to ensure that its officers, employees or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from contractors or potential contractors. The grantee must avoid personal or organizational conflicts of interest or noncompetitive procurement practices which restrict or eliminate competition or otherwise restrain trade.

(b) To the extent permissible by State or local law or formal institutional requirements and procedures, the grantee may set executive action taken, with respect to other adequate disciplinary actions are applied for project-related violations of law or of such code or standards of conduct, by either the grantee's officers, employees, or agents, by contractors or their agents.

(c) The grantee must inform the Project Officer in writing of each violation of law or code or standards of conduct, and will supply the officers, directors, and agents by their agents, and of the investigative or disciplinary action taken by the grantee with respect to such infractions, and must cooperate with Federal officials in such investigations or disciplinary actions instituted in respect to such infractions. Pursuant to §30.245 of this Subchapter, the Project Officer in writing of each action taken by the EPA Security and Inspection Division, of all such notifications from the grantee.

(d) EPA shall cooperate with the grantee with respect to its disciplinary or investigative actions, and shall, with respect to any apparent project-related violations of law or of the grantee's code or standards of conduct.

(e) All procurements under grants are submitted to this Federal Office, in a form provided for by the grantee, or as required by the Regional Administrator concerning an alleged violation of Federal law or this subchapter concerning procurement under a grant for construction of treatment works, the Regional Administrator shall request the grantee for resolution. The provisions of §30.235 of this Subchapter relating to fraud and other unlawful or corrupt practices also apply.

(7) The procurement is for technical, developmental or research services. The grantee must promptly furnish to the complying party and to the other affected parties (by certified mail, return receipt requested), a written summary of its determination, substantiated by a legal opinion (and accompanied by an engineering report where step 3 construction is involved), providing a justification for its determination. See paragraph (c) of this section for applicable time limitations.

(b) Regional Administrator responsibility. A party adversely affected by an adverse determination and supporting justification shall be transmitted with the request for review, together with a statement of the specific reasons why the proposed grantee procurement action would violate Federal requirements. The Regional Administrator will afford both the grantee and the complaining party, as well as any other interested party who may be adversely affected, an opportunity to present the basis for their views in writing or at a conference, and he shall promptly state in writing the basis for his determination. See paragraphs (a) and (b) of this section for resolution. If the grantee proposes to award a formally advertised contract or to approve award of a specified sub-item under such contract to a

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bidder other than the apparent low bidder, the grantee will bear the burden of proving that its determination was made in good faith. The written determination by the Regional Administrator shall be promptly furnished to the grantee and to the complainant and shall be final as to Agency action except with respect to appeal rights of the grantee under the disputes provision of the grant (see Part 30 Subpart J of this subchapter). (The provisions of § 30.245 of this Subchapter relating to fraud and other unlawful or corrupt practices also apply.)

(c) Time limitations. Complaints should be made pursuant to paragraph (a) of this section as early as possible during the procurement process, preferably prior to issuance of an Invitation for Bids, or prior to the award of the procurement process; Provided, That a complaint authorized by paragraph (a) of this section must be mailed (by certified mail, return receipt requested) or delivered no later than the fifth working day after receipt of notice of nonselection or, if no notice is received, the fifth working day after the complainant first learns of the action it desires to protest, whichever occurs later. A request for review by the Regional Administrator pursuant to paragraph (b) of this section must be received by the Regional Administrator within ten days after the complaining party received the grantee's adverse determination.

(d) Deferral of procurement action. Where the grantee has received a written complaint pursuant to paragraph (a) of this section, it must defer the protested procurement action (for example, defer the issuance of solicitations, bid opening date, contract or award or notice to proceed under the contract) for ten days after mailing or delivery of any written adverse determination. Where the Regional Administrator has received a written protest pursuant to paragraph (b) of this section, he must notify the grantee promptly and the grantee must defer its protested procurement action until after it receives the determination by the Regional Administrator. If a determination is made by either the grantee or the Regional Administrator which is unfavorable to the complainant, the grantee's procurement action (for example, contract award) must be taken in accordance with such determination.

(e) Extensions of time. The filing of a protest by a bidder shall constitute an extension of the period for acceptance of his bid (or his bid bond(s)) if any, until 10 working days after final determination of his protest. The grantee must seek to obtain similar extensions from other suppliers.

(f) Enforcement. Noncompliance with the provisions of this subchapter affecting procurement will result in (1) total or partial termination of the grant pursuant to § 35.950, (2) ineligibility for grant assistance which could otherwise be awarded under this subchapter or (3) disallowance of project costs (see § 35.940-2(f)) incurred in violation of the provisions of this subchapter or applicable Federal laws, as determined by the Regional Administrator. The grantee may appeal adverse determinations by the Regional Administrator in accordance with the disputes provision of this subchapter (see 40 CFR Part 30 Subpart J).

[FR Doc. 75-12237 Filed 5-8-75; 8:45 am]

CERTAIN INERT INGREDIENTS IN PESTICIDE FORMULATIONS

Exemption From Requirement of Tolerance

The Administrator of the Environmental Protection Agency has received requests to exempt certain additional inert (or occasionally active) ingredients in pesticide formulations from tolerance requirements under the provisions of section 408(e) of the Federal Food, Drug, and Cosmetic Act.

The data submitted with the requests have been reviewed, as well as the history of use and available information on the chemistry and toxicity of these substances. It has been determined that these substances are useful as adjuvants and do not pose a hazard to the environment when used in accordance with good agricultural practice. The proposed regulation will protect the public health.

Any person who has registered or submitted an application for the registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act which contains any of the ingredients listed herein may request, on or before June 9, 1975, that this proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation to the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, Environmental Protection Agency, Room 423, East Tower, 401 M Street, SW, Washington, DC 20460. Three copies of the comments should be submitted to facilitate the work of the Agency and others interested in inspecting the documents. The comments must be received on or before June 9, 1975, and should bear a notation indicating the subject (OPP-300004). 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. (Sec. 408(e), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(e))).

Dated: May 1, 1975

JOHN B. RITCH, JR.,
Director,
Registration Division.

It is proposed that Part 180, Subpart D, § 180.1001, be amended by alphabetically inserting the following new items in paragraphs (e), (d), and (e).

§ 180.1001 Exemptions from the requirement of a tolerance.

(c) * *

Inert ingredients Limits Use

Almond shells............. Solid diluent and carrier.

Coconut shells............. Solid diluent and carrier.

Wood flour.............. Derived as free of chemical preservatives.

(d) * *

Inert ingredients LimitsUse

Potassium dihydrogen phosphate........ Buffering agent.

Potassium dihydrogen phosphate........ Buffering agent.

Sodium moystate...... Plant nutrient.

(e) * *

Inert ingredients Limits Use

Oleyl-(1,2-oleoyl-1-oxo-3-oxylane) derived from 1,2-oleoyl-1-oxo-3-oxylane, molecul- 

ear weight 600. Emulsifier, de- 

sonating agent.

[FR Doc. 75-12012 Filed 8-8-75; 8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Parts 210, 239, 249 ]

[Release Nos. 33-5758, 34-11493, 35-19409]

INTERIM FINANCIAL STATEMENTS

Alternative Proposals Regarding Disclosure

In Securities Act Release No. 5549 dated December 19, 1974 and published at 40 FR 1079, January 6, 1975, notice was given of proposals to increase disclosure of interim results by registrants.
Interested persons were invited to submit written comments regarding the proposals or before March 15, 1975. Numerous comments were received and, as might be expected, various views were expressed with respect to the usefulness, practicability and effect of the information proposed to be required.

The proposal which elicited the greatest amount of comment was the proposed amendment to Regulation S-X (17 CFR Part 210) to require certain limited quarterly data to be included in a footnote to financial statements for the year. This inclusion would have the effect of involving independent public accountants with quarterly data and it was this effect which was most criticized by commenters.

The Commission has carefully considered the comments received. It continues to believe that the proposed disclosures of quarterly data in connection with financial statements covering longer periods may be necessary and appropriate for the proper protection of investors in the capital markets. Experiences in trend of business operations and to understand the seasonal characteristics of a reporting entity. It also believes that the involvement of independent public accountants in the appropriate process would improve the quality of the interim reporting systems of registrants and hence the reliability and consistency of interim reports.

The letters of comment received have stressed the additional cost of public accounting services that would be incurred if the Commission's original proposal to include quarterly data with audited financial statements is adopted and have expressed the view that benefits to be gained would not be commensurate with these costs.

The Commission is mindful of the cost to registrants of its proposals and it recognizes its responsibility to weigh with care the costs and benefits which result from its rules. Whenever it is possible for the Commission to achieve its objective of protection of investors through approaches which minimize costs to registrants, it attempts to do so.

Accordingly, the Commission has concluded that it is appropriate to include comments on specific alternative proposals to those set forth in its prior release. The Commission believes that these proposals may accomplish its desired objectives at a lesser cost to registrants.

The earlier proposals are still being considered and are not withdrawn, but the proposals set forth herein should be considered as preferable alternatives to certain portions of those proposals. The Commission specifically invites comments on the cost to registrants of these alternative proposals.

These proposals would permit the footnote which includes limited quarterly data to be labeled "unaudited"; would expand the note requirement to include those for full quarters in any sub period interim statements presented; would specify the limited review procedures which independent public accountants would be expected to follow when they are associated with this unaudited note for interim statements in which it is included; would permit (but not require) independent public accountants to be associated with data on Form 10-Q (17 CFR 249.308a) to use this form for independent accountants have been associated with the three most recently filed Form 10-Q's; and would require the chief financial officer of the registrant to sign Form 10-Q.

These proposals are discussed in more detail below.

In addition, because significant questions have been raised concerning the desirability of involvement by independent public accountants in the interim reporting process and because a number of commentators indicated a wish to make a personal presentation on the issues, the Commission has determined to hold a meeting to receive comments on alternative proposals. The hearing, which is ordered in Securities Exchange Act Release No. 11354 (49 F.R. Issued today, will permit interested parties to express their opinions on any aspects of interim reporting.

Interim financial data in notes to annual financial statements. Release 33-5549 proposes to amend Regulation S-X to require registrants to include quarterly financial data in notes to annual financial statements. The release states: "The Commission is not prepared, however, to have this footnote designated as "unaudited.""

Commentators have suggested that this approach would be costly. Some also contend that the distinction between auditing the interim data in a note as contemplated in the release and auditing each interim period as a separate period, which is stated not to be contemplated, would not be understood. One suggestion for dealing with this problem is to specify the data required to be designated as "unaudited" but require that some review procedures be applied to the data by independent public accountants. Under this suggestion, the required review procedure would have to be articulated either by the accounting profession as an element of generally accepted auditing standards or by the Commission as part of its rules.

The Commission believes that this suggestion may have merit. Accordingly, in this release the Commission specifically proposes to modify proposed Rule 203(a) of Regulation S-X (17 CFR 210.2-02) to allow the note required by that rule to be designated as unaudited. Further, it is proposed to amend Rule 2-02 of Regulation S-X (17 CFR 210.2-02) to specify review procedures which would be required to be performed by independent public accountants in accordance with generally accepted auditing standards and the auditor performing them would not be in a position to express an opinion on the interim financial statements. Rather, the procedures are designed to bring to the auditor's attention significant matters to which his objectivity and knowledge of financial reporting may be applied. Thus, while the data would not have the added credibility which might be provided by an audit, it is believed that auditor involvement in the interim reporting process by application of these procedures would result in the release of additional information of such data. This would be of substantial benefit to the public investor who must rely on this information.
The proposed Form 10-Q amendments also separately the requirements for financial statements from the requirement for a narrative analysis by management and require the signature of the principal financial officer of the registrant. The proposed amendment to the quarterly report to be signed by the registrant's principal financial officer would emphasize the responsibility of this officer for the representations explicit and implicit in the filing. This appears appropriate since the major elements of a quarterly report are financial. Such signatures would not relieve other corporate officers of their responsibilities.

Conditions for use of Form S-7 (17 CFR 239.26) and Form S-16 (17 CFR 239.27). The proposed amendments to Form 10-Q do not require that the financial statement data therein be reviewed by an independent public accountant. The proposed amendment of Regulation S-X, however, would require that interim data be reviewed (but not audited) on a prospective basis before its inclusion in an unaudited footnote. Thus, even if the data were not reviewed by an independent public accountant on a timely basis, they would ultimately be reviewed for annual reporting.

In the belief that timely review of interim data should be encouraged because of its significance to investors, the Commission proposes to liberalize the conditions for use of Form S-7 so that registrants may separate interim and annual data in a simplified registration form for use if their quarterly reports have been reviewed prior to filing. Essentially, the proposal is to broaden the availability of the form to include registrants who have taken the voluntary step of providing investors with additional assurance regarding the reliability of their current interim financial reports. Thus, registrants which could not meet the existing three-year reporting, default, net income and dividend requirements could use the form if the financial statements included in Form S-7 would be reviewed by an independent public accountant for each of the three preceding quarterly periods for which such forms were required to be filed, and if the registrant has filed all reports required to be filed under section 13 of the 1934 Act during the twelve months preceding the filing of the registration statement.

Form S-16 presently may be used by any issuer eligible to use Form S-7 for registration of offerings of certain outstanding securities for the account of someone other than the issuer and for registration of securities underlying outstanding convertible securities or warrants, under certain conditions. It is proposed to allow Form S-16 to be available to any issuer meeting the proposed liberalized requirements for Form S-7 for registration of offerings of certain outstanding convertible securities or warrants, under certain conditions. However, as proposed, Form S-16 would not be available for secondary offerings for the account of someone other than the issuer unless the issuer met the existing requirements for Form S-7 including the three-year reporting, default, net income and dividend requirements. The Commission specifically invites comments on whether the Form S-16 should be made available for registration of such secondary offerings of the securities of any issuer which meets the liberalized Form S-7 requirements, and, if so, under what conditions.

Other comments. It should be noted that if the financial statement data in Form S-7 are reviewed on a timely basis, the need for review of the footnote to annual financial statements would not be eliminated. However, the procedures reviewed are on a prospective basis for the first three quarters would not need to be repeated at year end, so the effort necessary at year end would be greatly reduced. In such a situation, the independent public accountant's review at year end would concentrate largely on the fourth quarter and the events and adjustments which are reflected in that quarter.

Commission action. The Commission hereby proposes amendments to §§ 210.2—62, 210.3—16, 249.308a (Form 10-Q), 239.26 (Form S-7), and 259.27 (Form S-16), all of 17 CFR Ch. II, to provide for the attached proposed amendments. Appendix A, which follows the text of the amendments proposed in this release, contains an integration of these amendments with the amendments proposed in Release 33—5549 that would not be affected by the alternative proposals. The proposed amendments would be adopted pursuant to authority in sections 6, 7, 9, 10, 19(a) (15 U.S.C. 77f, 77g, 77h, 77i, 77k) of the Securities Act of 1933; sections 12, 13, 15(d) and 23(a) (15 U.S.C. 78l, 78m, 78o(d), 78w) of the Securities Exchange Act of 1934; and sections 8(b), 14 and 20(a) (15 U.S.C. 78e, 78n, 78u) of the Public Utility Holding Company Act of 1935.

All interested persons are invited to submit written comments on the proposed rules on or before June 18, 1975. Persons who wish to have their comments considered in connection with the hearings on this subject ordered in Release 34—11354 should submit their comments in advance of the hearing which is scheduled for June 2, 1975. The communications should be addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and should be referenced to File No. S7—542. All comments will be available for public inspection.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, Secretary.

April 17, 1975.

PART 210—FORM AND CONTENT OF FINANCIAL STATEMENTS, SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935, AND INVESTMENT COMPANY ACT OF 1940

Part 210 (Regulation S-X) is proposed to be amended to add a new paragraph (v) of § 210.3—16 (40 FR 1079), as given below.

§ 210.3—16 Accounts and reports.

(e) Association with unaudited note covering interim financial data. If the financial statements covered by the accountant's report designate as "unaudited" the note required by § 210.3—16(v), the accountant shall carry out the following procedures with respect to the data therein:

(1) Obtain by inquiry an understanding of the internal accounting control procedures and the flow of transactions through the accounting system and the manner of recording, classifying and summarizing transactions for the purpose of preparing interim financial statements.

(2) Make an analytical review of the interim financial data which underlie the financial data presented pursuant to § 210.3—16(v) by performing the following procedures:

(i) Make a systematic comparison of the actual results for each interim period with anticipated results for that period, with the results for the immediately preceding interim period, and with the results for the corresponding interim period in the previous fiscal year. Obtain explanations of any unusual changes.

(ii) Identify the principal differences between different components of the interim financial data for each interim period which, absent unusual transactions, could be expected to conform to a predictable pattern. Obtain explanations of material variations from this pattern.

(iii) Compare adjustments entries at the end of each interim period with those at the current and prior year ends for consistency in the kinds of matters for which adjustments are made.

(iv) Make inquiries of officials who have responsibility for financial and accounting matters concerning the following:

(a) The accounting treatment afforded significant, new or unusual transactions or events that occurred within each interim period.

(b) The consistency of accounting principles applied in each interim period compared to prior periods and any changes in accounting principles or practices that occurred during each interim period.

(c) Consider whether the interim data presented conform to the requirements of generally accepted accounting principles, paying particular attention to any new pronouncements by authoritative bodies affecting financial reporting practices.
(5) Read the minutes of meetings of shareholders, boards of directors and other appropriate corporate committees for matters that could relate to the interim results or disclosure of financial information.

(6) Consider all of the information that comes to his attention through the performance of any work relating to his examination of the registrant's annual financial statements that could affect the interim data presented or the related disclosures.

(7) Inquire into, and perform such procedures as are appropriate with respect to, matters that come to his attention as a result of the foregoing procedures that lead him to believe that the data presented in the interim financial statements are not fairly presented in conformity with generally accepted accounting principles.

II. As a result of following these procedures, the independent accountant concludes that the data included in the unaudited footnote do not fairly present the information which they purport to show in conformity with generally accepted accounting principles, he should so state in a separate paragraph of his report.

§ 210.3-16 General notes to financial statements. (See Release No. AS-4.)

(v) Disclosure of selected quarterly financial data in notes to annual financial statements. (The original proposed amendment is contained in Release Nos. 33-5549, 34-11142 and 33-18718 (40 FR 1079).)

(1) Disclosure shall be made in a note to the financial statements of net sales, gross profit (net sales less costs and expenses associated directly with or allocated to products sold or services rendered), income before extraordinary items and cumulative effect of a change in accounting principles, per share data based upon such income, and net income for each full quarter within the two most recent fiscal years and subsequent interim period for which income statements are presented.

(2) When the data supplied in paragraph (v)(1) of this section vary from the amounts previously reported on the Form 10-Q (17 CFR 243.306a) filed for any quarter, reconcile the amounts given with these previously reported describing the reason for the difference.

(3) Describe the effect of any disposals of segments of a business, and extraordinary, unusual or infrequently occurring items recognized in each full quarter within the two most recent fiscal years and any subsequent interim period for which income statements are presented, as well as the aggregate effect and the nature of year-end or other adjustments which are material to the results of that quarter.

(4) Where this note is part of financial statements which are presented as audited, it may be designated "unaudited."

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

I. Sections 239.26 (Form S-7) and 239.27 (Form S-16) are proposed to be amended to revise General Instruction A in each form and to add new subsections A(2) and B(2), respectively, as given below:

§ 239.26 Form S-7, for registration under the Securities Act of 1933 of securities of certain issuers to be offered for cash.

GENERAL INSTRUCTIONS

A. Rule as to Use of Form S-7. Any registrant which meets the conditions of paragraphs (a) and (c) and also the conditions of either paragraphs (b), (d), (e) and (f) or of paragraph (g) may use this form for registration under the Securities Act of 1933 of any securities which are offered for cash by or on behalf of the registrant or any other person, in a rights offering or otherwise:

(2) The registrant has been subject to the reporting requirements of Section 15(d) of the Exchange Act for at least twelve months, has filed all reports required to be filed under that section during the twelve months preceding the effective date of the registration statement and the financial statements included in Form 10-Q have been indicated as reviewed by an independent public accountant for each of the three preceding quarterly periods for which such forms were required to be filed.

§ 239.27 Form S-16, optional form for registration of certain offerings of outstanding securities and for offerings to holders of certain convertible securities or for offerings to holders of certain outstanding warrants.

GENERAL INSTRUCTIONS

A. Rule as to Use of Form S-16. (a) Form S-16 may be used for registration under the Securities Act of 1933 of the following securities of any issuer which at the time of filing the registration statement meets the requirements of subparagraphs (a) through (f) of paragraph A. Rule as to Use of Form S-7:

(1) Outstanding securities to be offered for the account of any person other than the issuer or an affiliate of such issuer, provided the securities are listed and registered on a national exchange or are quoted on the automated quotation system of a national securities association; and

(2) Securities to be offered upon the conversion of outstanding convertible securities of the issuer. The securities to be offered, or of an affiliate of such issuer, provided no commission or other remuneration is paid for soliciting the conversion of the convertible securities; or

(3) Securities to be offered upon the exercise of outstanding warrants, if any, of the issuer of the securities to be offered, provided no commission or other remuneration is paid for soliciting the exercise of such warrants.

(b) Form S-16 may be used for registration under the Securities Act of 1933 of the securities of any issuer which (A) in paragraphs (2) and (3) of subparagraph (a) above by any issuer which at the time of filing the registration statement meets the conditions of subparagraphs (a), (b) and (g) of paragraph A, Rule as to Use of Form S-7, of the General Instructions to Form S-7.

(c) (Existing) redesignated as (c).

(d) * * *

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

I. Section 249.308a (Form 10-Q) of Part 249 is proposed to be amended to provide a new item to the facing sheet, to further revise proposed revisions of Instruction H and add new paragraph (k), to further revise proposed revisions of redesignated Instruction I and L, and to add a new subsection to the Signature section, as given below:

§ 249.308a Form 10-Q, for quarterly reports under section 13 or 15(d) of the Securities Exchange Act of 1934.

Facing sheet of the form. The following new item would be added at the end of the sheet:

(facing sheet of the form)

Indicate by check mark whether the financial statements have been reviewed by an independent public accountant. YES _ NO _ (See Instruction H.)

INSTRUCTIONS (The original proposed amendments of following instructions are contained in Release Nos. 33-5549, 34-11142 and 33-18718 (40 FR 1079).)

H. Financial statements. (a) The registrant shall furnish an income statement, a balance sheet, and application of funds following the general form of presentation set forth in Regulation S-X (17 CFR Part 210), except that Rules 210.5-5, 210.5-6 and 210.5-16, and other requirements which call for detailed footnot disclosure and the presentation of earnings per share of common stock, shall not apply other than as required by (g) below. A company in the promotional or development stage to which paragraph (b) of Rule 5A-1 of Article 5A of Regulation S-X (17 CFR 210.5A-1) is applicable shall furnish the information specified in Rules 5A-03, 5A-04, 5A-03, 5A-04 and 5A-04.1 of Regulation S-X (17 CFR 210.5A-02, 210.5A-03, 210.5A-04 and 210.5A-06) in lieu of the above financial statement requirements.

(b) The financial statements shall be provided for periods set forth below:

(1) The income statement shall be presented for the period between the end of the last fiscal year and the end of the most recent fiscal quarter, for the corresponding period of the preceding fiscal year.

(2) The balance sheet shall be presented as of the end of the most recent fiscal quarter and for the corresponding period of the preceding fiscal year.

(3) The statement of source and application of funds shall be presented for the period between the end of the last fiscal year and the end of the most recent fiscal quarter, and for the corresponding period of the preceding fiscal year.

(c) * * *

(d) Indicating the current period specified in (b) above, the registrant or any of its consolidated subsidiaries entered into a business combination treated for accounting purposes as a pooling of interests, the interim financial statements for both the current year and the preceding year shall reflect the results of the combined businesses. Supplemental disclosure of the separate results of the combined entities for periods required (c) shall be given, with appropriate explanations.

(e) In case the registrant has disposed of any significant portion of its business or has any significant amount of assets in a transaction treated for accounting purposes as a purchase, during any of the periods...
covered by the report, the effect thereof on revenues and net income—total and per share. The data presented, in addition, where a material business combination accounted for as a purchase has occurred during the current year period, the registrant shall be made of the results of operations for the current year up to the date of the end of the most recent fiscal quarter (and for the period preceding said end of the current year on a pro forma basis as though the combinations had occurred at the beginning of the preceding year) on a pro forma basis as though changes, such income on a per share basis and net income.

(f) The financial statements to be included in this report shall be prepared in conformity with the standards of accounting measurement set forth in Accounting Principles Board Opinion No. 28 and any amendments thereto adopted by the Financial Accounting Standards Board. In addition to meeting the reporting requirements for accounting changes and extraordinary items, the registrant shall state the date of any change and the reasons for making it. In addition, a letter from the registrant's independent accountant shall be filed as an exhibit indicating whether or not the change is to an alternative principle which in his judgment is preferable under the circumstances, except that no letter from the accountant need be filed when the change is made in response to a standard adopted by the Financial Accounting Standards Board which requires such change.

(g) Furnish any material information necessary to enable the investor to evaluate the financial statements presented pursuant to this instruction by performing the following:

(i) The accounting treatment afforded significant, new or unusual transactions or events that occurred during the period.

(ii) The income statement of any adjustments to the financial statement data which, absent unusual transactions, could be expected to conform to a predictable pattern. Obtain explanations of material variations from this pattern.

(iii) Compare adjusting entries at the end of the interim period with those at the prior year end for consistency in the types of matters for which adjustments are made.

(h) furnishing officials of any responsible for financial and accounting matters concerning the following:

(1) The accounting treatment afforded significant, new or unusual transactions or events that occurred during the period.

(2) The consistency of accounting principles applied to different periods and any changes in accounting principles or practices that occurred during the period.

(3) The current status of items that were previously accounted for on the basis of tentative, preliminary or inconclusive data. Any event related to the date of the interim financial statements which may have an effect on the data included in those statements.

(4) Read the interim financial statements to determine whether the accounting principles applied by the registrant are generally accepted accounting principles, or whether any adjustments or additional disclosures to financial reporting practices.

(5) Read the minutes of meetings of shareholders, boards of directors and other committees for matters that could relate to the interim results or disclosure of financial information.

(6) Consider all of the information that comes to his attention through the performance of any work relating to his examination of the registrant's annual financial statements that could affect the interim data presented or the related disclosures.

(7) Inquire of such procedures as are appropriate with respect to matters that come to his attention as a result of the procedures performed that lead to believe that the data presented in the interim financial statements are not fairly presented in conformity with generally accepted accounting principles.

Where such a positive response is given on the facing sheet, there shall be included as an exhibit a letter from the independent accountant indicating that he has performed the procedures set forth in this form and stating whether or not he has adjustments or additional disclosures to propose with respect to the financial statements presented. Where this letter indicates that the independent accountant has made any adjustments or additional disclosures to propose, the registrant shall furnish an additional letter as an exhibit which explains the disclosures that have been made.

I. Other Financial Information. (Existing Instruction I is redesignated as Instruction J.)

(a) The registrant shall provide a narrative analysis of the results of operations for the periods presented following the guidelines set forth in Guide I of "Guides for Preparation and Filing of Reports and Registration Statements under the Securities Exchange Act of 1934 (30 SEC. 5128) of the registrant is listed and registered. At least one copy of the report filed with the Commission and one copy filed with each such exchange shall be manually signed by the principal financial officer of the registrant. Copies not manually signed shall bear typed or printed signatures.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

Date

(Registrant)

(Signature)

Pursuant to the requirements of the Securities Exchange Act of 1934, this quarterly report has been signed below by the principal financial officer of the registrant on the date indicated.

(Date)

(Title)

(Signature)

APPENDIX A—PROPOSED AMENDMENTS INTEGRATED WITH AMENDMENTS PROPOSED IN Release No. 33-5549

In order to facilitate an understanding of the amendments proposed in this release, the following material integrates the amendments proposed herein with the amendments proposed in Release No. 33-5549 that would not be affected by the alternative proposals. The Commission is not reproposing the material proposed in Release No. 33-5549, and its inclusion here should not be interpreted to mean that the Commission has reached any conclusions with respect to its adoption. It is presented for purposes of analysis and understanding only.

PART 210—FORM AND CONTENT OF FINANCIAL STATEMENTS, SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935 AND INVESTMENT COMPANY ACT OF 1940

I. PART 210. (Regulations S-X)

Section 210.3—02. Accountants' reports.

* * * * *
(e) Association with unaudited note covering interim data. If the financial statements previously accounted for as unaudited are designated as "unaudited" the note required by § 210.3-16(v), the accountant shall carry out the following procedures with respect to the data therein:

(1) Obtain by inquiry an understanding of the internal accounting control concerning the flow of transactions through the accounting system and the manner of recording, classifying and summarizing transactions for interim financial statements. Identify any differences between the methods of accumulating and classifying data for interim and annual purposes and consider the effects, if any, of such differences upon quarterly information.

(2) Make an analytical review of the interim financial data which underlie the financial data presented pursuant to § 210.3-16(v) by performing the following procedures:

(1) Make a systematic comparison of the actual results for each interim period with anticipated results for such period, and results for the immediate preceding interim period and with the results for the corresponding interim period in the previous fiscal year to determine material variations of any unusual changes.

(2) Identify the relationships between different data for the interim period, the financial data for each interim period which, absent unusual transactions, could be expected to conform to a predictable pattern. Obtain the flow of transactions through the accounting system and the manner of recording, classifying and summarizing transactions for interim financial statements. Identify any differences between the methods of accumulating and classifying data for interim and annual purposes and consider the effects, if any, of such differences upon quarterly information.

(3) Compare adjusting entries at the end of each interim period with those at the current and prior years end for consistency in the types of matters for which adjustments are made.

(4) Make inquiries of officials who have responsibility for financial and accounting matters concerning the following:

(a) The consistency of accounting principles applied in each interim period compared to prior periods and any changes in accounting principles or practices that occurred during each interim period under review;

(b) The consistency of interim financial data that were previously accounted for on the basis of tentative, preliminary or inconclusive data; and

(c) Any events subsequent to the date of each interim period which may have an effect on the data included with respect to such periods.

(5) Consider whether the interim data presented conform to the requirements of generally accepted accounting principles, paying particular attention to any new pronouncements by authoritative bodies affecting financial reporting practices.

(6) Read the minutes of meetings of shareholders, boards of directors and other appropriate corporate committees for matters that could relate to the interim results or disclosure of information.

(7) Consider all of the information that comes to his attention through the performance of steps 1 to 6, including the consumption of the registrant's annual financial statements that could affect the interim data presented or the related disclosure.

(8) Inquire of:

(a) The registrant as to the general effect of any sale, lease or other disposition of property which at the time of filing the registration statement, and the financial statements required to be filed with such registration statement, were not intended to be treated as sold, leased or otherwise disposed of, and:

(b) The accountant as to the general effect of any sale, lease or other disposition of property which at the time of filing the registration statement, and the financial statements required to be filed with such registration statement, were intended to be treated as sold, leased or otherwise disposed of.

If, as a result of following these procedures, the independent accountant concludes that the data presented in the unaudited footnote do not fairly present the information which they purport to show in conformity with generally accepted accounting principles, he should so state in a separate paragraph of his report.

Section 210.3-16. General notes to financial statements. (See release 4-2-1.)

**Disclosure of selected quarterly financial data in notes to annual financial statements.**

(1) Disclosure shall be made in a note to financial statements of net sales, gross profit (net sales less costs and expenses associated directly with or allocated to products sold or services rendered), income before extraordinary items and cumulative effect of a change in accounting, per share data based upon such income, and net income for each full quarter within the two most recent fiscal years and any subsequent interim period for which net income or loss is presented as a separate amount given in any prior interim period with those previously reported describing the reason for the difference.

(2) When the data supplied in (1) above vary from the amounts previously reported on the Form 10-Q (17 CFR 240.308a) filed for any interim period, any such given amounts shall be disclosed in a separate paragraph with those previously reported describing the reason for the difference.

(3) The absence of any disposal of segments of a business, extraordinary, unusual or infrequently occurring items recognized in each full quarter within the two most recent fiscal years and any subsequent interim period for which income statements are presented, as well as the aggregate effect and the relationships of the adjustments which are material to the results of that quarter.

(4) Where this note is part of financial statements which are presented as audited, it may be designated "unaudited."

**Statement of Source and Allocation of Funds.** (Article 11A)

Section 210.11A-01. Application of §§ 210.11A-01 to 210.11A-02. This article shall be applicable to statements of source and allocation of funds under the Securities Act of 1933 of the securities of any issuer which at the time of filing the registration statement are offered for sale to the public in accordance with paragraph (g) of section 1(d) of the Securities Act of 1933.

**PART 253—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933**

II. Section 210.25. Form S-7, for registration under the Securities Act of 1933 of securities of certain issuers to be offered for cash.

**GENERAL INSTRUCTIONS**

A. Rule as to Use of Form S-7. Any registration statement which meets the conditions of paragraphs (a) and (c) and also the conditions of either paragraphs (b), (d), (e) and (f) or of paragraph (g) may use this form for registration under the Securities Act of 1933 of any securities which are offered for cash by or on behalf of the registrant or any other person, in a rights offering or otherwise:

(1) To register securities which at the time of filing the registration statement, and the financial statements required to be filed with such registration statement, are offered for sale to the public in accordance with paragraph (g) of section 1(d) of the Securities Act of 1933.

(2) To register securities which at the time of filing the registration statement, and the financial statements required to be filed with such registration statement, are offered by the issuer of the securities to be offered, provided no commission or other remuneration is paid for soliciting the conversion of the convertible securities thereof.

(3) Securities to be offered upon the exercise of outstanding transferable warrants issued by the issuer of the securities to be offered, or by an affiliate of such issuer, provided no commission or other remuneration is paid for soliciting the exercise of such warrants

(b) Form S-7 may be used for registration under the Securities Act of 1933 of the securities described in subparagraphs (2) and (3) of subparagraph (a) above by any issuer which at the time of filing the registration statement meets the requirements of subparagraphs (a), (c) and (g) of paragraph A, Rule as to Use of Form S-7, of the General Instructions to Form S-7.

**PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934**

IV. Section 240.13a-13. Quarterly Reports on Form 10-Q. [Amended]

(a), (b), (c) and (d) * * * * *

(b) (2) (Deleted).

V. Section 240.13a-15. Quarterly Reports of Certain Real Estate Companies on Form 10-Q. [Deleted].

VI. Section 240.13a-18. Quarterly Reports on Form 10-Q. [Amended]

(a), (b), (1), (c) and (d) * * * * *

(b) (3), (4) and (5) redesignated as (b), (2), (3) and (4), respectively.

VII. Section 240.13a-18. Quarterly Reports of Certain Real Estate Companies on Form 10-Q. [Deleted].

VIII. Section 240.308a. Form 10-Q, for quarterly reports under section 13 or 15(d) of the Securities Exchange Act of 1934.

**PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934**

**PROPOSED RULES** 20313

Federal Register, Vol. 40, No. 91—Friday, May 9, 1975
PROPOSED RULES

INSTRUCTIONS

II. Financial Statements. (a) The registrant shall furnish an income statement, balance sheet and the related statements of changes in the financial status of funds following the general form of presentation set forth in Regulation S-X (17 CFR 210.5A-01 through 210.5A-16), and other requirements which call for detailed footnote disclosure and the presentation of schedules shall not apply other than as required by (g) below. A company in the promotional or development stage to which paragraphs (f) and (h) of Regulation S-X (17 CFR 210.5A-01) is applicable shall furnish the information specified in Rules 5A-04, 5A-05, 5A-06 and 5A-07 of Regulation S-X (17 CFR 210.5A-02, 210.5A-03, 210.5A-04 and 210.5A-06) in lieu of the above financial statement requirements.

(b) The financial statements shall be prepared for periods set forth below:

(i) The income statement shall be presented for the most recent fiscal quarter, for the period between the end of the last fiscal year and the end of the most recent fiscal quarter, and for the corresponding period of the preceding fiscal year.

(ii) The balance sheet shall be presented as of the end of the last fiscal year and for the end of the corresponding period of the preceding fiscal year.

(iii) The statement of changes in the financial status of funds shall be presented for the period between the end of the last fiscal year and the end of the most recent fiscal quarter and for the corresponding period of the preceding fiscal year.

(c) If, during the current period specified in (b) above, the registrant or any of its consolidated subsidiaries entered into a business combination treated for accounting purposes as a pooling of interests, the business combination should reflect the combined results of the pooled entities for the current year, the preceding year and the most recent fiscal quarter. Supplemental disclosure of the separate results of the combined entities for the most recent fiscal quarter and the corresponding period of the preceding fiscal year shall reflect the separate results of the combined entities for the most recent fiscal quarter and the corresponding period of the preceding fiscal year.

(d) (i) If, prior to the effective date of the 1934 Act or prior to the date of the most recent financial statements furnished to the Commission, the registrant had acquired a significant amount of assets in a transaction treated as a purchase, during any of the periods for which the separate financial statements were prepared, the registrant shall include in its current financial statements pro forma information which should as a minimum reflect the financial position, results of operations and cash flows of the registrant and the acquired company as if the acquisition of the acquired company had taken place at the beginning of the first interim period of the preceding fiscal year for which the registrant prepared separate financial statements. However, the registrant shall not be required to prepare pro forma financial statements for periods prior to the date of the most recent financial statements prepared for the registrant prior to the effective date of the 1934 Act or prior to the date of the most recent financial statements furnished to the Commission.

(ii) The pro forma financial statements shall be stated in accordance with the requirements of Regulation S-X (17 CFR 210.5A-03) and shall be prepared in the same form and stating whether or not he has adjusted or additional disclosures to pro forma financial statements. Identify any differences between the methods of preparing and summarizing pro forma financial statements and the requirements of generally accepted accounting principles, paying particular attention to any new pronouncements by authoritative bodies affecting financial reporting practices.

(iii) Any events subsequent to the date of the interim financial statements that could affect the interim data presented shall be disclosed.

(h) The registrant shall furnish pro forma financial statements to determine whether the accounting reflected therein conforms with the requirements of generally accepted accounting principles, paying particular attention to any new pronouncements by authoritative bodies affecting financial reporting practices.

(i) The following information as to all securities of the registrant sold by the registrant during the period under review, not registered under the Securities Act of...
1983, in reliance upon an exemption from registration provided by section 4(2) of the Act. Include sales of the registrant's rescindable securities as well as new issues, securities issued in exchange for property, services or other securities, and new securities resulting from the modification of outstanding securities.

(1) Give the date of sale and the title and amount of the registrant's securities sold;

(2) Give the market price on the date of sale, if applicable;

(3) Give the names of the brokers, underwriters or finders, if any. As to any securities sold but which were not the subject of a public offering, name the persons or identify the class of persons to whom the securities were sold;

(4) As to securities sold for cash, state the aggregate offering price and the aggregate underwriting discounts, brokerage commissions, or finder's fees. As to any securities sold otherwise than for cash, state the nature of the transaction and the nature and aggregate amount of consideration received by the registrant;

(5) Indicate the section of the Act or rule of the Commission under which exemption from registration was claimed, and state briefly the facts relied upon to make the exemption available; and

(6) If the public securities have been syndicated, state the names of the securities syndicators and the syndicate dealers.

L. Signature and Filing of Report. (Formerly Instruction J.)

Eight copies of the report shall be filed with the Commission. At least one copy of the report shall be filed with each exchange on which any class of securities of the registrant is listed and registered. At least one copy of the report filed with the Commission and one copy filed with each exchange shall be signed by the registrant's principal financial officer of the registrant.

C. Sales of Unregistered Securities (Debt or Equity)

Part C is proposed to be general instruction J.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

(Registrant)

[Date]

(Signature) *

Pursuant to the requirements of the Securities Exchange Act of 1934, this quarterly report has been signed below by the principal financial officer of the registrant on the date indicated.

(Signature) (Title) (Date)

* Print name and title of the signing officer under his signature.
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As amended the pertinent portions of § 270.0-1(e) would read as follows:

§ 270.0-1 Definition of terms used in this part:

* * *

(e) Definition of separate account and conditions for availability of exemption

As conditions to the availability of exemptive rules 14a-2, 15a-3, 22d-2
22e-1, 27a-1, 27a-2, 27a-3, 27c-1, 27d-2, 27e-2, 27e-3, 27f-2 and 32a-2, the separate account shall be legally segregated, the assets of the separate account shall, at the time during the year that adjustments in the reserves are made, have a value at least equal to the reserves and other contract liabilities with respect to such account, and, at all other times, shall have a value approximately equal to, or approximately equal to, such reserves and contract liabilities shall not be chargeable with liabilities arising out of any other business with which the insurance company may conduct.

All interested persons are invited to submit their views and comments on the proposed amendment to Rule 0-1(e). Written statements of views and comments, with respect to the proposed Rule and amendment should be submitted to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 on or before June 9, 1975 and should refer to File No. S7-562. All such communications will be available for public inspection.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, Secretary.

APRIL 30, 1975.

[FR Doc.75-12318 Filed 5-8-75; 8:46 am]

[1 17 CFR Parts 230, 239, 240, 249]

[Federal Register: May 9, 1975 (Vol. 40, No. 91)]

FUTURE ECONOMIC PERFORMANCE

Projections

The Securities and Exchange Commission today published for comment a series of rule and form proposals intended to implement the "Statement by the Commission on the Disclosure of Projections of Future Economic Performance" and to provide for the more timely filing of Form 8-K under the Securities Exchange Act of 1934 ("Exchange Act") to disclose changes in control of a registrant and certain projections. The Commission does not intend to require a registrant to publicly disclose its projections. Rather, the proposals integrate public projections into the disclosure system of the federal securities laws.

Under the Securities Act of 1933 ("Securities Act"), the proposals include a proposed amendment to Rule 405 (17 CFR 230.405). In addition, the Commission proposed Rule 132 (17 CFR 230.132), "Definition of 'untrue statement of a material fact' as used in certain sections of the Act" in relation to projections; and proposed amendments to Rules 230.11, S-7 (17 CFR 239.236), S-8 (17 CFR 239.16b), S-9 (17 CFR 239.22) and S-14 (17 CFR 239.23), which in certain situations would require projections to be filed on those forms.

Under the Exchange Act, the proposals include a proposed amendment to Rule 6c-20 (17 CFR 230.6c-20), "Definition of 'projections'" proposed Rule 3b-6 (17 CFR 240.3b-6), "Definition of 'untrue statement of a material fact,' manipulative, deceptive or fraudulent device, contrivance, scheme or device to mislead with respect to any material fact' as used in certain sections and rules under the Act." In relation to projections; and proposed amendments to Form 8-K (17 CFR 249.308) and 10-K (17 CFR 249.310), which in certain situations would provide for the furnishing of projections in reports on Form 8-K and in the registrant's annual report to security holders. An amendment to rule 14a-9 (17 CFR 240.14a-9) has also been proposed which would amend paragraph (a) of the note to that rule as it relates to projections.

As noted in the Commission's "Statement of the Background, Purpose and General Effect of the proposals to assist in a better understanding of their provisions. A brief synopsis of each proposal is included and several examples are provided to illustrate how the rules would apply, if adopted. However, attention is directed to the proposals themselves for a more complete understanding.

BACKGROUND AND PURPOSE

On November 1, 1972, the Commission announced a public rule making proceeding relating to the use, both in filings

* * *

[As noted in the Commission's "Statement by the Commission on the Disclosure of Projections of Future Economic Performance," the proposed disclosure system for projections is not intended to apply to tax shelter investments since these involve different considerations.


with the Commission and otherwise, of estimates, forecasts or projections of eco-
omic performance by issuers whose se-
curities are publicly traded. (Securities
Exchange Act Release No. 9844, Novem-
ber 1, 1972) (37 FR 23850). These hear-
ings should be established by the Commiss-
on for that purpose of gathering information
relevant to a reassessment of Commission
policies relating to disclosure of pro-
jected sales and earnings. The Division of
Investor-Finance, in conducting the
public hearings from November 10, 1972, to
December 12, 1972, received testimony from
fifty-three witnesses, including rep-
resentatives of publicly held corporations,
the securities industry, the academic
community, the self-regulatory organi-
sations, and the accounting and legal
professions. In addition, letters from
over two hundred interested persons were
received and made a part of the public
record.

Information gathered at the hearings
reinforced the Commission's own ob-
servation that management's assessment of
its performance and the information
of significant importance to the
investor, that such assessment should
be able to be understood in light of the
assumptions made, and that such inform-
ation should be available to all
investors on an equitable basis to all
investors. The hearings also revealed widespread dis-
satisfaction with the fact that there are no guidelines or standards that the is-
suer or any other person can rely on in issuing or interpreting projections. In addition, public comment indicated that there were many issuers who were expected to be required to
issue public projections.

On February 2, 1973, the Commission
released a "Statement by the Commission
on the Disclosure of Projections of Future
Economic Performance" ("February
1973 Statement") (38 FR 7220). The
Commission noted that it did not intend
to require a company to publicly disclose
its projections and that its long standing
policy has been to permit projections to be included in prospectuses and reports filed with the Commission.
However, on the basis of the information
obtained through the hearings and on the
Commission's experience and such projections and re-
ports filed with the Commission. The
Commission recognized that changes in its policies with regard
to the use of projections would assist in the
protection of investors and would be in
the public interest. The Commission rec-
ognized that projections were widespread
in the securities markets and were relied
upon in the investment process. The
Commission stated that persons who would
be interested in subscribing or dealing with the future in mind and the market
value of a security reflects the judgments
of investors about the future economic
performance of the issuer. Thus projec-
tions are sought by all investors, whether
institutional or individual. The Commis-
sion expressed concern, however, that all
investors do not have equal access to this
significant information. Because of this
spread public interest in this area and be-
cause of its importance to investors, the
Commission determined that it was the
appropriate time to take action in this
area, to recognize the realities of the sit-
uation, and to take the lead in developing
standards and guidelines that will en-
able all issuers to understanding their re-
sponsibilities and all investors to have
equal access to projection information.

Accordingly, the Commission released
tentative conclusions regarding the use
of projections.

The February 1973 Statement also an-
ounced that the Commission had ini-
tiated its Division of Corporation Planning
project on Form 8-K under the Exchange Act when a
registrant has furnished a projection to
any person, with certain exceptions in-
cluded in private financing preliminary
negotiations with underwriters, business
combinations and government agencies
which have afforded non-public treat-
ment to the projections. A report on
Form 8-K could be filed, at the reg-
istrant's option, if it had disassociated
itself from a projection made by another
person. However, the registrant would
not be required by any of the proposals
to disassociate itself from a projection
made by another person.

Other proposals would separate Form
8-K into two parts and would provide
for the filing of Form 8-K under the
Exchange Act when a registrant is required to prepare specific releases and rule and
form changes necessary to implement the
Commission's plan to integrate projections
into the disclosure system. The pro-
posals would require the registrant to
file a report on Form 8-K under the
Exchange Act when a registrant has fur-
nished a projection to any person, with
certain exceptions included in prelimi-
ary negotiations with underwriters, business
combinations and government agencies
which have afforded non-public treat-
manship to the projections. A report on
Form 8-K could be filed, at the reg-
istrant's option, if it had disassociated
itself from a projection made by another
person.

Proposed amendments to Form 10-
K under the Exchange Act and Forms
8-1, 8, S-8, 8-A and S-14 under the Se-
curities Act would require the registrant
to furnish in the report or registration
statement those projections previously
filed or required to be filed with the
Commission covering year-end results
for the registrant's last fiscal year to-
gether with comparisons, corresponding historical results. A registration
statement would also have to in-
clude a projection for the registrant's
next fiscal year and/or next fiscal year if
the registrant had made projections for its last or current fiscal
year or any future period which
were filed or required to be filed would be re-
quired to either provide projections for at
least six months of the current fiscal
year or for the full fiscal year in its re-
port on Form 10-K or if the registrant
had made a determination that it had
determined to cease disclosing projec-
tions. The proposals would permit a reg-
istrant to commence disclosing projec-
tions in the annual report of Form 10-
K or in a registration statement if the reg-
istrant had a history of filing reports
under the Exchange Act and budgeting
experience and such projections and re-
ports filed with the Commission. The
standards set forth in proposed Rules 14a-
4 and 14a-6 would require that all projec-
tion information contained in the Form
8-K other than exhibits be included also
in the registrant's annual report to sec-
urities holders. The proposed amendments to the note to Rule 14a-
4 under the Exchange Act would amend
paragraph (a) of the note which refers
to predictions of "earnings" as possibly
misleading in certain situations.

SYNOPSIS OF THE PROPOSALS
DEFINITION OF "PROJECTION"

Proposed amendments to Rule 405 under the Securities Act to and to Rule
10b-5 under the Exchange Act would provide a "projection" to be a statement
made by an issuer regarding material future reven-
ues, sales, net income or earnings per share of
the issuer, expressed as a specific figure, range of figures or amount
($2.20 plus or minus 10 percent from $2.20) or percentage variation from a
specific amount ($2.20 plus or minus 10 percent or "an increase of 10 percent over
last year"), or a confirmation by an is-

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on the size of the registrant as measured by, for example, its total assets.

Projection Criteria: The proposed rules set forth seven criteria for the projection which generally relate to its preparation, form and manner of disclosure and review. The projection must have been prepared with reasonable care and any qualified accountant must have reviewed and approved by management at the appropriate levels and must have a reasonable factual basis and represent management’s good faith judgment. Certain of these criteria have generally been considered by courts as requirements concerning the preparation of publicly disclosed projections.

As to form, the projection must relate at a minimum to sales or revenues, net income and fully diluted earnings per share; must be expressed as an exact figure, a reasonable variation from an exact figure, or a reasonable range of figures; must contain anticipated and expected net income for the period for which the projection is made; must be published in a manner which discloses whether or not the projection has been compiled by, for example, its total assets.

Issuer Criteria: In general, under the proposed rules, the issuer must have been subject to the reporting requirements of the Exchange Act for at least three years and have filed all reports required to be filed during the preceding three years. The issuer must have prepared budgets for internal use for its last three fiscal years. The Commission believes that these criteria may provide some assurance that the issuer has had sufficient experience in reporting publicly and in budgeting so that it has a reasonable basis for making public projections.

It should be noted that the proposed rules do not require the issuer to have a history. The Commission was considering in the February 1973 Statement, The Commission believes that an earnings standard is not necessary in view of the requirements regarding budgeting experience and may lead to undesirable results when a registrant is in a loss position. However, the Commission specifically invites comments as to the desirability of including an earnings standard in the safe harbor rules or a standard based certain concerns of accountants, a note has been added to the rules indicating that any certified public accountant or public accountant reviewing or rendering a report to be a projection result not thereby be deemed not independent with respect to the financial statements of the issuer. If the reviewer is not represented to be independent, there must be a relationship between the reviewer or its associates and the issuer or its associates, which then exists or is understood to be contemplated or which has existed at any time during the previous two years, shall be disclosed together with the amount of compensation received or to be received as a result of such relationship.

The reviewer’s report would have to contain: (1) A statement that the reviewer or not he is independent; provided that if he is not represented to be independent, any material relationship between him or his associates and the issuer or its associated with the amount of compensation received or to be received as a result of such relationship; (2) a statement of his qualifications to render such review and report; (3) a statement of the scope of his examination and the methods and procedures followed in such examination; (4) a statement that he is not giving assurances that the projection will be achieved; and (5) a statement that (i) the assumptions underlying the projection are internally consistent and not unreasonable; (ii) the methods and procedures employed by the registrant in arriving at the projection are not unreasonable; and (iv) such methods and procedures have been applied in a consistent manner.

The Commission indicated in its February 1973 Statement that it did not allow any statement of third party certification or verification of projection information to be disclosed in filings with the Commission. The Commission noted, however, that it would reconsider this position if generally accepted principles or policies concerning such verification were developed. Since 1973 progress has been made toward the development of standards regarding the preparation and presentation of projections. Moreover, efforts are being made toward the development of standards for auditor involvement with projections. In light of these developments

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and the Commission's belief that investors would benefit from a review of projections, the Commission has included a concept of a "review" in the proposed rules. The Commission believes that if a registrant discloses that its projection has been reviewed the "safe harbor" rules should be available only if the registrant complies with the standards set forth above.

Parts I and II. The Commission believes that projection information and information about changes in control of the registrant should be reported to the Commission on a timely basis. Therefore, the Commission is proposing to divide the report on Form 8-K under the Exchange Act into two parts. Part I would require reporting of events within ten days of the event. As proposed, Part I would contain two items: "Projections," and existing Item I of Form 8-K, "Changes in Control of Registrant." It appears that projections can be reported at all, should be reported on a timely basis since one of the primary purposes of requiring that they be filed is to ensure that they are available on a timely basis. For changes in control, the Commission believes that information is of significance and that it should be reported promptly, particularly in the light of Congressional concern as evidenced in the Williams Act.

Part II of the proposed two-part Form 8-K would contain all the existing items of Form 8-K other than "Changes in Control of Registrant." It appears that projections can be reported within ten days of the event. As proposed, Part II would be amended to require the filing of a revised projection in certain situations in which it is furnished under proposed paragraph (a) of Item A, or provide an explanation for failure to furnish a revised projection. The Commission's proposal is intended to permit a registrant to exit from the disclosure system for projections.

Proposed Paragraph (a). Proposed paragraph (a) of proposed Item A, the registrant would have to file Part I of Form 8-K if the registrant had furnished projections to a non-public treatment agency or other than a government agency or any agency of any government, foreign or domestic, to which it has furnished a projection, unless that agency has afforded the projection non-public status. The registrant would also have to describe the circumstances in which it furnished the projection and describe any differences between the projection and any filed with the Commission. However, the registrant would not be required to file the projection information itself.

Proposed Paragraph (b). If a registrant has previously filed a projection with the Commission and subsequently determines to cease to use the projection, proposed paragraph (b) would require the registrant to briefly describe the reasons for such determination. This paragraph is intended to permit a registrant to exit from the disclosure system for projections.

Proposed Paragraph (c). Under proposed paragraph (c), if a registrant has associated itself from any projections prepared by a person or persons not acting on behalf of the registrant, the registrant may, at its option, furnish: (1) a brief statement of the projection and the reasons for such disassociation, and (2) a brief description of the circumstances in which the disassociation was made, including the manner in which it was communicated. The Commission does not intend at this time to specify when a registrant has an affirmative obligation to disassociate itself from another person's projections.

Proposed Instructions Proposed Instruction 1 to Item A indicates that the item shall not apply to projections which have been retained internally or which have been furnished in connection with the following transactions or to the following persons: (a) not involving any public offering within the meaning of section 4(2) of the Securities Act; (b) a commercial loan transaction; (c) preliminary negotiations or agreements between the registrant and any underwriter or among underwriters who are or are to be in privity of contract with the registrant; (d) preliminary negotiations regarding a proposed business combination or a proposed acquisition or disposition of a significant amount of assets; (e) a person to review such projections; (f) a government agency, foreign or domestic, which has afforded non-public treatment to the projections; or (g) registrant's counsel or accountants in connection with their work for the registrant.

Notwithstanding the foregoing exceptions, however, proposed Item A would apply to projections furnished that are part of a plan or scheme to evade the requirements of Item A. A note has also
been added to warn registrants that they should caution persons who receive non-public projections about the anti-fraud provisions of the federal securities laws, particularly Rule 10b-5 under the Exchange Act.

Proposed Instruction 2 to Item A indicates that information contained in any published statement may be incorporated by reference in answer or partial answer to any paragraph of this Item. However, any such published statement must be filed as an exhibit to the report on Form 8-K.

Proposed Exhibits. Two new exhibits are proposed to be added to the list of exhibits to Form 8-K. The first requires the filing of any published statements containing the information furnished in answer to Item A of Part I together with any related material submitted in connection with the particular publication. The second requires the filing of any report furnished by a person reviewing the projections as required by Item A of Part I.

The proposed amendments to the existing exhibits to Form 8-K under the Exchange Act would change the references in accordance with the proposed amendments to S-1, S-7, S-8, S-9 and S-14 under the Securities Act.

RULES 13a-11 and 13d-11

The proposed amendments to Rules 13a-11 and 13d-11 under the Exchange Act would remove from the rules the specific statements as to the time for filing Form 8-K. As proposed, the rules would make reference to the periods specified in General Instruction B to Form 8-K for the filing of the different Parts of the report.

FORM 10-K

The proposed addition of Item 2A to Form 10-K under the Exchange Act is intended to require public projections for the last fiscal year to be compared with actual results and to require projections for the current year if they have been provided for the current year or a future period. The Commission believes that the comparison of past projections with actual results would be valuable to investors in assessing the reliability of the registrant's projections and also that any registrant that has filed projections for the past year or for any current or future year should provide them for the current year or explain why it cannot. In addition, the proposed amendments would allow registrants to meet the filing and budgeting criteria of paragraph (a) of the safe harbor rule (proposed Rule 3b-6) to project for the first time in their Form 10-K if they do so in conformity with the safe harbor rule.

Proposed Paragraph (a): Under proposed paragraph (a) of Item 2A, the registrant would have to file projections previously filed or required to be filed with the Commission covering year-end results for the registrant's last fiscal year. A statement of the material assumptions underlying each projection should also be included if not previously filed. If any projection had been revised, the registrant would be required to briefly describe the reasons for each material revision. The registrant would also be required to present its most recent projections for the fiscal year covered by the report in comparative form with corresponding historical results. Where a projection differed from the corresponding historical results by a factor of ten percent or more, the registrant would have to set forth the material reasons for such difference. The Commission believes that the numerical presentation would provide a basis to evaluate the probable reliability of the registrant's subsequent projections.

Proposed Paragraph (b): If a registrant filed its annual report for the last fiscal year, the current year or any future period that were filed or required to be filed, and has not determined to cease disclosing projections, proposed paragraph (b) would require the registrant to furnish projections for at least six months of its current fiscal year or for the full year or to explain why it cannot do so. If the registrant furnished a projection, it would be required to furnish at a minimum projections of sales or revenues, earnings and fully diluted earnings per share. The Commission believes that situations may occur in which it would be misleading to disclose projections of one of these items without disclosing projections of the others. For example, a registrant may be experiencing increasing sales while its earnings are deteriorating due to greater increases in its operating costs. In this situation it would be misleading to disclose only a sales projection.

The registrant would also be required to include a statement which (1) discloses the material assumptions underlying its projections, (2) cautions that there can be no assurance that the projections will be realized, (3) indicates whether the ultimate achievement is dependent upon the occurrence of the specified assumptions, and (3) indicates whether the projections have been prepared on the basis of the assumptions and whether they are consistent with the accounting principles expected to be used by the registrant.

If the responses to proposed paragraph (b) revise projections previously filed or are revised projections previously filed, the registrant would have to set forth the reasons for each material revision. The requirement is intended to cover situations where a registrant, for example, uses Form 10-K to revise projections already made public or where the registrant has already made public revised projections for its current fiscal year.

Proposed Paragraph (c): In the event the registrant is not required to furnish projections under proposed paragraph (b), the registrant may furnish projections for its current fiscal year in its annual report in accordance with proposed paragraph (c). Under that paragraph, the registrant must meet the requirements of paragraph (a) of the safe harbor rule (proposed Rule 3b-6).
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filing and budgeting criteria of para-
graph (a) of the safe harbor rule (pro-
posed Rule 132) and the projections are
set forth in conformity with that rule.
Identical items are proposed under each
form with the exception of the proposed
amendment to Form S-14 which refers
to requirements of Form S-1.

Proposed Paragraph (a) Under para-
graph (a) of the proposed items, the registrant
would have to furnish all projections for (1) year-end results for
its last fiscal year, (2) its current year,
or (3) any future period, which have
been or are required to have been filed
with the Commission. The registrant
would be required to furnish a descrip-
tion of revisions and a comparison with
historical results. However, if the pro-
jection was furnished, the registrant
would be required to give the name and
location of the entity, the date of the
projection, the name and location of the
auditors or any other responsible per-
son. This disclosure would be re-
served by a statement describing the ma-
terial assumptions underlying the projec-
tions and containing cautionary lan-
guage which would have to be included.

Proposed Paragraph (b) If the reg-
istrant has furnished projections for the
current year or any future period to an
government agency, foreign or domestic,
without, it is not afforded non-public treat-
ment to the registrant, then the projections
would be required to give the name and
location of the agency and the circum-
stances under which the projections
were furnished, and to describe any ma-
terial differences from any projections filed
with the Commission.

Proposed Paragraph (c) Under pro-
posed paragraph (c), if the registrant
represents in the registration state-
ment that any projection included in the reg-
istration statement repeated the
projection that was furnished a report
concerning the projection will not mat-
terialize and the circumstances in which
the projection was disclosed.

Y Company has now entered the
disclosure system for projections and has
furnished a report concerning the pro-
jection because, for example, it is not
able to quantify the effect of the change
in the assumptions underlying the projec-
tion. Accordingly, the Commission
could require the registrant to furnish an
exhibit to the report or registration state-
ment.

Proposed Paragraph (d) A registrant
must file a report on Form 8-K within 10
days (before September 29, 1975) contain-
ing a statement of the projection, the ma-
terial assumptions underlying the projec-
tion, and the circumstances in which the
projection was disclosed.

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range of figures and limited to X Company's current fiscal year, or if the projections are disclosed after the end of the company's second quarter, to the current fiscal year and the next fiscal year. In addition, X Company must disclose the material assumptions underlying the projections. Finally, if X Company includes a representation that the projections have been reviewed by anyone other than an officer, director or employee of the company, any report by such person must be filed with the Commission as an exhibit to the report or registration statement and such person's consent must be filed as part of the registration statement.

**EXAMPLE V—CONFIRMATION OF PROJECTION**

A. Facts C Company is subject to the reporting requirements of Section 13 of the Exchange Act. On May 15, 1975, an analyst telephones the president of C Company to talk about C Company's future prospects. The analyst tells the president that he has concluded that C Company will have earnings of $8.00 per share for the year ending December 31, 1975. The president replies, "That's in the ballpark."

B. Filing Requirements. This statement is a projection because it is a confirmation by C Company of a statement regarding future earnings per share of C Company. Since the president by confirming the analyst's projection has furnished a projection to the analyst, C Company must file a report on Form 8-K within 10 days (before May 25, 1975) containing a statement of the projection, the material assumptions underlying the projection, and the circumstances in which the projection was disclosed. Thus, C Company must file a report on Form 8-K in lieu of a registration statement for projections and is subject to the same requirements noted in Example I for Y Company.

The Commission hereby proposes for comment amendments to Rule 12b-2, pursuant to section 19(a) of the Securities Act, proposed amendments to Rule 405 and to Forms S-1, S-7, S-8, S-9 and S-14 pursuant to Sections 7, 10 and 18(a) of the Securities Act, proposed Rule 24b-3-8 and to Sections 12, 13, 14, 15(d) and 23(a) of the Exchange Act. All interested persons are invited to submit their views and comments on the foregoing proposals to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549 on or before June 30, 1975. Such communications should refer to File No. 87-561. All such communications will be available for public inspection.

By the Commission.

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SEC. 12b-2. Definitions. * * *

1. **Projection.** A "projection" is a statement made by an issuer regarding material future revenues, sales, net income or earnings per share of such issuer, expressed as a specific amount, range of amounts or percentage variation from a specific amount, or a confirmation by an issuer of any such statement made by another person.

Note 1: This definition does not include announcements to the public regarding preliminary results of periods ended but not yet reported.

Note 2: A confirmation includes, for example, an issuer's statement that a projection is "in the ballpark," "reasonable," or "on target."

**210.3b-6. Definition of "untrue statement of a material fact."** Untrue, deceptive or fraudulent device, contrivance, act or practice or "false or misleading with respect to any material fact" as used in certain sections and rules under the Act.

A projection by an issuer as defined in Rule 12b-2 under the Act shall be deemed not to be an "untrue statement of a material fact" as that term is used in Section 12(b) and Rule 405 under the Act or a "false or misleading with respect to any material fact" as used in certain sections and rules under the Act if it is not false or misleading with respect to any material fact as that term is used in sections 12(b) and Rule 14(a)-1 under the Act, whether or not the projection is accompanied by a statement which (i) estimates, or a reasonable range of figures; for earnings per share; (ii) states an earnings projection and carefully reviewed and approved by management at the appropriate levels; (2) a reasonable factual basis and represents management's good faith judgment; (3) relates at a minimum to sales or revenues, net income and fully diluted earnings per share; (4) is expressed as an exact figure, a reasonable variation from an exact figure, or a reasonable range of figures; for purposes of this subsection, a 10 percent variance or range from the midpoint shall be deemed reasonable;

Note 1: The registrant has the burden of establishing the reasonableness of any variation or range which exceeds the above 10 percent limitation.

Note 2: The following is an example of a range not exceeding 10 percent from the midpoint: "Earnings of $1.80 to $2.20 per share."

(5) Is limited to the registrant's current fiscal year or, if the projection is disclosed after the second quarter, to the current fiscal year and the next fiscal year;

(6) Is identified as a projection and accompanied by a statement which (i) discloses the material assumptions underlying the projection; (ii) cautions that there can be no assurance that the annual statement required by section 13 of the Act for a period of at least three years and has filed all the reports required to be filed thereunder during the preceding 12 months; or has registered securities pursuant to Rule 12b-2, 13a-11, 14a-3, 14a-9 and 15d-11 and to Forms S-K and 10-K pursuant to Sections 12, 13, 14, 15(d) and 23(a) of the Exchange Act. All interested persons are invited to submit their views and comments on the foregoing proposals to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549 on or before June 30, 1975. Such communications should refer to File No. 87-561. All such communications will be available for public inspection.

By the Commission.

**FEDERAL REGISTER, VOL. 40, NO. 91—FRIDAY, MAY 9, 1975**

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<th>Date</th>
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<tr>
<td>April 28, 1975</td>
<td>George A. Fitzsimmons</td>
<td>Secretary</td>
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(See Sec. 7, 10, 19(a), 48 Stat. 72, 81, 85; secs. 12, 13, 14, 15(d), 23(a), 49 Stat. 892, 894, 895, 901; secs. 905, 909, 48 Stat. 966, 968; sec. 20322, 46 Stat. 704; secs. 1, 8, 19 Stat. 1375, 1376; secs. 301, 302, 68 Stat. 685, 686; secs. 4-7, 70 Stat. 593-597, 595; sec. 28(c), 84 Stat. 1435; secs. 1-5, 84 Stat. 1467-1468; 18 U.S.C. 77g, 77k, 77n(a), 78j, 78m, 78o(d), 78v(a)).
that if such person is not represented to be independent, any material relationship between such person or its affiliates and the issuer or its affiliates, which then exists or is understood to be contemplated or which has existed at any time during the previous two years, shall be disclosed together with the amount of compensation received or to be received as a result of such relationship.

(ii) The report shall contain the information, other than the exhibits, required by Item 2A, "Projections," of Form 10-K.

§ 240.14a—9 False or misleading statements.

Note: The following are some examples of what, depending upon particular facts and circumstances, may be misleading within the meaning of this section.

(a) Predictions as to specific future market values, or dividends.

(b) The projection—(1) Has been prepared with reasonable care by qualified personnel and carefully reviewed and approved by management at the appropriate levels;

(2) Has a reasonable factual basis and represents management's good faith judgment;

(3) Relates at a minimum to sales or revenues, net income and fully diluted earnings per share;

(4) Is expressed as an exact figure, a reasonable variation from an exact figure, or a reasonable range of figures; for purposes of this subsection, a 10 percent variation or range not exceeding 10 percent from the midpoint shall be deemed reasonable;

Note 1: The registrant has the burden of establishing the reasonableness of any variation or range which exceeds the above 10 percent limitation.

Note 2: The following is an example of a range not exceeding 10 percent from the midpoint: "Earnings of $1.80 to $2.20 per share."

(5) Is limited to the registrant's current year projection if the projection is disclosed after the end of the second quarter, to the current fiscal year and the next fiscal year;

(6) Is identified as a projection and accompanied by a statement which (i) discloses the material assumptions underlying the projection, (ii) cautions that there can be no assurance that the projection will be achieved since its ultimate accomplishment is dependent upon the occurrence of the specified assumptions, and (iii) indicates the projection has been compiled on the basis of the specified assumptions and is consistent with the accounting principles expected to be used by the registrant.

(7) Is not represented to have been reviewed by any person other than an officer, director or employee of the issuer unless:

(A) The issuer of securities to which the projection pertains—(1) Has securities registered pursuant to section 12 of the Securities Exchange Act of 1934, has been subject to the reporting requirements of section 13 of that Act for a period of at least three years and has filed all the reports required to be filed thereunder during the preceding 12 months; or has registered securities pursuant to the Securities Act of 1933, has been subject to the reporting requirements of section 15(d) of the Securities Exchange Act of 1934 for a period of at least three years and has filed all the reports required to be filed thereunder during the preceding 12 months; or is an insurance company which has filed the annual statement required by Section 23(a) (2) (C) (1) of the Securities Exchange Act of 1934 for the preceding three years; and

(B) Has prepared budgets for internal use for at least the last three fiscal years; and

§ 240.14a—3 Annual report to be furnished to security holders.

(ii) The report shall contain the information, other than the exhibits, required by Item 2A, "Projections," of Form 10-K.

§ 240.13a—11 Current reports on Form 8-K.

(a) Except as provided in paragraph (b) of this section, every registrant subject to rule 13a—1 shall file a current report on Form 8-K if any of the events specified in that form occurs, unless substantially the same information as that required by Form 8-K has been previously reported by the registrant. Current reports shall be filed within the time specified for the appropriate Part in General Instruction B to Form 8-K.

§ 240.15d—11 Current reports on Form 8-K.

(a) Except as provided in paragraph (b) of this section, every registrant subject to rule 15d—1 shall file a current report on Form 8-K if any of the events specified in that form occurs, unless substantially the same information as that required by Form 8-K has been previously reported by the registrant. Current reports shall be filed within the time specified for the appropriate part in General Instruction B to Form 8-K.

§ 240.14a—5 Information to be furnished to security holders.

(ii) The report shall contain the information, other than the exhibits, required by Item 2A, "Projections," of Form 10-K.

§ 240.132 Definition of "untrue statement of a material fact" as used in certain sections of the Act.

A projection by an issuer as defined in Rule 405 under the Act shall be deemed not to be an untrue statement of a material fact: as that term is used in sections 11, 12 (2), and 17 (a) (2) of the Act, whether or not the projection is achieved, if at the time the projection was disclosed:

(a) The issuer of securities to which the projection pertains—(1) Has securities registered pursuant to section 12 of the Securities Exchange Act of 1934, has been subject to the reporting requirements of section 13 of that Act for a period of at least three years and has filed all the reports required to be filed thereunder during the preceding 12 months; or has registered securities pursuant to the Securities Act of 1933, has been subject to the reporting requirements of section 15(d) of the Securities Exchange Act of 1934 for a period of at least three years and has filed all the reports required to be filed thereunder during the preceding 12 months; or is an insurance company which has filed the annual statement required by Section 23(a) (2) (C) (1) of the Securities Exchange Act of 1934 for the preceding three years; and

(b) Has prepared budgets for internal use for at least the last three fiscal years; and
certain compensation received or to be received as a result of such relationship.

(ii) Such person has furnished a report to the issuer which shall contain:

(A) a statement as to whether or not such person is independent; provided that if such person is not represented to be independent, any material relationship between such person or its affiliates and the issuer or its affiliates, which then exists or is understood to be contemplated or which has existed at any time during the previous two years, shall be disclosed together with the amount of compensation received or to be received during the previous two years, shall be disclosed together with the amount of compensation received or to be received during the previous two years.

(B) a statement of such person’s qualifications to render such review and report;

(C) a statement of the scope of such person’s examination and the methods and procedures followed in such examination;

(D) a statement that such person is not giving assurances that the projection will be achieved; and

(E) a statement by such person that:

(1) the projection has been compiled on the basis of the assumptions made by the registrant and is consistent with the accounting principles expected to be used by the registrant;

(2) the material assumptions underlying the projections are internally consistent and not unreasonable;

(3) the methods and procedures employed by the registrant in arriving at the projection are not unreasonable; and

(4) such methods and procedures have been applied in a consistent manner.

NOTE: Copies of the proposed amendments to Forms S-K, 10-K, S-1, S-7, S-8, S-9 and S-14 have been filed with the Office of the Federal Register as part of this document. Additional copies will be available on request from the Securities and Exchange Commission, Washington, D.C. 20549.

Form Attachment 1

[As proposed to be amended]

SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

Form S-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

(Exact name of registrant as specified in its charter)

(State or other jurisdiction of organization)

Commission file number (IRS Employer Identification No.)

(Address of principal executive office)

Registrant’s telephone number, including area code

Indicate by check mark which Part of the Report is being filed.

**PROPOSED RULES**

**Part I**

Date(s) of Event(s) Reported

Month Of

Form Attachment 2

GENERAL INSTRUCTIONS

A. (No change)

B. Events to be Reported (Addition Underlined)

A report on this form is required to be filed upon the occurrence of any one or more of the events specified in this Item. For events specified in Part I, the report is to be filed within ten days after the occurrence of the event. For events specified in Part II, the report is to be filed within ten days after the close of each month during which an event occurs. However, if subsection (B)(4) of Instruction 1 to this Item is not applicable, the term “previously filed” is defined in Rule 12b-2.

C-F (No change).

**Part II**

INFORMATION TO BE INCLUDED IN PART I OF REPORT

(See General Instruction B)

Item A. Projections.

(a) Projections of Revenues, Sales, Net Income or Earnings Per Share

If the registrant furnishes a projection to any person, government agency, or a self-regulatory organization, furnish the following information:

Note: See paragraphs (c) of this Item and paragraph (c) of Instruction 1 to this Item for requirements when projections are furnished to government agencies.

(1) A statement of the projection including the time period of the projection.

(2) A statement which (i) discloses the material assumptions underlying the projection; (ii) cautions that there can be no assurance that the projection will be achieved since its ultimate achievement is dependent upon the occurrence of the specified assumptions; and (iii) indicates whether or not the projection has been compiled on the basis of the specified assumptions and whether it is consistent with the accounting principles expected to be used by the registrant.

Form Attachment 3

(3) A statement of the circumstances in which the projection was furnished including the date it was furnished and the manner in which it was communicated.

(4) If the registrant has represented to any person, other than in connection with a transaction or to a person described in Instruction 1, that a projection furnished in response to this Item has been reviewed by any person other than an officer, director or employee of the registrant, give such person’s name and address, and file such person’s report, if any, as an exhibit to this report.

(b) Revision of Projection.

If the registrant has reason to believe that any projection previously filed or required to be filed with the Commission no longer has a reasonable basis, furnish a revision of the projection including the information required by paragraph (a) above; provided that if the registrant is unable to furnish a revised projection, the registrant shall set forth a brief explanation of the reasons for its inability to furnish the revision together with a brief description of material changes, if any, in the material assumptions underlying such projection.

(c) Government Agencies.

If the registrant has furnished a projection to any governmental agency, foreign or domestic, other than the Commission, give the name and location of the agency and the circumstances under which the projection was furnished. If the projections furnished to such agency are materially different from any projections filed with the Commission, briefly describe such differences.

Note: See paragraph (f) of Instruction 1 to this Item.

(d) Determination to Cease Disclosing or Revising Projections.

If the registrant has determined to cease disclosing or revising projections, briefly describe the reasons for such determination.

Form Attachment 4

(1) the projection has been compiled

(2) the material assumptions underlying the projection are consistent and not unreasonable;

(3) such methods and procedures have been applied in a consistent manner.

**Part III**

INFORMATION TO BE INCLUDED IN PART II OF REPORT

(See General Instruction B)

Item 1. Acquisition or Disposition of Assets.
**Form Attachment 8**

**Proposed Amendment to Form 10-K**

**Item 3B. Projections.** (a) Furnish all projections filed or required to be filed with the Commission covering the year-end results for the fiscal year covered by this report. Include a statement of the material assumptions underlying each projection, if not previously filed.

**Instructions.** (a) Furnish all projections filed or required to be filed with the Commission covering the year-end results for the fiscal year covered by this report. Include a statement of the material assumptions underlying each projection, if not previously filed.

(b) If the registrant made projections for any future period that were filed or required to be filed with the Commission, have not been revised, and are consistent with the corresponding historical results, or where a projection differs from the corresponding historical results by a factor of ten percent or more, set forth the material reasons for such difference. If the projection was expressed as a range, the range shall be measured from the endpoints of such range.

(c) If the registrant made projections for the last fiscal year, the current year or any future period that were filed or required to be filed with the Commission, the registrant shall furnish projections for at least the first six months of the current fiscal year or for the full fiscal year, whether or not previously filed. Include a minimum projection of sales or revenues, net income and fully diluted earnings per share. Also include a statement which (i) discloses the material assumptions underlying the projection; (ii) cautions that there can be no assurance that the projections will be achieved since their ultimate achievement is dependent upon the occurrence of the specified assumptions and (iii) indicates whether the registrant has determined to cease disclosing projections, the reason therefor, and the future period that was filed or required to be filed with the Commission and has not determined to cease disclosing projections, the reason therefor, and the future period.

(d) If the registrant made projections for the last fiscal year, the current year or any future period that were filed or required to be filed with the Commission, and has not determined to cease disclosing projections, the registrant shall furnish projections for at least the first six months of the current fiscal year or for the full fiscal year, whether or not previously filed. Include a minimum projection of sales or revenues, net income and fully diluted earnings per share. Also include a statement which (i) discloses the material assumptions underlying the projection; (ii) cautions that there can be no assurance that the projections will be achieved since their ultimate achievement is dependent upon the occurrence of the specified assumptions and (iii) indicates whether the registrant has determined to cease disclosing projections, the reason therefor, and the future period that was filed or required to be filed with the Commission and has not determined to cease disclosing projections, the reason therefor, and the future period.

**Form Attachment 9**

(No change from existing Item 2 of Form 8-K.)

**Item 2. Legal Proceedings.**

(No change from existing Item 3 of Form 8-K.)

**Item 3. Changes in Securities.**

(No change from existing Item 4 of Form 8-K.)

**Item 4. Changes in Security for Registered Securities.**

(No change from existing Item 5 of Form 8-K.)

**Item 5. Defaults Upon Senior Securities.**

(No change from existing Item 6 of Form 8-K except that underlined below.)

**Instruction.** This item need not be answered as to any default or arrearage with respect to any class of securities all of which is held by, or for the account of, the registrant or its totally held subsidiaries.

**Item 6. Increase in Amount of Securities Outstanding.**

(No change from existing Item 7 of Form 8-K.)

**Item 7. Decrease in Amount of Securities Outstanding.**

(No change from existing Item 8 of Form 8-K except that underlined below.)

**Instruction.** Information to be furnished in Item 1 of Part II shall also apply to this item. This item need not be answered as to decreases resulting from ordinary yielding fund operations, similar periodic decreases resulting from the terms of the constituent instruments, decreases resulting from the conversion of securities or decreases resulting from the payment of indebtedness at maturity.

**Item 8. Options to Purchase Securities.**

(No change from existing Item 9 of Form 8-K.)


(No change from existing Item 10 of Form 8-K.)

**Item 10. Submission of Matters to a Vote of Security Holders.**

(No change from existing Item 11 of Form 8-K.)

**Item 11. Changes in Registrant's Certifying Accountant.**

(No change from existing Item 12 of Form 8-K.)

**Item 12. Other Materially Important Events.**

(No change from existing Item 13 of Form 8-K.)

**Item 13. Financial Statements and Exhibits.**

(No change from existing Item 14 of Form 8-K.)

**Signature Page.**

1. **Businesses for Which Statements are Required.**

The financial statements specified below shall be filed for any business the succession to which or the acquisition of an interest in which is required to be described in answer to Item 1 of Part II.

2. **Exhibits (Parts I and II).**

(Additions Underlined)

1. Copies of any published statements containing the information furnished in answer to Item A of Part I together with any related material therein submitted in connection with the particular publication.

2. Copies of any report furnished pursuant to Item A(a) (4) of Part I.

3. Copies of any report furnished pursuant to Item A(a) (4) of Part I.

4. Copies of any report furnished pursuant to Item A(a) (4) of Part I.

5. Copies of any report furnished pursuant to Item A(a) (4) of Part I.

6. Copies of any report furnished pursuant to Item A(a) (4) of Part I.

7. Copies of any report furnished pursuant to Item A(a) (4) of Part I.

8. Copies of any report furnished pursuant to Item A(a) (4) of Part I.

9. Copies of any report furnished pursuant to Item A(a) (4) of Part I.

10. Copies of any report furnished pursuant to Item A(a) (4) of Part I.

11. Copies of any report furnished pursuant to Item A(a) (4) of Part I.

12. Copies of any report furnished pursuant to Item A(a) (4) of Part I.
they are consistent with the accounting principles expected to be used by the registrant.

(b) If the registrant has furnished projections for the current year or any future period to an government agency, foreign or domestic, other than the Commission, give the name and location of such agency and describe the circumstances under which the projections furnished. If projections furnished to such agency are materially different from any projections filed with the Commission, briefly describe such differences. Instruction. This item does not apply to any projections which have been afforded non-public treatment by the government agency.

(c) Any registrant that meets the requirements of paragraph (a) of Rule 18, under the Act may include previously undisclosed projections for its current or next fiscal year if they are set forth in conformity with Rule 132.

Form Attachment 11

(d) If the registrant represents in the registration statement that any projection furnished in response to this item has been reviewed by any person other than an officer, director or employee of the registrant, such person's manually signed and dated report regarding such projection shall be filed as an exhibit to this registration statement and such person's consent shall be filed as part of the registration statement.

Proposed Amendment to Form S-14.

Item 1. Information Required by Proxy or Information Rules.

(a) If the registrant or other person which is a party to the transaction in which the securities to be registered are to be issued, is required to solicit proxies pursuant to Section 14(a), or to furnish information to stockholders pursuant to Section 14(c), of the Securities Exchange Act of 1934 in regard to the transaction, the prospectus shall contain the information required to be included in, and may be in the form of, such proxy or information statement and shall contain, where applicable, the information required to be furnished under Item 6A of Form S-1 under the Securities Act of 1933.

(b) [Reserved.]

(c) [Reserved.]

Items 2-5. (No change.)

Form Attachment 12

Instructions as to Exhibits

Form S-1
1-13 (No change.)

14 Copies of any report called for by Item 6A(d).

Form S-7
1-5 (No change.)

6 Copies of any report called for by Item 6A(e).

Form S-8
1-7 (No change.)

8 Copies of any report called for by Item 19A.

Form S-9
1-5 (No change.)

6 Copies of any report called for by Item 6A(d).

Form S-14
1-6 (No change.)

7 Copies of any report called for by Item 6A(d) of Form S-1 under the Securities Act of 1933.

[FR Doc.75-12321 Filed 5-8-75;8:46 am]
§ 901.10 Application for enrollment.

(a) Form. An applicant for enrollment shall file with the Executive Director of the Joint Board a properly executed application on a form or forms specified by the Joint Board.

(b) Additional information. The Joint Board or Executive Director, as a condition to consideration of an application for enrollment, may require the applicant to file additional information and to submit to written or oral examination under oath or otherwise. The Executive Director shall, upon written request, afford an applicant the opportunity to be heard with respect to his application for enrollment.

(c) Denial of application. If the Joint Board proposes to deny an application for enrollment the Executive Director shall advise the applicant in writing of the proposed denial and the reasons therefor. The applicant may, within 30 days from the date of the written proposed denial, file a written appeal therefrom, together with his reasons in support thereof, to the Joint Board. The Joint Board may afford an applicant the opportunity to be heard with respect to his application for enrollment. In the absence of an appeal within the aforesaid 30 days, the proposed denial shall, without further proceeding, constitute a final decision of denial by the Joint Board.

§ 901.11 Enrollment procedures.

(a) Enrollment. The Joint Board shall enroll each applicant it determines has met the requirements of these regulations. Each enrollment shall be valid for a period of five years from its date or the date of any renewal thereof. Subject to the provisions of Subpart D of this part, an enrollment shall, upon application made not more than six months before the date of its expiration, be automatically renewed for a period of five years from its date.

(b) Enrollment certificate. The Joint Board (or its designee) shall issue a certificate of enrollment to each actuary who is duly enrolled under this part.

(c) Rosters. The Executive Director shall maintain a roster of all enrolled actuaries who are duly enrolled under this part and of all individuals whose enrollment has been suspended or terminated.

§ 901.12 Eligibility for enrollment of individuals applying for enrollment.

(a) In general. To qualify as an enrolled actuary an applicant must fulfill the requirements set forth in paragraphs (b) of this section and, in addition, the requirements set forth in paragraphs (c), (d), (e), and (f) of this section.

(b) Qualifying experience. Within a 15 year period immediately preceding the date of application, an applicant shall have completed either:

(1) A minimum of 36 months of responsible pension actuarial experience, or

(2) A minimum of 69 months of responsible actuarial experience, including at least 24 months of responsible pension actuarial experience.

(c) Qualifying formal education. Prior to filing an application, the applicant shall have satisfied one of the following educational requirements:

(1) Received a bachelor's or higher degree from an accredited college or university, such degree having been granted after the completion of a course of study in which the major area of concentration was actuarial science.

(2) Received a bachelor's or higher degree from an accredited college or university, such degree having been granted after the completion of a course of study in which the major area of concentration was mathematics, statistics, or computer science, including at least 6 semester hours of courses in life contingencies and/or courses requiring use of life contingencies.

(d) Organizational qualification. (1) Before March 1, 1975, the applicant shall have attained one of the following classes of affiliation or qualification in one of the following organizations:

(i) Member of the American Academy of Actuaries,

(ii) Fellow or Member of the American Society of Pension Actuaries,

(iii) Fellow or Member of the Conference of Actuaries in Public Practice,

(iv) Fellow or Associate of the Society of Actuaries, or

(v) A class attained by examination in any other actuarial organization in the United States or elsewhere if the Joint Board determines that the subject matter included in such examination, complexity of questions, and the minimum acceptable qualifying score are at least comparable to examinations administered by any of the above organizations before March 1, 1975; or

(2) On or after March 1, 1975, the applicant shall have attained one of the following classes of qualification specified in paragraph (d)(1) of this section, the attainment of such qualification having been by examination under requirements determined by the Joint Board to be not lower than the requirements specified for qualification before March 1, 1975.

(e) Board examination. The applicant shall have completed, to the satisfaction of the Joint Board, an examination prescribed by the Joint Board in actuarial
PROPOSED RULES

mathematics and methodology related to pension plans.

(1) Disreputable conduct. The applicant may be denied enrollment if it is found that he/she or the applicant's firm or employer has engaged in any disreputable conduct including the following:

(1) Commission at any time after his/her eighteenth birthday of any offense referred to in section 4011 of ERISA, or commission of any other offense involving violation of a fiduciary or trust relationship.

(2) Submission of a false or misleading application or any oral or written information submitted in connection therewith knowing the same to be false or misleading.

(3) Other conduct evidencing dishonesty or breach of trust.

§ 901.13 Eligibility for enrollment of individuals applying for enrollment on or after January 1, 1976. [Reserved]

Subpart C—Rules of Conduct for Enrolled Actuaries

§ 901.20 Rules of conduct in the performance of actuarial services.

In the performance of actuarial services with respect to plans to which ERISA applies:

(a) In general. An enrolled actuary shall not perform any actuarial assignment for which he/she does not have appropriate training or experience.

(b) Professional duty. An enrolled actuary shall not perform actuarial services for any person or organization which he/she believes or has reasonable grounds for believing may utilize his/her services in a fraudulent manner or in a manner inconsistent with law.

(c) Advice or explanations. An enrolled actuary shall provide to the plan administrator on an application for enrollment other than the plan's administrator in relation to any assignment the enrolled actuary or his/her firm or employer has undertaken for such plan administrator or for any employer contributing to the plan, excluding any gain to an insurance company as the result of issuing contracts.

§ 901.40 Special orders.

The Joint Board reserves the power to issue such special orders as it may deem proper in any cases within the scope of this part.

PART 902—RULES REGARDING AVAILABILITY OF INFORMATION

The new Part 902 of Chapter VIII of Title 20, CFR, reads as follows:

Sec.

902.1 Scope.

902.2 Definitions.

902.3 Obtaining published information.

902.4 Access to records.

902.5 Appeal.

PART 902—RULES REGARDING AVAILABILITY OF INFORMATION

The new Part 902 of Chapter VIII of Title 20, CFR, reads as follows:

Sec.

902.1 Scope.

902.2 Definitions.

902.3 Obtaining published information.

902.4 Access to records.

902.5 Appeal.


§ 902.1 Scope.

This part is issued by the Joint Board for the Enrollment of Actuaries (the “Joint Board”) pursuant to the requirements of section 552 of Title 5 of the United States Code, and subject to the provisions of section 552(b) of Title 5 of the United States Code. Records falling within such limitations may nevertheless be made available in accordance with the requirements contained in the United States Code, and subject to the provisions of section 552(b) of Title 5 of the United States Code.

§ 902.2 Definitions.

(a) “Records of the Joint Board.” For purposes of this Part, the term “records of the Joint Board” means records, statements, opinions, orders, memoranda, letters, reports, accounts and other papers containing information in the possession of the Joint Board that constitute part of the Joint Board's official files.

(b) “Unusual Circumstances.” For purposes of this part, “unusual circumstances” means any other case that is reasonably necessary for the proper processing of the particular request:

(1) The need to search for and collect the requested records from other establishments that are separate from the Joint Board's office processing the request;

(2) The need to search, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(3) The need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request.

§ 902.3 Published information.

(a) Federal Register. Pursuant to sections 552 and 555 of Title 5 of the United States Code, and subject to the provisions of section 552(b) of Title 5 of the United States Code, the Joint Board publishes in the Federal Register for the guidance of the public, in addition to this part, descriptions of its organization and procedures, substantive rules of general applicability, and such other matters as from time to time shall be appropriate, statements of general policy, and interpretations of general applicability.

(b) Other published information. From time to time, the Joint Board issues statements to the press relating to its operations.

(c) Obtaining published information. If not available through the Government Printing Office, published information released by the Joint Board may be obtained without cost from the Executive Director of the Joint Board (“The Executive Director”).

§ 902.4 Access to records.

(a) General rule. All records of the Joint Board, including information set forth in § 902.3, of Title 5 of the United States Code, are made available to any person, upon request, for inspection and copying in accordance with the provisions of this part.

(b) Access to records. Access is available only upon the following conditions:

(1) The need to search for and collect the requested records from other establishments that are separate from the Joint Board's office processing the request;

(2) The need to search, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(3) The need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request.

§ 902.5 Appeal.

Pursuant to section 552 of Title 5 of the United States Code, and subject to the provisions of section 552(b) of Title 5 of the United States Code, records falling within such limitations may nevertheless be made available in accordance with the requirements contained in the United States Code, and subject to the provisions of section 552(b) of Title 5 of the United States Code.

§ 902.6 Authority.

(a) Secretary, U.S. Department of Labor. Pursuant to section 552 of Title 5 of the United States Code, the Secretary of Labor may order records of the Joint Board to be made available to any person, upon request, in accordance with the provisions of this section.

(b) Joint Board. Records falling within such limitations may nevertheless be made available in accordance with the requirements contained in the United States Code, and subject to the provisions of section 552(b) of Title 5 of the United States Code.

(c) Request. Every request for access to such records, other than published records described in § 902.3, shall be submitted in writing to the Executive Director, shall state the name and address of the person requesting such access, and shall describe such records in a manner reasonably sufficient to permit their identification without undue difficulty.

(d) Fee. A fee at the rate of $5.00 per hour for the time required to locate such records, plus ten cents per standard page for any copying thereof, shall be paid by the person requesting access thereto.

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any person requesting records other than published records described in § 902.3. In addition, the cost of postage and any packaging and special handling shall be paid by the requester. Documents shall be provided without charge or at a reduced charge where the Chairman determines that waiver or reduction of the fee is in the public interest because furnishing the information can be considered as primarily benefitting the general public.

(d) Actions on requests. The Executive Director shall within ten days (excepting Saturdays, Sundays, and legal public holidays) determine whether to comply with such requests for records and shall immediately notify in writing the person making such request of such determination and the reason thereof, and of the right of such person to appeal any adverse determination, as provided in § 902.5. In unusual circumstances, the time limit for the determination may be extended by written notice to the person making such request setting forth the reasons for such extension and the date on which the determination is expected to be dispatched. No such notice shall specify a date that will result in an extension of more than ten working days.

(e) Deletion of identifying details. Before any records are made available under § 902.4(a), any identifying details, the disclosure of which would be an unwarranted invasion of personal privacy, shall be deleted by the Executive Director and justification therefor shall be made in writing.

§ 902.5 Appeal.

(a) Any person denied access to records requested under § 902.4, may within thirty days after notification of such denial file a written appeal to the Joint Board. The appeal shall provide the name and address of the appellant, the identification of the records denied, and the dates of the original request and its denial.

(b) The Joint Board shall act upon any such appeal within twenty days (excepting Saturdays, Sundays, and legal public holidays) of its receipt, unless for unusual circumstances the time for such action is deferred, subject to § 902.4(b), for not more than ten days. If action upon any such appeal is so deferred, the Joint Board shall notify the requester of the reasons for such deferral and the date on which the final reply is expected to be dispatched. If it is determined that the appeal from the initial denial shall be denied (in whole or in part), the requester shall be notified in writing of the denial, of the reasons therefor, of the fact the Joint Board is responsible for the denial, and of the provisions of section 552(a) (4) of Title 5 of the United States Code for judicial review of the determination.

(c) Time extensions. Any extension or extensions of time under §§ 902.4(d) and 902.5(b) shall not cumulatively total more than ten days (excepting Saturdays, Sundays, and legal public holidays). If an extension is invoked in connection with an initial determination under § 902.4(d), any unused days of such extension may be invoked in connection with the determination on appeal under § 902.5(a) by written notice from the Joint Board.

Approved for publication in the Federal Register.


DONALD S. GRUBBS, JR.
DONALD S. GRUBBS, JR.
Chairman, Joint Board for Enrollment of Actuaries.

[FR Doc.75-12471 Filed 5-8-75; 10:07 am]
DEPARTMENT OF THE TREASURY
Bureau of Alcohol, Tobacco and Firearms

FIREARMS

Granting of Relief

Notice is hereby given that pursuant to 18 U.S.C., section 925(c), the following named persons have been granted relief from disabilities imposed by Federal laws with respect to the acquisition, transfer, receipt, shipment, or possession of firearms incurred by reason of their convictions of crimes punishable by imprisonment for a term exceeding one year.

It has been established to my satisfaction that the circumstances regarding the convictions and each applicant's record and reputation are such that the applicant is unlikely to act in a manner dangerous to public safety, and that the granting of the relief will not be contrary to the public interest.

Bailey, Stephen A., 14 Maple Street, Dexter, Maine, convicted on June 1, 1972, in the Superior Court of Penobscot County, Maine.

Cahill, Donald R., Sr., Apt A-5, South 8th street, Thomasville Court, Hopkinsville, Virginia, convicted on March 30, 1972, in the Circuit Court of the County of Chesterfield, Virginia.


Conway, Harold V., 1317 North 57th Street, Milwaukee, Wisconsin, convicted on June 22, 1964, and on October 26, 1965, in the Circuit Court, County of Milwaukee, Wisconsin.

Cranmer, Kenneth Dale, 1204 Green Street, Thomasville Court, Hopewell, Virginia, convicted on December 1, 1967, in the United States District Court, Eastern District of Virginia.

Harkins, Henry E., 66 South Florida Street, Buckhaven, West Virginia, convicted on January 26, 1972, in the United States District Court for the Northern District of West Virginia.

Harrington, Ace Allen, 63200 Marywood, Lansing, Michigan, convicted on or about November 30, 1969, in the Circuit Court, Eaton County, Michigan.


Johner, Alvin Lee, Sr., 5630 Madsen Circle, Oregon, Wisconsin, convicted on June 3, 1971, in the Dane County Circuit Court, Wisconsin.

Libauskas, Thomas M., 14355 Center Avenue, Honeoye, New York, convicted on June 8, 1972, in the United States District Court, Lake County, Indiana.

McMillan, John H., Reverend, 118-30 144th Street, South Ozone Park, New York, convicted on October 14, 1963, in the New York County Court of Suffolk County, New York.

Madison, John L., 2412 Behrman Highway, New Orleans, Louisiana, convicted on May 1, 1931, on March 16, 1957, and on March 18, 1959, in the Criminal District Court, Orleans, Louisiana.

Moore, Harold Irwin, 209 Country Park Road, Greensboro, North Carolina, convicted on June 8, 1972, in the United States District Court, Middle District of North Carolina.

Netl, Victor Earl, 1927 Appleton, Box 223, Parsons, Kansas, convicted on September 10, 1954, in the District Court, Labette County, Kansas; and on January 16, 1958, in the District Court, Montgomery County, Kansas.

Osholm, John M., RR #1, Box 20, Vergennes, Vermont, convicted on November 6, 1947, in a General Court Martial, United States Navy.

Parrs, Gary L., Route #1, Alma Center, Wisconsin, convicted on October 31, 1966, in the District Court for Jackson County, Wisconsin.

Pearson, Otis, 814 Fairview Avenue, Lima, Ohio, convicted on March 24, 1966, Court of Common Pleas, Allen County, Ohio.

Plumb, Rodney L., 1600 N. Floriia, Joplin, Missouri, convicted on April 10, 1972, in the Jasper County Circuit Court, Missouri.

Powters, Kenneth E. Padanaram Village, RR #1, Box 478, Williams, Indiana, convicted on September 15, 1969, in the Allen County Circuit Court, Indiana.

Ribecco, Howard Edwin, 3800 Bucks Bar Road, Placeville, California, convicted on or about July 27, 1974, in the United States District Court, District of Columbia.

Rodens, James M., Route #2, Stewartville, Minnesota, convicted on October 14, 1971, in the District Court, Third Judicial District, Mower County, Minnesota.

Sayne, Glenn E., Route #1, Rockford, Tennessee, convicted on December 6, 1969, in the United States District Court, Knoxville, Tennessee.

Shields, Albert E., Route #1, Box 651, Pensacola, Florida, convicted on July 13, 1963, in the Court of Record, Escambia County, Florida.

Sims, John Howard, 17810 Ash Way, Aderwood Manor, Washington, convicted on August 14, 1951, in the Superior Court of the State of Washington in and for the County of Snohomish.

Sims, Warren LeRoy, RR #2, Box 137A, Orange Hill Road, Athena, Pennsylvania, convicted on December 2, 1941, in the State Superior Court, San Diego County, California; on January 8, 1943, in a General Court Martial, United States Army; and on August 19, 1943, in the District Court of Dewey County, Oklahoma.

Smith, Robert William, 2113 South Yale, Chicago, Illinois, convicted on April 3, 1964, Circuit Court, Cook County, Illinois.

Sorensen, John C., 3207 Blackstone Avenue, St. Louis Park, Minnesota, convicted on December 1, 1967, in the Fourth Judicial District Court, County of Hennepin, Minnesota.

Sprakel, Joe, R.R. #4, Box 10, Finville, Kentucky, convicted on May 9, 1929, on May 11, 1942, on April 3, 1951, and on November 11, 1967, in the United States District Court, London, Kentucky; and on June 21, 1945, and on November 6, 1946, in the Knox County Circuit Court, Barbourville, Kentucky.

Thomas, Joseph James, 738 James Court, West Bend, Wisconsin, convicted on September 17, 1970, in the Waukesha County Circuit Court, Wisconsin.

Tyer, David T., 12520 Viejo Camino, Atascadero, California, convicted on March 10, 1958, in the Superior Court, Orange County, California.


Williams, Robert Arnold, P.O. Box 156, Coalville, Utah, convicted on July 22, 1970, in the United States District Court, District of Utah.

Signed at Washington, D.C. this 30th day of April 1975.

Rex D. Davis,
Director, Bureau of Alcohol, Tobacco and Firearms.
notes are hereby redesignated 7.2% percent Treasury Notes of Series $1-7.2$. Interest on the notes will be payable at the rate of 7.2% percent per annum.

David M. Moss, Deputy Fiscal Assistant Secretary.

[FR Doc. 75-12361 Filed 5-8-75; 9:26 am]

DEPARTMENT OF DEFENSE

Department of the Army

BALLISTIC MISSILE DEFENSE ADVANCED TECHNOLOGY CENTER

Closed Meeting

1. In accordance with section 10(a)(12) of the Federal Advisory Committee Act (Pub. L. 92-463), an announcement is made of the following committee meeting:

Name of Committee: Ballistic Missile Defense Technology Advisory Panel.

Dates of Meeting: 28 through 30 May 1975.

Place: BMD Advanced Technology Center, 106 Wynn Drive, Huntsville, Alabama 35807.

Time: 0800-1630 hours on dates indicated above.

Proposed Agenda:

I. Introduction and Objectives of Panel.
II. Overview of BMD Operating Regimes and Related Programs.
III. Advanced Technology for Conventional Terminal Defense.
V. SBLM Defense Technology.
VI. GONUS Based Midcourse Defense Technology.
VII. Space Based Systems Technology.
VIII. Technology Applications Program.
IX. Subpanel Discussions on Special Topics.

\(\text{Z. Observations and Recommendations of Panel Members.}\)

2. This meeting is closed to the public since the agenda consists of BMDATC's on-going and future programs which do not require that the details of these programs be withheld.


By authority of the Secretary of the Army.

Fred R. Zimmerman

Lt. Colonel, U.S. Army

Chief, Plans Office, TAGO.

[FR Doc. 75-12362 Filed 5-8-75; 6:45 am]

Office of the Secretary

ACQUISITION ADVISORY GROUP

Establishment, Organization and Functions

In FR Doc. 75-10592, appearing on Page 17632 of the Issue of Wednesday, April 23, 1975, a line reading, "interrelationships of the Office of the", should be inserted between the 19th and 20th lines of the third paragraph of the document.
and non-profit research organizations. The Executive Secretary of the committee shall be a full-time, salaried, Federal Civil Service employee selected by the Assistant Secretary—Energy and Minerals. He shall be responsible for the recordkeeping and reporting requirements according to the Office of Management and Budget guidelines and Departmental directives in Chapter 2, Part 308 of the Department of the Interior Manual.

IX. Allowances. Committee members, other than officers or employees of Federal, State, or local governments, shall be, for each day (including travel time) during which they are performing committee business away from their homes or regular places of employment, entitled to compensation of $100.00 per day, and shall, notwithstanding the limitations of sections 873 and 874 of Title 5 United States Code, be fully reimbursed for travel, subsistence, and related expenses. Expenses for the operation of this committee shall be borne by the official designated in paragraph (E).

(L) Specific statutory authority. (30 U.S.C. 812.)


JOHN C. WHITAKER,
Acting Secretary of the Interior.

DEPARTMENT OF COMMERCE
Domestic and International Business Administration

ADVISORY COMMITTEE ON EAST-WEST TRADE

Open Meeting

A meeting of the Advisory Committee on East-West Trade will be held 9 a.m. Wednesday, June 11, 1975, in Room 4430, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C.

The Committee was established to advise the Department, through the Deputy Assistant Secretary for East-West Trade, on ways to facilitate and coordinate the expansion of two-way trade with countries having centrally planned economies.

Agenda items are as follows:

Morning Session 9 a.m.—12 noon
1. Review of outstanding items discussed at previous meetings.
2. Discussion of over-all Committee items and activities.
3. Presentation of problem areas for future Committee consideration.
4. Review of items submitted by the public.

Afternoon Session 1 p.m.—3:30 p.m.
5. Review of items submitted by Committee members.
6. Discussion of Eximbank activities.
7. Commentary and discussion by a distinguished scholar.

The meeting will be open to public observation, and within the limits of time available a period will be set aside for oral comments or questions by the public which do not exceed 5 minutes. More extensive questions or comments should be submitted in writing before May 30. Other public statements may be submitted at any time before or after the meeting.

Approximately 30 spots will be available to the public (including 5 seats reserved for media representatives) on a first-come-first-served basis.

Copies of minutes will be available upon request 30 days after the meeting.

Persons who wish to attend the meeting should contact Robert Frothingham, III, Liaison Officer, Department of Commerce, Office of East-West Trade Development, Bureau of East-West Trade, Domestic and International Business Administration, Washington, D.C. 20230, telephone (202) 967-3363.


ARTHUR T. DONNELL,
Deputy Assistant Secretary for East-West Trade.

National Bureau of Standards
VISITING COMMITTEE
Meeting

Pursuant to the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. III, 1973), notice is hereby given that the NBS Visiting Committee will meet in Lecture Room B of the Administration Building at the National Bureau of Standards in Gaithersburg, Maryland, beginning at 9 a.m. Tuesday, June 10; and in Room 1535 of the Department of Commerce, Washington, D.C., beginning at 9 a.m. Wednesday, June 11.

The purpose of the meeting is for the NBS Visiting Committee to review the activities of the National Bureau of Standards in order to report to the Secretary of Commerce concerning the efficiency of the Bureau's scientific work and the condition of its equipment, as required by law.

The NBS Visiting Committee is composed of five members, prominent in the fields of science and technology, appointed by the Secretary of Commerce.

The agenda for the meeting on June 10 and 11 will consist of overviews of all NBS activities including presentations on joint Issue Studies undertaken by the Bureau and the Visiting Committee.

A limited number of seats will be available to observers. Persons desiring to attend the meeting are requested to contact Ms. Elaine D. Bunten, Office of Programs, National Bureau of Standards, Washington, D.C. 20234, telephone (301) 921-5591.


RICHARD W. ROBERTS,
Director.

National Oceanic and Atmospheric Administration
BROOKFIELD ZOO

Issuance of Permit for Marine Mammals

On February 28, 1975, notice was published in the Federal Register (40 FR 8238) that an application had been filed with the National Marine Fisheries Service by Brookfield Zoo, Chicago Zoological Park, Brookfield, Illinois 60523, for a Public Display Permit to take one (1) Atlantic bottlenosed dolphin (Tursiops truncatus).

Notice is hereby given that, on May 5, 1975, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service issued the permit for the above described taking to Brookfield Zoo, Chicago Zoological Park, subject to certain conditions set forth therein. The Permit is available for review by interested persons in the Office of the Director, National Marine Fisheries Service, Washington, D.C. 20235, and in the Offices of the Regional Director, National Marine Fisheries Service, Southeast Region, Dural Building, 8450 Gandy Boulevard, St. Petersburg, Florida 33702, and the Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930.


ROBERT F. HUTTON,
Acting Director,
National Marine Fisheries Service.

UNIVERSITY OF CALIFORNIA

Receipt of Application for Scientific Research Permit

Notice is hereby given that the following applicant has applied in due form for a permit to take marine mammals for scientific research as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407) and the Regulations Governing the Taking and Importing of Marine Mammals.

Dr. Gerald L. Kooyman, Associate Research Physiologist, University of California, Scripps Institution of Oceanography, P.O. Box 1629, La Jolla, California 92037, to take six (6) California sea lions (Zalophus californianus), six (6) harbor seals (Phoca vitulina), six (6) Pacific white-sided dolphins (Lagenorhynchus obliquidens), twenty-five (25) Weddell seals (Leptonychotes weddelli) and six (6) Ross seals (Ommatophoca rossii), for the purpose of scientific research.

The California sea lions will be taken either by the Applicant or a professional collector, from coastal areas of central or southern California or may be from stranded animals placed into the care of the Applicant for the purpose of nursing them back to health. The harbor seals will be taken by a professional collector from Lembach Lagoon, Alaska. The white-sided dolphins will be taken from coastal areas of central and southern California by Mr. John Hall of the University of California at Santa Cruz. The California sea lions, harbor seals, and white-sided dolphins will be maintained in captivity in any of three facilities at Scripps Institution of Oceanography, including: (1) a rectangular tank, 40 feet...
NOTICES

FEDERAL REGISTER, VOL. 40, NO. 91—FRIDAY, MAY 9, 1975

MARINE MAMMALS

Notice of Receipt of Application

The Secretary of Commerce is sending copies of the application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written views or data, or requests for a public hearing on this application should be submitted to the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20225 on or before June 9, 1975. The holding of such hearing is at the discretion of the Director.

The proposed research is intended to provide a better understanding of the relationship of lung structure to function, and may aid in developing rational diagnosis, treatment of pulmonary illnesses in marine mammals. The research will also clarify the energetic requirements of different marine mammals under natural conditions and the efficiency of different methods of hydrodynamic propulsion.

The proposed research will include the following activities:

1. Lung structure and function of California sea lions, harbor seals and Pacific white-sided dolphins, involving the placement of chest X-ray equipment in both cases, and the gas exchanging properties of the lungs at various pressures. This aspect of the proposed research is a continuation of research currently being conducted under a permit issued during 1974 (59 FR 20333).

2. Ventilation and gas exchange in California sea lions, harbor seals, Pacific white-sided dolphins and Weddell seals, involving the placement of chest X-ray equipment in the lungs and oxygen consumption of trained animals undergoing exercise, or in the case of Weddell seals, freely diving animals;

3. Comparative behavior of Ross and Weddell seals, involving the placement of chest X-ray equipment in both species, and the gas exchanging properties of the lungs, at various pressures. This aspect of the proposed research is a continuation of research currently being conducted under a permit issued during 1974 (59 FR 20333).

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Documents submitted in connection with this application are available in the Office of the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20225, and the Office of the Regional Director, National Marine Fisheries Service, Southwest Region, 500 South Ferry Street, Terminal Island, California 90711, and the Regional Director, National Marine Fisheries Service, Alaska Region, P.O. Box 1688, Juneau, Alaska 99801.

Concurrent with the publication of this notice in the Federal Register, the Secretary of Commerce sends copies of the application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written views or data, or requests for a public hearing in connection with this application should be submitted to the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20225 on or before June 9, 1975. The holding of...
such a hearing is at the discretion of the Director.

All statements and opinions contained in this notice in support of this application are submitted by the applicant, and, therefore, do not necessarily reflect the views of the National Marine Fisheries Service.


ROBERT P. HUTTON,
Associate Director for Resource Management, National Marine Fisheries Service.

[FR Doc.75-12207 Filed 5-8-75; 8:45 am]

NOTICES

MYSTIC MARINELIFE AQUARIUM
Surrender; Issuance of Permit for Marine Mammal

On February 28, 1974, notice was published in the FEDERAL REGISTER (39 FR 7477) that on February 20, 1974 a permit was issued to Mystic Marinelife Aquarium, P.O. Box 190, Mystic, Connecticut 06355, to hold a single individual marine mammal for public display. On February 25, 1975, Mystic Marinelife Aquarium voluntarily surrendered this permit to take three Pacific white-sided dolphins.

On October 4, 1974, notice was published in the FEDERAL REGISTER (39 FR 35829) that an application had been filed with the National Marine Fisheries Service by Mystic Marinelife Aquarium, P.O. Box 190, Mystic, Connecticut 06355, to take two (2) pilot whales (Globicephala melaena) or (Globicephala macrorhynchus) or two (2) beluga (Delphinapterus leucas) whales or one (1) killer whale ( Orcinus orca ) for the purpose of public display. The application was for the maximum of two (2) whales of the species noted or a maximum of one (1) killer whale.

Notice is hereby given that on April 30, 1975, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service issued a permit to Mystic Marinelife Aquarium to take either two pilot whales or two belugas for public display.

Mystic Marinelife Aquarium was denied a permit to take one (1) killer whale ( Orcinus orca ) on the basis that holding a single individual marine mammal of a species such as killer whales would not be conducive to the good health and well-being of that animal. This Permit is available for review by interested persons in the Office of the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235; the Office of the Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930; and the Office of the Regional Director, National Marine Fisheries Service, Southeast Region, 1407 Federal Office Building, 14 Elm Street, Gloucester, Massachusetts 01930; and the Office of the Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.


ROBERT P. HUTTON,
Acting Director, National Marine Fisheries Service.

[FR Doc.75-12209 Filed 5-8-75; 8:45 am]

SENeca PARK zoo
Receipt of Application for Marine Mammal Permit

Notice is hereby given that the following applicant has applied in due form for a permit to take marine mammals for public display as authorized by the Marine Mammal Protection Act of 1972 and the Regulations Governing the Taking and Importing of Marine Mammals.

Seneca Park Zoo, 2222 St. Paul Street, Rochester, New York 14621, to take two (2) California sea lions (Zalophus californianus) for public display.

The sea lions will be taken from the California Channel Islands by a professional collector during the period of November to April.

The animals will be held in indoor and outdoor pools each measuring 24 feet long by 14 feet 8 inches wide and 4 feet 11 inches deep. Haul-out areas are available to the animals in each of the pools.

The Seneca Park Zoo is a non-profit component of the County of Monroe, New York. Some 300,000 visitors a year are recorded. The Zoo's Director has 13 years experience with captive sea lions. A staff zoologist has 6 years experience with the care and maintenance of sea lions.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the health and well-being of the California sea lions requested.

Documents submitted in connection with the above application are available for review at the following locations: Office of the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235; Office of the Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.


ROBERT P. HUTTON, Associate Director for Resource Management, National Marine Fisheries Service.

[FR Doc.75-12209 Filed 5-8-75; 8:45 am]

Office of the Secretary

CTAB PANEL ON SULFUR OXIDE CONTROL TECHNOLOGY

Meeting Cancellation

This is to announce that the planned meeting of the CTAB Panel on Sulfur Oxide Control Technology which was scheduled for May 14, 1975 in the Main Commerce Building, Washington, D.C. will not be held. The meeting was announced on page 13689 of the April 15, 1975 issue of the FEDERAL REGISTER. The meetings announced on the same page of the FEDERAL REGISTER for May 15 and 16, 1975, are not affected by this announcement.


BETSY ANCKER-JOHNSON, Ph.D.

[FR Doc.75-12204 Filed 5-8-75; 8:45 am]

FEDERAL REGISTER, VOL. 40, NO. 91—FRIDAY, MAY 9, 1975
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
Office of Education
CAREER EDUCATION PROGRAM
Funding Criteria

On pages 11938-11939 of the Federal Register of March 11, 1975, there was published a Notice of proposed rulemaking which set forth criteria to be used in evaluating applications for grants to State and local educational agencies, institutions of higher education, and other nonprofit agencies and organizations under section 404(f)(1) of the Education Amendments of 1974, Pub. L. 93-380 (20 U.S.C. 1865(f)(1)). Interested persons were given 39 days in which to submit written comments, suggestions, or objections regarding the proposed criteria. No comment was received. The comment expressed concern that the proposed criteria would exclude the participation of adults in State adult basic education, high school diploma, and high school equivalency programs in the Career Education Program. No such exclusion is intended by these funding criteria. Applications from eligible applicants for career education exemplary projects which serve adults in adult basic education, high school diploma, and high school equivalency programs may be submitted. Adults in such programs are frequently served in high school and post-secondary educational settings, and provisions for exemplary projects in these or other settings are provided for in the funding criteria. Because this concern is addressed in the previously published proposed funding criteria, no change in these criteria is necessary. The proposed criteria are hereby adopted without change as set forth below.

Effective date. The notice of proposed rulemaking and transmitted to Congress on March 10, 1975 pursuant to section 431(d) of the General Education Provisions Act (20 U.S.C. 1232(d)). The time period set forth therein for congressional action has expired without such action having been taken. Therefore these criteria shall become effective on May 9, 1975.

(Catalog of Federal Domestic Assistance Programs: 13.584 Career Education Program)

Dated: April 22, 1975.
T. H. BELL, U.S. Commissioner of Education.
Approved: May 5, 1975.
STEPHEN KURZMAN, Acting Secretary of Health, Education, and Welfare.

CAREER EDUCATION PROGRAM
FUNDING CRITERIA

A. Scope and purpose. These funding criteria govern the selection of applications from State and local educational agencies, institutions of higher education, and other nonprofit agencies and organizations for purposes of carrying out activities designed to improve the implementation of career education.
(20 U.S.C. 1865)

B. Eligible applicants. The following categories of agencies and organizations are eligible for grants pursuant to these funding criteria:
(1) State educational agencies;
(2) Local educational agencies;
(3) Institutions of higher education; and
(4) Other nonprofit agencies and organizations.
(20 U.S.C. 1865(b)(1))

C. Definitions. As used in these funding criteria, "Career Education" means an education process designed to:
(1) Increase the relationship between secondary education and the community;
(2) Provide opportunities for counseling, guidance, and career development for all children;
(3) Relate the subject matter of the curricula of schools to the needs of persons to function fully in society;
(4) Foster flexibility in attitudes, skills, and knowledge in order to enable persons to cope with accelerating change and obsolescence;
(5) Make education more relevant to employment and functioning in society;
(6) Eliminate any distinction between education for general purposes and for vocational purposes; and
(7) Foster flexibility in attitudes, skills, and knowledge in order to enable persons to cope with accelerating change and obsolescence.

(20 U.S.C. 1865(d))

Handicapped children" means mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, emotionally disturbed, crippled, or other health impaired children who by reason thereof require special education and related services.

(20 U.S.C. 1401)

State educational agency" means the State Board of Education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools; or, if there is no such agency or officer, the agency or officer designated by the Governor or by State Law.

(20 U.S.C. 1141(h))

Local educational agency" means a public board of education or other public authority legally constituted within a State for either the supervision of public education or the administration of public education for one purpose, a separate application will be submitted if the applicant chooses to participate in more than one purpose.

(20 U.S.C. 1181(g))

Institution of higher education" or "Institution" means an educational institution in any State as determined by criteria set forth in section 1257(a) of the Higher Education Act of 1965 as amended.

(20 U.S.C. 1141(a))

D. Required application data. Projects funded pursuant to these funding criteria must be designed to contribute to one of the following purposes to:
(1) Effect incremental improvements in K-12 career education through one or a series of exemplary projects;
(2) Demonstrate the most effective methods and techniques in career education in such settings as the senior high school, the college community, or in institutions of higher education;

(20 U.S.C. 1865(b)(1))

E. Application review criteria. These funding criteria will be applied in evaluating the effectiveness of activities carried out under the application, including specification of the criteria to be utilized in assessing effectiveness and the evaluation instruments to be applied.

(20 U.S.C. 1401)

A. Plan for disseminating information to others during the course of the project and at the conclusion of the project grant period.

(20 U.S.C. 1141(h))

F. Application review criteria. Criteria will be utilized by the reviewers in reviewing formally transmitted applications. Segments or a segment of the application must address each criteria area. Each criterion is weighted and includes the maximum score that can be given to a segment of an application in relation to the criteria. The criteria and maximum weights for each criterion are as follows:

Criteria

Maximum

Evidence of need. The application clearly demonstrates the need for its proposed activities and for the career purpose it seeks to attain and the population(s) it seeks to serve.

(20 U.S.C. 1141(a))
POSTSECONDARY EDUCATION COMPREHENSIVE STATEWIDE PLANNING GRANTS PROGRAM

Allocation Formula and Program Guidelines

On Pages 11016 and 11017 of the Federal Register of March 16, 1975, there was published a notice of proposed allocation formula and program guidelines which set forth both the formula to be used in allocating the fiscal year 1975 funds available for the Postsecondary Education Comprehensive Statewide Planning Grants Program among the State Postsecondary Education Commissions and certain guidelines to be followed, issues the allocation formula. Interested persons were given 30 days in which to submit written comments, suggestions, or objections regarding the proposed allocation formula and program guidelines.

No objections have been received and the proposed allocation formula and program guidelines are hereby adopted without change and are set forth below.

Effective date. The notice of proposed rulemaking was transmitted to Congress on March 5, 1975, pursuant to section 431(d) of the General Education Provisions Act (20 U.S.C. 1223(d)). The time period set forth therein has expired without such action having been taken. Therefore, this allocation formula and these program guidelines shall become effective on April 22, 1975.

(Catalog of Federal Domestic Assistance Program No. 18.550: State Postsecondary Education Commissions)

Dated: April 22, 1975.

T. H. Bell,
U.S. Commissioner of Education.

Approved: May 3, 1975.

Stephen Kuzner,
Acting Secretary of Health, Education, and Welfare.

Pursuant to the authority contained in Title XII, Section 1103, of the Higher Education Amendments of 1968 (20 U.S.C. 1142b), notice is hereby given that the Commissioner of Education, with the approval of the Secretary of Health, Education, and Welfare, has given final approval to the proposed allocation formula and program guidelines set forth below for the Postsecondary Education Comprehensive Statewide Planning Grants Program.

1. Allocation formula. Such funds as may become available for grant awards during fiscal year 1975 under the Postsecondary Education Comprehensive Statewide Planning Grants Program will be used to fund State Commission activities during the period from July 1, 1975 through June 30, 1976.

Such funds will be allocated in the following manner among those State Postsecondary Education Commissions which have filed the required information concerned establishment with the Office of Education and which have applied for funds:

(a) Fifty percent of the funds available or such percentage as will ensure that no State Commission receives less than was received for fiscal year 1974, whichever is greater, will be distributed equally among all such State Commissions.

(b) The balance of the funds available will be distributed on the basis of the ratio of the population of a postsecondary age (18 to 54) in the 1970 census, in a given state to the total population of a postsecondary age in all States with such Commissions.

2. Program guidelines. Grants made under these provisions must be used by a State Commission to conduct comprehensive inventories of, and studies with respect to, all public and private postsecondary educational resources in the State, including planning necessary for such resources to be better coordinated, improved, expanded, or altered so that all persons within the State who desire, and who can benefit from, postsecondary education may have an opportunity to do so. Such comprehensive studies and inventories should be of such a nature as will assist the State Commission in planning the:

(a) Maximizing the development of human resources within the State through encouragement of student entrance to postsecondary education and the provision to the students of needed guidance, counseling, and financial assistance;

(b) Providing comprehensive postsecondary education programs and services;

(c) Achieving efficient operation and orderly growth;

(d) Providing the fullest possible financial support together with efficient use of resources;

(e) Attracting and retaining qualified faculty and professional personnel; and

(f) Providing adequate and appropriate facilities and instructional equipment and securing efficiency in their use.

Food and Drug Administration

[DESI 10367; Docket No. FDC-D-635; NDA 10-367, etc.]

CERTAIN ANTIINFECTIVE DRUG PREPARATIONS CONTAINING CHLORQUINOLINE, PYRIMETHAMINE, TRICLOBISONIUM CHLORIDE AND HYDROCORTISONE

Withdrawal of Approval of New Drug Applications

In Food and Drug Administration

[FR Doc.75-10536 Filed at 7:18 p.m. on the Wednesday, April 22, 1975 the number in the second line of the document reading "103ST" should read "103ST."
NOTICES

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

WORKING GROUP FOR NAVIGATION SYSTEM ACCURACY

Meeting

Notice is hereby given that the Working Group for Navigation System Accuracy will hold a meeting beginning at 12 p.m. c.d.t., June 9 and 10, in Room 206C of the Aviation Records Building at the FAA Aeronautical Center in Oklahoma City, Oklahoma. The following agenda item is scheduled for this meeting:

Discussion. Review of navigation system accuracies as related to fix accuracies and obstacle clearance requirements presently specified in the TERPS Handbook. This review will include discussion of papers relevant to navigation system accuracy and definition of areas where there is a consensus that obstacle clearance is inadequate.

All those interested in attending the meeting should contact Earnest E. Callaway, Chairman, Working Group for Navigation System Accuracy, Federal Aviation Administration, Flight Inspection National Field Office, P.O. Box 25052, Oklahoma City, Oklahoma 73125, Telephone: (405) 986-4194. The meeting will be open to the public.


JAMES A. FORGAS,
Chairman, U.S. Terminal Instrument Procedures (TERPS) Advisory Committee.

Federal Railroad Administration

[FRA Waiver Petition Docket No. RSFC-74-6; Notice 2]

NORFOLK AND WESTERN RAILWAY CO.

Waiver of Periodic Lubrication

On October 22, 1974, the Federal Railroad Administration (FRA) published a notice in the FEDERAL REGISTER (39 FR 37523) that the Norfolk and Western Railway Company (N&W) had petitioned the FRA for permission to continue a test program in which some 13,000 low mileage open top hopper cars will be operated for a period not to exceed eight years without compliance with present periodic lubrication requirements of FRA regulations (49 CFR 215.59).

The Railroad Safety Board of the FRA, after reviewing all of the information submitted in connection with this proceeding, has granted a waiver of the applicable requirements of FRA regulations. In reaching this decision the Railroad Safety Board specifically found that granting the waiver was in the public interest and consistent with railroad safety.

The N&W has recently requested to amend the above mentioned petition to include an additional 2,000 hopper cars. These cars, some of which are still in the construction stage, bear N&W reporting marks in the series between 138001 and 140999. These cars would all be subject to the same test conditions previously described.

Interested persons are invited to participate in this proceeding by submitting written data, views or comments. FRA has previously provided an opportunity for oral comment on this proceeding and does not presently intend to schedule another opportunity for oral comment in this proceeding.

All communications should identify the Docket Number (FRA Waiver Petition Number RSFC-74-6) and should be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, 400 Seventh Street SW., Washington, D.C. 20550.

Communications received before June 15, 1975 will be considered by the Federal Railroad Administration before final action is taken. Comments received after that date will be considered so far as practicable. All comments received will be available, both before and after the closing date for communications, for examination by interested persons during regular business hours in Room 5101, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20550.

(See 202, 84 Stat. 971, (45 U.S.C. 431); § 1.49(a), regulations of the Office of the Secretary of Transportation, 49 C.F.R. 1.49 (a)).

Issued in Washington, D.C. on May 2, 1975.

DONALD W. BENNETT,
Chief Counsel.

[Civil Aeronautics Board]

CIVIL AERONAUTICS BOARD

Statement of Tentative Findings and Conclusions and Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 6th day of May 1975.

By Order 74-11-154 the Board delegated authority to the Director, Bureau of Operating Rights, to issue foreign air carrier permits to 57 Canadian air carriers, listed in Appendix A of that Order, authorizing charter operations between the United States and Canada pursuant to the Non-Scheduled Air Service Agreement executed May 8, 1974 by the Governments of Canada and the United States. The permits were to be issued upon evidence of compliance with cer-
NOTICES

FEDERAL REGISTER, VOL 40, NO. 91—FRIDAY, MAY 9, 1975

OZARK AIR LINES, INC.

Supplemental Order of Investigation and Suspension

Issued under delegated authority May 5, 1975.

The Board, by Order 75-2-31 of February 6, 1975, suspended and instituted an investigation of provisions excluding poisonous snakes and other poisonous reptiles from carriage and establishing a 200-pound per piece limit on animal shipments proposed by Ozark Air Lines, Inc.

The suspension period of the proposed provisions will expire before the investigation of their lawfulness can be concluded and final order made.

Pursuant to authority duly delegated by the Board in the Board's Regulations 14 CFR 385.15, it is found that the proposed provisions should be suspended for an additional 90-day period.

Accordingly, it is ordered, That: 1. The suspension period of the provisions in Rule Nos. 19(A)(1) and 19(A)(4) applicable to the carrier OZ on 8th Revisions Page 10-C of Airline Tariff Publishing Company, Agent, Tariff C.A.B. No. 96 is extended to and including August 5, 1975; and

2. Copies of this order be filed with the tariff and served upon the American Association of Zoological Parks and Aquariums, Ozark Air Lines, Inc., and the Zoological Action Committee, Inc.

Persons entitled to petition the Board for review of this order pursuant to the Board's regulations, 14 CFR 385.50, may file such petitions within three days after taking service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period unless within such period a petition for review thereof is filed, or the Board gives notice that it will review this order on its own motion.

EDWIN Z. HOLLAND, Secretary.

[FR Doc.75-12290 Filed 5-8-75; 8:45 am]

DOMESTIC PASSENGER-FARE INVESTIGATION, PHASE 4—JOINT FARES

Order To Show Cause

Correction

In FR Doc. 75-11679 appearing at page 19523 in the issue of Monday, May 5, 1975, in the first column on page 19524, the paragraph immediately under footnote * should be printed in 7½ point type and should be inserted immediately under the third complete paragraph in this column.

[FR Doc.75-12290 Filed 5-8-75; 8:45 am]

COUNCIL ON ENVIRONMENTAL QUALITY

ENVIRONMENTAL IMPACT STATEMENTS

Availability

Environmental Impact statements received by the Council on Environmental Quality.
NOTICES

Quality from April 28th through May 2nd, 1975. The date of receipt for each statement is noted in the statement summary. Under Council Guidelines the minimum period for public review and comment is forty-five (45) days from this FEDERAL REGISTER notice of availability. (June 24, 1975) The thirty (30) day period for each final statement begins when the final statement is made available to the Council and to commenting parties.

Copies of Individual statement are available for review from the originating agency. Back copies will also be available at cost from the Environmental Law Institute, 1348 Connecticut Avenue, Washington, D.C. 20036.

DEPARTMENT OF AGRICULTURE


FOREST SERVICE

Draft

Southern Chilkat Study Area, Tongass National Forest, Alaska, April 30: The proposed action involves, in part, the harvest of old growth forests, containing portions of the Chilkat Mountains of the Chatham Area, Tongass National Forest. Such management activity will require the development of both permanent and temporary roads, logging camps and log transfer points in an area that is now essentially roadless. The proposed action does not constitute a commitment of a wilderness study area. Timber harvest activity may increase surface soil erosion and alter wildlife habitat and migration patterns. (ELR Order No. 50649.)

Final

Lataouche Island Timber Sale, Alaska, April 28: The statement concerns a timber sale in approximately 160 acres of the southeast side of Lataouche Island near Cordova, Alaska. The harvest would span two years and would consist of four clearcut units totaling 175 acres. Total volume is expected to be 2,780 MBF. The sale will result in the construction of 2,340 feet of road (661 acres); 2,360 feet of gravel road; by: COE, EPA, DOE, DOI, and State agencies. (ELR Order No. 50631.)

SOIL CONSERVATION SERVICE

Draft

McNary-Cypress Creek Watershed Project, McNary County, Tenn., April 30: The statement concerns a project for watershed protection and conservation, including control for the McNary-Cypress Creek Watershed. Included in the project are plans for 20 impounding structures, one of which will provide sewer with industrial and recreational water. Adverse effects include: the decrease of wildlife habitat resulting from land use; change of crop or idle land to pasture; loss of 2,365 acres of wildlife habitat; loss of one barn and the modification or relocation of three bridges, 2,409 feet of paved gravel road; and decreasing the quality of forest land and fish habitat. (ELR Order No. 50465.)

Final

Kalahau Watershed Project, Honolulu County, Hawaii. The statement is for a proposed watershed protection, flood prevention, and recreation project in Honolulu. Project measures will include land treatment, a debris basin, construction of a multipurpose lagoon. In addition, the lower reaches of Wailea, Kalalau, and Ahumana Streams are to be modified. The local governments will construct a recreational park at the lagoon. Adverse impacts will include the loss of some aquatic habitat, and the displacement of 21 homes and 4 businesses (125 pages). Comments made by: USAF, COE, EPA, DOC, USCG, HEW, DOI, COE, DOE, and private organizations. (ELR Order No. 50628.)

Brillion Watershed Project, Calumet County, Wis., April 30: Proposed is a watershed protection project for 32,900 acres of the Brillion Watershed Project. Measures will include land treatment, channel work, weirs, and control structures. Adverse impacts will include the introduction of 1,160 tons of sediment to the Calcasieu River during construction; the loss of timber on 237 acres; the disturbance of 150 acres of cropland, 37 acres of forest land; and the disturbance of sixty acres of wetland. Comments made by: COE, EPA, DOE, DOI, DOT, EPA, and State agencies. (ELR Order No. 50625.)

Kinder Watershed Project, Allen and Jefferson Counties, La., April 28: The statement refers to a proposed protection project for 32,900 acres of the Kinder Watershed Project. Measures will include land treatment, channel work, weirs, and control structures. Adverse impacts will include the introduction of 1,160 tons of sediment to the Calcasieu River during construction; the loss of timber on 237 acres; the disturbance of 150 acres of cropland, 37 acres of forest land; and the disturbance of sixty acres of wetland. Comments made by: COE, EPA, DOE, DOI, DOT, EPA, and State agencies. (ELR Order No. 50625.)

SOUTH CAROLINA

Department of Commerce

Contact: Dr. Sidney R. Galler, Deputy Assistant Secretary for Environmental Affairs, Department of Commerce, Washington, D.C. 20230, 202-571-4335.

Final

Kinder Watershed Project, Calumet County, Wis., April 30: Proposed is a project to mitigate shore damage as associated with offshore oil and gas development and other minor construction activities due to heavy recreational use, traffic in unauthorized areas, and alterations of the natural environment through recreational activities. (Tulsa District.) (ELR Order No. 50660.)

SOIL CONSERVATION SERVICE

Draft

Porous-Twelve Mile Timber Sale, Tongass National Forest, Alaska, April 28: The statement concerns the proposed harvesting of approximately 80 million board feet of mature Sitka spruce, western hemlock, and yellow cedar from approximately 3,600 acres in the vicinity of Portage Bay. A permanent road system would be built through the area. Timber would be harvested from 27 clearcut units over a seven year period, temporarily degrading the aesthetic value. Comments made by: EPA, HUD, DOE, DOI, one private company and one citizen. (ELR Order No. 50650.)

SOIL CONSERVATION SERVICE

Draft

Galveston Bay, Houston, Texas, April 28: The statement concerns a project to mitigate shore damage as associated with offshore oil and gas development and other minor construction activities. (Tulsa District.) (ELR Order No. 50660.)

DEFENSE

Army Corps

Draft

Portage-Twelve Mile Timber Sale, Tongass National Forest, Alaska, April 28: The statement concerns the proposed harvesting of approximately 80 million board feet of mature Sitka spruce, western hemlock, and yellow cedar from approximately 3,600 acres in the vicinity of Portage Bay. A permanent road system would be built through the area. Timber would be harvested from 27 clearcut units over a seven year period, temporarily degrading the aesthetic value. Comments made by: EPA, HUD, DOE, DOI, one private company and one citizen. (ELR Order No. 50650.)

Final

Marine Watershed Project, Muddy Boggy Creek, Coal County, Okla., May 1: Proposed is a project to mitigate shore damage as associated with offshore oil and gas development and other minor construction activities. (Tulsa District.) (ELR Order No. 50660.)

Parker Lake, Muddy Boggy Creek, Coal County, Okla., May 1: Proposed is a project to mitigate shore damage as associated with offshore oil and gas development and other minor construction activities. (Tulsa District.) (ELR Order No. 50660.)

White Lake Harbor, Mitigation of Shore Damage, Muskegon County, Mich., April 28: Proposed is a project to mitigate shore damage as associated with offshore oil and gas development and other minor construction activities. (Tulsa District.) (ELR Order No. 50660.)

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acres of land, and an additional 3,510 acres will be subject to periodic inundation. Creation of the lake will eliminate the stream-oriented recreation in the project area. The absence of suitable habitat for many species of fish will encourage changes in land uses and disrupt natural biotic communities. Three of the 24 archeological sites currently in the project area will be permanently inundated. The project will displace 7 families. (ELR Order No. 50636.)

Berk's Creek Embankment and Facilities, Bergen County, N.J., April 30: The statement concerns a proposal to permit the Bergen County Regional Waterway and Flood Control Commission to construct an embankment and other facilities in the Hackensack Meadowlands, adjacent to Berk's Creek. Approximately 35 acres of mercury contaminated marsh will be permanently lost due to the activities within Berk's Creek Tributary. Development of the sports complex will result in increased economic development of the area along with increased noise and air pollution from the traffic volume and parking facility. The elimination of some marsh area would necessitate a change in the habitat of native terrestrial wildlife and birds that are resident or transient through the area. (New York District) (196 pages). (ELR Order No. 50656.)

FEDERAL POWER COMMISSION


Final

Refugio-Waha Project, Docket CPT-220, severance of the issuance of a certificate to El Paso Natural Gas Company for the construction and operation of certain facilities necessary for the transportation of natural gas supplies from a Transco pipeline in Refugio County to El Paso's main system near Cuyama. The project will include the extension of 24 miles of 24 inch pipeline, 5 compressor stations, and appurtenant facilities. There would be impact on "man, wildlife, vegetation, soil, water and air quality, and noise levels." (161 pages). Comments made by: HEW, USDA, COE, USCG, AEC, DOC, DOI, HUD, and EPA. (ELR Order No. 50669.)

GENERAL SERVICES ADMINISTRATION

Contact: Mr. Andrew E. Kaunders, Executive Director of Environmental Affairs, General Services Administration, 18th and F Streets NW, Washington, D.C. 20405, 202-343-4161.

Final

Denver Federal Center, Lakewood, Jefferson County, Colo., April 30: The proposed project provides for major repairs and alterations which will be undertaken at the Denver Federal Center. Lakewood, Jefferson County, for its continued use in providing adequate housing for Federal agencies. There will be construction inconveniences (25 pages). Comments made by: AHP, NTHP, DOC, USDA, COE, HUD, EPA, DOI, State, and local agencies. (ELR Order No. 50649.)

Soviet Embassy Complex, District of Columbia, April 28: This is the statement for the five-building Soviet Embassy Complex on a 12.5-acre site in the Glover Park Neighborhood of Northwest Washington, D.C. The statement is the result of an agreement between the U.S. and U.S.S.R. providing for the reciprocal exchange of 85-year leases for embasement sites in both Washington and Moscow. Construction and associated disruption are expected to occur continuously over a 28-month period. Comments made by: AHP, NTHP, DOI, COE, USDA, local agencies, organizations, and concerned citizens. (ELR Order No. 50676.)

General Services Administration is withdrawing the Draft Environmental Impact Statement #EMO-75001, Internal Revenue Service—Midwest Service Center, Kansas City, Kansas, to incorporate a current and pertinent Federal-Canada situation in the Kansas City Metropolitan area and is reconsidering the proposal to displace the site by using the most beneficial and feasible method of providing for the requirements of the IRS-MSC.

DEPARTMENT OF HU

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Room 7268, 475 9th Street SW., Washington, D.C. 20410, 202-755-6308.

SECTION 106 (4)

Draft

Court Street Widening Project, Reading, Berks County, Pa., April 28: Proposed is the rehabilitation loans with of Court Street (between Thorn and North Streets) to complete the Service System necessary for the Downtown East Urban Renewal Project and Penn Square. The project will result in the relocation of two buildings and the reallocation of one family. Construction disruption will result in increased traffic in the vehicular traffic within and adjacent to the project area. (ELR Order No. 50658.)

Northeast Industrial Area Development, Reading, Berks County, Pa., April 28: The statement concerns a housing rehabilitation program intended to improve the City of Reading through enforcement of existing codes and through the provision of about 200 new rehabilitated units. (ER Order No. 50638.)

Newark Parking Authority for a parking lot, Penns Grove, Camden County, N.J., April 28: The statement concerns a 50 acre industrial reuse area which includes: the planting of 60 black oak trees; the addition of street lights, and the addition of street trees and green spaces. Construction disruption will result in increased traffic in the immediate stations. Approximately 11% of ICG will be impacted by the new parking lot. (ELR Order No. 50643.)

Sierra Club, New York City, April 28: Commenting on the proposal for the environmental impact statement of the physical requirement of the City's storm sewer and water service system, and the proposed Senior Citizen Center and construction disruption. (ELR Order No. 50643.)

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 7268, Department of the Interior, Washington, D.C. 20240, 202-343-5261.

BUREAU OF SPORTS FISHERIES AND WILDLIFE

Final

Proposed Tamarac Wilderness Area, Turner National Wildlife Refuge, Spokane County, Wash., May 1: Proposed is the continuation operation, maintenance and development of the Turner National Wildlife Refuge, including the acquisition of 2,795.5 acres of additional lands. The action would result in continued protection of a relatively undisturbed area of natural environment (96 pages). Comments made by: USDA, EPA, DOI, Washington State Clearinghouse. (ELR Order No. 50656.)

INTERNATIONAL COMMERCE COMMISSION

Contact: Mr. Richard Chais, Supervisory Attorney Advisor for the Environmental Staff, Room 2370, 12th St. and Constitution Ave. NW, 202-343-2805.

Final

Second Mattawan Rail Bridge, Illinois Central Gulf Railroad, Illinois, April 28: The Illinois Central Gulf Railroad proposes to increase its electric train commuter fares by an amount equal to the cost of the extension of transportation increasing traffic in the area by 2.3%. Increased noise and air pollution will result in increased traffic in the area by 2.3%. Increased noise and air pollution will result in increased traffic in the area.
NOTICES

NUCLEAR REGULATORY COMMISSION

Contact: Mr. A. Giambusso, Director of Division of Reactor Licensing, P.O. Box 2200, Washington, D.C. 20555. 202–426–7377.

Draft

Davis-Besse Nuclear Power Station, Unit 1 Operation, Ottawa County, Ohio, May 1: The proposed action is the issuance of an operating license to the Toledo Edison Company and Ohio Edison Company for the extension of the Davis-Besse Nuclear Power Station License for startup and operation of the Davis-Besse Nuclear Power Station Unit 1. The station will have a capacity to produce 725,000 kw and will use water-cooled, low-blown and service water which the station discharges to Lake Erie, via a submerged jet, will be heated as much as 20 degrees above ambient. Approximately 3345 curies per year of gaseous radioactive wastes may be discharged into the atmosphere. (ELR Order No. 50665.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, 400 7th Street, SW., Washington, D.C. 20590, 202–426–4977.

FEDERAL AVIATION ADMINISTRATION

Draft

Vandenburg Municipal Airport, Grant County, Ind., April 30: Proposed is a project for the 5-phase improvement of the Marion Municipal Airport. Phase 1 includes the completion of the expansion plans to acquire 200 acres of land, construct a taxiway, two hangars, a service drive and parking lot, perimeter fencing, a runway, taxiway and a terminal building. The land acquisition will displace 7 families. The project will also result in increased air and noise pollution, relocation of Bell Creek, and the partial clearing of approximately 4 acres. (ELR Order No. 50651.)

FEDERAL HIGHWAY ADMINISTRATION

Draft

Ealesaqua Highway (FAP Route 32) Maui County, Hawaii, April 28: The proposed improvement of the Ealesaqua Highway extends from the intersection of Haliimaile Road to the junction of Highway FAS 377, a length of approximately 3 miles. The improvement of the present 2-lane road would require the clearing of approximately 40 to 50 acres of land and would displace as many as 7 families and 6 businesses. The project would also encompass community growth. (ELR Order No. 50652.)

Skipanon Bridge, S.H. 105, Warrenton, Clatsop County, Ore., May 1: The proposed project includes the replacement of the old Skipanon Bridge at Warrenton. The existing bridge, containing a floatout span, has been found to be in violation of the original 1916 Federal permit which required fast-opening bascule bridge, opening on demand. Three alternatives and a no action alternative are proposed. Construction would involve repeated disturbance to the river streambed during construction. Long term alternation of upriver, downriver and, in some cases, potential for increased water pollution from boating and development activities may occur. (ELR Order No. 50655.)

L.R. 1015 and L.R. 69 Relocation, Westmoreland County, Pa., April 30: The proposed North-South Expressway provides for the construction of a divided highway approximately 13 miles in length extending from the proposed interchange near U.S. 21 to the existing interchange with Westmoreland County Route 119. The project entails the displacement of an unspecified number of homes and businesses and will require farm land for the right-of-way. Construction disruption will result (88 pages). (ELR Order No. 50657.)

Highway Improvement of Arlirote Amalie, Virgin Islands, April 28: Proposed is the improvement of the highway from Veteran's Drive to Centerline Road at the top of Arlirote. Proposed is the construction of a 4-lane divided highway which will be widened approximately 2.5 to 3 miles in length and will be widened from 8 to 18 families and businesses, including the U.S. Coast Guard Headquarters building and docking site. Major changes upon the rural landscape will cause potential increases in storm runoff, potential threat to the quality of drinking water, and the destruction of some wildlife habitat, in addition to the construction of a one-mile segment of Sheridan Road (S.T.H. 32) in the City of Kenna from South of 83rd Street. The project will entail removing a two-lane 30 foot pavement and constructing a new 4 lane divided highway approximated by a 30-foot median and a curb and gutter system. The project will displace two businesses and six families. (ELR Order No. 50664.)

S.T.H. 32, Sheridan Road, Kenosha County, Wis., May 2: Proposed is the improvement of a one-mile segment of Sheridan Road from the existing 2-lane roadway south of 183rd Street to a 4 lane divided highway. The project would result in increased air and noise pollution, relocation of homes and businesses, including the U.S. Coast Guard, and disruption of wildlife activities. Filling of the harbor will mean an irreversible commitment of harbor surface areas. (ELR Order No. 50657.)

Final

S.R. 35, Dougherty County, Ga., May 2: The project consists of widening a four mile section of S.R. 234 from two to four lanes, the project will extend from U.S. 19 west to Beall Ave. Four businesses may be displaced and an unspecified amount of land acquired for right of way. Section 4(f) land from Baldwin Park will be acquired (132 pages). Comments made by: EPA, DOT, DOE, USDA, HEW, USAF, and State and local agencies. (ELR Order No. 50665.)

FAP Route 22 (Milwaukee County) Wis., May 1: Proposed is the improvement of a 1.66 mile section of FAP Route 22 (Milwaukee County) between Milwaukee Ave. and Gray Avenue. The project will result in displaced buildings and residential structures. (ELR Order No. 50665.)

Pakistan (FAP Route 28) Milwaukee Ave., Cook County, Ill., May 1: Proposed is the relocation of the Milwaukee River from a 2-lane facility to a 4-lane facility with a 16 foot median. This project is preliminary to the general improvements of a one-mile segment of Sheridan Road in the City of Kenosha from South of 83rd Street. The project will entail removing a two-lane 30 foot pavement and constructing a new 4 lane divided highway approximated by a 30-foot median and a curb and gutter system. The project will displace two businesses and six families. (ELR Order No. 50665.)

R.C.R. 119, Missouri River, St. Louis, Mo., April 30: The project consists of the construction of a 10-lane divided highway. Construction will result in increased air and noise pollution, relocation of homes and businesses, including the U.S. Coast Guard, and disruption of wildlife activities. (ELR Order No. 50648.)

Cary L. Wideman, General Counsel.

ENVIRONMENTAL PROTECTION AGENCY

FR Doc.75–12236 Filed 5–8–75; 8:45 am

RECEIPT OF APPLICATIONS FOR PESTICIDE REGISTRATION

Data To Be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency (EPA) published in the Federal Register (38 FR 31862) its interim policy with respect to the administration of section 3(c) (1) (D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended. This policy provides that EPA will, upon receipt of every application for registration, publish in the Federal Register a notice containing the information shown below. The labeling furnished by the applicant will be available for examination at the Environmental Protection Agency, Room EE–91, East Tower, 40 M Street SW., Washington DC 20460.

On or before July 8, 1975, any person who (a) is or has been an applicant, (b) believes that data he developed and submitted to EPA on or after October 21, 1972, is being used to support an application described in this notice, (c) desires to assert a claim for compensation under section 3(c) (1) (D) for such use of his data, and (d) wishes to preserve his right to have the Administrator determine the amount of reasonable compensation to which he is entitled for such use of the data, must notify the Administrator and the applicant named in the notice in the Federal Register of his claim by certified mail. Notification to the Administrator should be addressed to the Information Coordination Section, Technical Services Division (WH–569), Office of Pesticide Programs, 401 M Street, SW, Washington DC 20460. Every such claim must include, at a minimum, the following information in the interim policy of November 19, 1973.

Applications submitted under 2(a) or 2(b) of the interim policy will be processed to completion in accordance with existing procedures. Applications submitted under 2(c) of the interim policy cannot be made final until the 60 day

FEDERAL REGISTER, VOL. 40, NO. 91—FRIDAY, MAY 9, 1975
EPA File Symbol 33561-G. Hercules Inc., 910 Market St., Wilmington DE 19899. HERCULES MICROBIOCICUAL COMPOUND MB 125. Active Ingredients: 2,2-Dibromo-3-chloropropan-2-ol and Nitrilepropionamide 20%. Method of Support: Application proceeds under 2(c) of interim policy. PM34

EPA File Symbol 33561-G. Junde* Chemical Specialties, PO Box 5491, Lenexa KS 66215. JCS-10 DISINFECTANT-SANITIZER-BROAD-SPECTRUM. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 5%; n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl ethylbenzyl ammonium chlorides 5%. Method of Support: Application proceeds under 2(b) of interim policy. PM35

EPA File Symbol 33565-R. G.getImage(334,450,373,611) 0 Scientific Specialties, PO Box 1026, Orangeburg SC 29115. ATOMIC ENDRIN-GUTHION EC. Active Ingredients: Endrin (Hexachlorocyclohexane) 25%; Guthion (Oxamyl) 60.0%. Method of Support: Application proceeds under 2(c) of interim policy. PM31

EPA File Symbol 33565-R. X-L Laboratories, Inc., 1667 NE 36th Ave., Des Moines IA 50317. Active Ingredients: Sodium Hypochlorite 10%. Method of Support: Application proceeds under 2(c) of interim policy. PM34

**CORRECTED ITEMS**

The following are corrections to lists of applications received published in the FEDERAL REGISTER.

EPA File Symbol 4313-TJ. Carroll Co., 200 W. Kingsley Rd., Garland TX 75041. MINTO DET DISINFECTANT. Active Ingredients: Isopropanol 22.7% (originally published as 22.75%); Ortho-benzyl-para-chlorophenol 3.38%; methyl salicylate 2.00%. Method of Support: Application proceeds under 2(c) of interim policy. PM32 (40 FR 14361)

EPA File Symbol 4450-GL. Chemex Industries Inc., PO Box 5079, Tampa, FL 33605. CHEMEX YARD & PATIO INSECTICIDE FOGERE. Active Ingredients: (5-Benzy1-3-furyl) methyl 2,2-dimethyl-3-(3-methyl-pyridazine) phosphorothioate 0.200%; Related compounds 0.004%. Method of Support: Application proceeds under 2(c) of interim policy (originally published as 2.21). PM17 (40 FR 14907)

EPA File Symbol 11497-A. Enviro Chem. Corp. PO Box 29113, Dallas TX 75229. BIO-DRY DISINFECTANT. Active Ingredients: n-Alkyl (C14) dimethyl ammonium chlorides 6%; Sodium Metasilicate 2.50%; Sodium Chloride 5.60%; Methanol 8.00%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 11717-U. O. J. Pharmaceutical Co., Inc., 12200 Denton Dr., Dallas TX 75234. STARBAR CATTLE BOLUS. Active Ingredients: 2,2-Dibromo-3-chloropropan-2-ol 75.0% (originaUy published as 75.23%). Method of Support: Application proceeds under 2(c) of interim policy. PM54

Guidelines for Evaluation of Applications for Assignment of Supplier and Base Period Use to New Gasoline Retail Sales Outlets

The Federal Energy Administration hereby gives notice of guidelines to be used by FEA in evaluating applications for assignment of suppliers and base period use to new gasoline retail sales outlets. The guidelines are set forth below and will provide a basis for consistent application of FEA's regulatory provisions with respect to new retail sales outlets of motor gasoline.

May 6, 1975, Washington, D.C.

ERIC J. FYU, Acting General Counsel.

**APPENDIX**

GUIDELINES FOR EVALUATION OF APPLICATIONS FOR ASSIGNMENT OF SUPPLIERS AND BASE PERIOD USE TO NEW GASOLINE RETAIL SALES OUTLETS

1. Scope. Numerous questions have been raised as to the procedures and criteria which FEA should apply to applications for assignment of suppliers and base period use for new gasoline retail sales outlets. These guidelines are intended to provide guidance as to how such applications...
Moreover, because of the peculiarities of erring on the side of over-inclusion is necessary, particularly in the context of minimizing the effect which comments may have on the administrative burdens of doing so greatly outweighs.

But, even though it is not possible to preclude all interference with market mechanisms;' minimize "economic distortion;' inflexibility, and unnecessary interference with the maximum extent practicable.' A balancing of goals is required, and Congress has left the details of this balancing to the Federal Energy Administration. 'Allocation Act of 1973 applicable to FEA's overall duties in promulgating and applying the criteria set forth in § 205.35(b) the criteria applicable to the evaluation of applications for assignment of a supplier and new base period use. These application for a new base period use may not be difficult to apply but also conflicting. As the courts have in the various goals of section 4(b) (1) of the EPAA, the various criteria of § 205.33(a) are to be applied only "to the maximum extent practicable." As applied to a particular set of circumstances criteria may not be applied only "to the maximum extent practicable." FEA, the various criteria of § 205.33(b) are to be applied only "to the maximum extent practicable." A balancing of goals is required, and Congress has left the details of this balancing to the Federal Energy Administration. Union Oil Co. v. FEA, --- F. Supp. --, Fed. Energy Guidelines § 260/07, at p. 260/08 (C.D. Cal. 1974); see also Air Trans. Ass'n of America v. FEA, 382 F. Supp. 1039 (D.D.C. 1974).

Thus, FEA should be guided by the criteria of § 205.35(b) but have considerable discretion in balancing one against the other. These criteria are not appropriate to prescribe more specific rules for the application of these criteria to assignments of suppliers and establishment of new base period uses in all circumstances, nevertheless some general principles may be prescribed.

(b) Whether to Assign a Supplier/Purchaser Relationship. Three of the criteria which must be taken into account in deciding whether to assign the application for a specified supplier, and the application for a permanent assignment has been made "upon application." This does not mean that the applicant must expressly apply for a temporary as well as for a permanent assignment. An application for a temporary assignment need contain no more information than that required for a permanent assignment. The procedures for issuing such temporary orders are found in § 205.39.
A possible countevailing consideration may be the preservation of a competitively viable independent markertor. As used in the above guidelines, the fact that a retail sales outlet is not currently in an area means that the volume of business enjoyed by the independent segment in that marketplace will be substantially and permanently reduced.

Although these judgments are extremely difficult and subjective, the FEA cannot ignore or avoid the important question whether granting the application will not be operated by an independent marketer or small or independent refiners and blenders and non-branded independent marketers operating stations within the same trading area or in other nearby trading areas, which will not be operated by an independent marketer or small or independent refiners and blenders, which may seriously jeopardize the competitive viability of small and independent refiners and blenders and non-branded independent marketers.

The existence of substantial evidence that granting the application will substantially and irreversibly impair the competitive viability of independent marketers, generally such evidence is not present if: (1) Independent marketers in the trading area can remain competitively viable by relying upon customers who will patronize such stations because of the availability of supplementary products and services not provided by the new station, (2) there are other large volume distributors in the trading area, and the presence of such stations has not impaired the competitive viability of independent marketers.

The FEA must consider, however, whether, given limited demand within the trading area, (see Item (3) following), the new station will substantially and irreversibly impair the competitive viability of the remaining independent marketers.

1. For example, the FEA cannot ignore or avoid the important question whether granting the application will be operated by an independent marketer or small or independent refiners and blenders, which may seriously jeopardize the competitive viability of small and independent refiners and blenders and non-branded independent marketers.

2. The FEA must determine the appropriate base period use to be assigned the retail sales outlet's,
has applied to the Federal Energy Administra-
tion for an order assigning to it a base-
period volume of [more than] [less than] ___________ gallons per month for a retail gasoline station it intends to operate at ___________. This retail station will be owned by ___________ and operated by ___________.

You are invited to submit written comments to FEA in support of or in opposition to the application. If you oppose the application, you should show how it will adversely affect your business, you should set forth in detail the following minimum information:

1. Your name and address.
2. The person or persons who have an owner-
ship interest in the business which you allege
would be adversely affected, and the extent
of each such person's ownership interest.
3. The location of your business in rela-
tion to the retail station for which the appli-
cation for assignment was made.
4. The adverse effect which you believe approval of the application would have on your business.
5. Relevant factual data and information
which support your claim that approval of
the application will have an adverse effect on
your business. Such data and information
should include, at a minimum, audited or unaudited balance sheets and profit and
loss statements for a recent, representative
time period.

FEA will consider your written comments,
along with any submitted by the applicants
and other interested persons. If you submit
written comments, you will be notified by
FEA whether it may, at its discretion,
hold a public hearing to consider the appli-
cation, in which event you will be notified.
A copy of FEA's procedural regulations applicable to these proceedings is enclosed for your Information.

Your written comments should be hand
delivered or received by mail not later than
____________ to the following address:

[Note: The address is not legible in the image.]

Sincerely,

[Name and Title]

[FEI Doc.75-12273 Filed 5-6-75; 1:27 pm]

FEDERAL MARITIME COMMISSION
METROPOLITAN STEVEDORE CO. AND
TOKAI SHIPPING CO., LTD.

Agreement Filed

Notice is hereby given that the following
agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763 (46
U.S.C. § 114)).

Interested parties may inspect and ob-
tain a copy of the agreement at the Wash-
ington office of the Federal Mar-
itime Commission, 1100 L Street, NW.,
Room 10126, or may inspect the agree-
ment on the premises located at New
York, N.Y., New Orleans, Louisiana, San
Francisco, California, and Old San Juan,
Puerto Rico. Comments on such agree-
ments, including requests for hearing,
may be filed with the Secretary, Federal

Any person desiring a hearing on the
proposed agreement shall provide a clear
counterstatement of the matters upon
which they desire to adduce evidence.
An allegation of discrimination or unfairness shall be accompanied by
a statement describing the discrimina-
tion or unfairness with particularity. Failure to violation of the Act or detriment to the commerce of the United States is
alleged, the statement shall set forth with
particularity the acts and circumstances
described to constitute such violation or detri-
ment to commerce.

A copy of any such statement
should also be forwarded to the party filing
the agreement (hereinafter, "the applic-
ant") and the statement should indicate that
this has been done.

Notice of Agreement Filed by:

Mr. John E. Schaeffer, Esq.
Cooper, White & Cooper
44 Montgomery Street
San Francisco, California 94114

Agreement No. T-3083, between Met-
ropolitan Stevedore Co. (Metropolitan) and
Tokai Shipping Co., Ltd. (Tokai), pro-
vides for Metropolitan to furnish certain
services to Tokai at premises which
Metropolitan expects to receive from the
City of Los Angeles pursuant to a use
permit. Metropolitan agrees to discharge at berths covered by its permit all steel
handled by Tokai to the Port of Los
Angeles. Tokai agrees to deliver to Met-
ropolitan sufficient steel cargoes so that
revenues accrued pursuant to applicable
Port of Los Angeles terminal tariff will be
equal to at least $210,000 in each 12-
month period. Tokai agrees that if its
tariff obligations for each 12-month
period do not meet the $210,000 guaran-
tee, then it will pay Metropolitan the
difference between $210,000 and the total
revenues accrued under said tariff. If total
revenues exceed $210,000 during each 12-
month period, Tokai will share in a portion of such excess revenues attrib-
utable to revenue accrued through use
of the premises on behalf of Tokai, on a
percentage basis outlined in the agree-
ment. Tokai agrees to pay to Met-
ropolitan a proportionate share of all
license and excise fees, occupation and
property taxes due under Metropolitan's
use permit.


By Order of the Federal Maritime
Commission.

FRANCIS C. HUENRY,
Secretary.

[FEI Doc.75-12201 Filed 5-6-75; 8:40 am]

CERTIFICATES OF FINANCIAL
RESPONSIBILITY (OIL POLLUTION)

Certificates Issued

Notice is hereby given that the follow-
ing vessel owners and/or operators have
issued Federal Maritime Commission Certificates of Fi-
nancial Responsibility (Oil Pollution) pursuant to Part 542 of Title 46 CFR.

Certificate No. Owner/operator and vessel
01055___ Sea Sirene Shipping and Finan-
cing Co. S.A.; Pola.
01348___ Dampskibe A/ Avenir, Skibs A/S
Beaumart, Skibs A/S Beauford,
Skibs A/S Seattle: Beaur-
sage.
01580___ Midland Enterprises Inc.: CHE-
2781.
01450___ Olsenberg Shipping Co. Ltd.: V
grey, Vergat.
01474___ Finley & Egge: Ferndarri.
01900___ Gorthors Rederi AB: Ingrid
Gorthon, Nils Gorthon, Margit
Gorthon, Maria Gorthon, Joh
Gorthon, Carl Gorthon, Ada
Gorthon, Ragna Gorthon, Ivan
Gorthon.
02246___ Blue Star Line, Ltd.: Afric Star
02295___ Great Eastern Shipping Co.
Ltd.: Jag Dood.
02477___ American Dredging Co.: No. 300,
No. 129, No. 123, No. 122,
No. 124, No. 125, No. 126,
No. 127, No. 128, No. 130,
No. 105, No. 109, No. 110,
No. 111, No. 112-A, No. 112,
No. 113, No. 114, No. 115,
No. 116-A, No. 117, No. 118,
No. 119, No. 120.
03492___ Interestar Oil Transport Co.: Inte-
rate Star.
02610___ Peter Dohle Schiffahrts-KG.: Fern,
02492__— Blue Star Line, Ltd.: Oceanver-
g, Vergstar.
01574—_  Fearnley & Eger:
01456_  Oceanverg Shipping Co. Ltd.: G
01248___—_  Fearnley & Eger:
01908___ Gorthors Rederi AB: Ingrid
Gorthon, Nils Gorthon, Margit
Gorthon, Maria Gorthon, Joh
Gorthon, Carl Gorthon, Ada
Gorthon, Ragna Gorthon, Ivan
Gorthon.
02246___ Blue Star Line, Ltd.: Afric Star
02295___ Great Eastern Shipping Co.
Ltd.: Jag Dood.
02477___ American Dredging Co.: No. 300,
No. 129, No. 123, No. 122,
No. 124, No. 125, No. 126,
No. 127, No. 128, No. 130,
No. 105, No. 109, No. 110,
No. 111, No. 112-A, No. 112,
No. 113, No. 114, No. 115,
No. 116-A, No. 117, No. 118,
No. 119, No. 120.
03492___ Interestar Oil Transport Co.: Inte-
rate Star.
02610___ Peter Dohle Schiffahrts-KG.: Fern,
02492__— Blue Star Line, Ltd.: Oceanver-
g, Vergstar.
01574—_  Fearnley & Eger:
01456_  Oceanverg Shipping Co. Ltd.: G
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<th>No.</th>
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<td>0083</td>
<td>Ogden Sugari Transport, Inc.: Ogden Sugari.</td>
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<td>Uruguay Major (Panama) S.A.: Lucid.</td>
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<td>Trans Corp. Ltd.: Northcliffe (Panama) S.A.</td>
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<td>Reden 1/8 Sandved: Kisten Sandved.</td>
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<td>Jackson Steamship Co.: Desert Song.</td>
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<td>0154</td>
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<td>0162</td>
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<td>0164</td>
<td>Standard Sand &amp; Gravel Co.: Elisabeth M, Tradewinds.</td>
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<td>0166</td>
<td>Matsaki Hamagueki: Shougo Maru No. 15.</td>
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<td>0168</td>
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<td>0170</td>
<td>Aurora Reederi GMBH &amp; Co. KG: MS &quot;Marheike&quot;: Marheike.</td>
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<td>John S. Lambe (London) Ltd.: Petroship A.</td>
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**NOTICES**

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<td>Golden Star, Steamship Inc.: Golden Star.</td>
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<td>Ballistic Shipping Co., Ltd.: Atlantic Pacific.</td>
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<td>1052</td>
<td>Dolphin International, Inc.: Blue Dolphin.</td>
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<td>Attica Inc., Panama: Welcome.</td>
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<td>PF Offshore Logistics (United Kingdom) Ltd.: PFS-01.</td>
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</table>

By the Commission.

FRANCIS C. HURNEY, Secretary.

[FPR Doc.75-12902 Filed 5-8-75 8:40 am]
demand, potential gas supply, and the what h£ has styled as: (1) flowing gas San Juan Basin of New Mexico, (2) lating, respectively, to supply and (3) proved undeveloped reserves, (3) prob­ tion of new gas sales.

ruling Judge, the Commission Staff, and all other parties 1.

Aztec also submitted testimony and exhibits of a Mr. John R. Barnes relat­

2. The Commission Staff, on the other hand, has requested data from Aztec re­

This statement was intended to set the limits of the instant proceedings. Thus, it was intended that the purpose of this proceeding would be to determine the just and reasonable rate or rates for only those sales covered by Docket No. RI74-144.

Clearly, Aztec would be prejudiced if we were to issue this order clarifying the scope of the instant proceedings without providing an opportunity for Aztec to present new testimony and evidence, if any, pertinent to the rate schedules currently made subject to refund in Docket No. RI74-144 and covered by Aztec’s FPC Gas Rate Schedule Nos. 3, 4, 5, 12, 28, 29, and 35 listed in footnote three of the order issued on January 27, 1975 in this proceeding.

This action clarifying our January 27, 1975, order shall be without prejudice to Aztec’s filing for rate increases for any of its sales not covered by Docket No. RI74-144 and any filing seeking certification of new gas sales.

BAY STATE GAS CO. ET AL.

Applicants state that the purpose of the proposed sales, to insure that Prov­

Applicants state that the purpose of the proposed sales, to insure that Prov­

FEDERAL REGISTER, VOL. 40, NO. 91—FRIDAY, MAY 9, 1975

including those of Messrs. Brickhill, Tatl­

The application indicates that Providence does not have any under­

The application indicates that since 1971 Algonquin has curtailed deliveries of natural gas to its customers and that estimated curtail­

BAY STATE GAS CO. ET AL.

Applicants state that the purpose of the proposed sales, to insure that Prov­

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Applicants state that the purpose of the proposed sales, to insurance provid­

1. Testimony of John R. Barnes, Exhibit No. 5, Docket No. RI74-144 (April 8, 1975).

2. It was assumed that some of the sales being made under these rate schedules could qualify for the nationwide new gas rate promulgated by Opinion No. 999-H, P.P.C. (issued December 4, 1974). Based on data submitted by Aztec in response to Start here, to include all terms of Agreement:

3. The procedural dates we set herein shall supersede those granted in the Notice of Ex­

4. A public hearing on the issue of the rate or rates Aztec shall be allowed to charge El Paso Natural Gas Company for Aztec’s current sales of natural gas covered by its FPC Gas Rate Schedules Nos. 3, 4, 5, 12, 28, 29, and 35 shall be held commencing on July 8, 1975, 10 a.m. (e.d.t.) in a hearing room of the Federal Power Commission, 235 North Capitol Street, NE., Washington D.C. 20426.

5. Docket No. CP75-313.

6. The Commission Staff, on the other hand, has requested data from Aztec re­

7. Providence, and the other companies, are limited to intrastate service, have agreed to assist Providence in meeting its supply emergency by selling to Providence 430 2,876,220 million Btu respectively, at prices of $2.00 and $2.50 per million Btu, respectively, within the contemplation of 1.270 of the Commission’s general policy and interpretations (18 CPR 270).

8. The Commission Staff, on the other hand, has requested data from Aztec re­

9. The application indicates that since 1971 Algonquin has curtailed deliveries of natural gas to its customers and that estimated curtail­

10. The purpose of this hearing will be to determine the just and reasonable rate or rates for all sales covered by Docket No. RI74-144 for any of its sales not covered by Docket No. RI74-144 and any filing seeking certification of new gas sales.
to those sales, except for the volumes sold and charges made for such volumes;

3. The Commission shall indicate that all of the facilities and operations and related activities of Applicants are and will continue to be exempt from Commission regulations, and the non-jurisdictional status of the existing sales, operations and facilities of Applicants will not be rendered jurisdictional or otherwise affected by Commission regulation by reason of any certificate issued for the proposed sales; and

4. The Commission shall indicate that upon the requested abandonment becoming effective, Applicants will not be considered as natural-gas companies within the meaning of the Natural Gas Act.

Any person desiring to be heard or to make any protest with reference to said application should file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission’s rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the authority contained in and subject to a proceeding or to participate as a party in any hearing. Any person wishing to become a party to a proceeding or to participate in any hearing must file a petition to intervene in accordance with the Commission’s rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission’s rules of practice and procedure (18 CFR 1.8 or 1.10), all protests will be considered by the Commission in determining the authority contained in and subject to a proceeding or to participate as a party in any hearing. Any person wishing to become a party to a proceeding or to participate in any hearing must file a petition to intervene in accordance with the Commission’s rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for an Applicant to appear or be represented at the hearing.

MAY B. KINOS
Acting Secretary.

[FR Doc. 75-12200 Filed 5-8-75; 8:45 am]

[Docket No. E-9398]

BROCKTON EDISON CO. AND MONTAUP ELECTRIC CO.

Filing of Initial Transmission Rate

May 2, 1975.

Take notice that on April 24, 1975, Montaup Electric Company (Montaup) and Brockton Edison Company (Brockton) tendered for filing an executed supplement to a contract dated April 26, 1965 under which Brockton serves the Town of Middleboro, Massachusetts. The supplement provides a rate for transmission of Middleboro’s entitlements in various generating plants over a radial line owned by Brockton extending from a tap point on Montaup’s 115 kv “Pool Transmission Facilities” (as defined in the New England Power Pool Agreement) to the Middleboro town line. According to Montaup and Brockton, transmission to the tap point is provided under separate agreements which provide rates that do not cover the cost of Brockton’s radial line.

The rate provided in the supplement is $60 per kilowatt per month of Middleboro’s “Firm Delivered Present Entitlements” as defined in the supplement. According to Montaup and Brockton, the rate is derived from Brockton’s demand related costs for the radial line.

The tendered supplement is requested to become effective on March 1, 1975, the date Middleboro began taking delivery over Brockton’s 115 kv radial line following Middleboro’s completion of a line and substation. Waiver of the 30-day notice requirement is requested in order to permit the March 1, 1975 requested effective date. Montaup and Brockton state that the 1974 year-end plant and operating figures used to derive the rate did not become available in time for a filing to be made 30 days prior to commencement of the service. The filing letter states that the parties to the supplement agree to make refunds from March 1, 1975 in the event a reduction in charges is ordered by the Commission. It waives not granted, an effective date of May 25, 1975 is requested. The rate provided herein is intended to apply to transmission service from March 1, 1975 through May 18, 1975. According to documents filed in Docket No. E-9046 and subsequent Commission order, the transmission service to Middleboro will become Montaup’s responsibility beginning May 19, 1975.

Any person desiring to be heard or to make any protest with reference to said filing should, on or before May 15, 1975, file with the Federal Power Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission’s rules of practice and procedure (18 CFR 1.8, 1.10).

All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission’s rules. The documents filed by Montaup and Brockton are on file with the Commission and available for public inspection.

MARY B. KINOS
Acting Secretary.

[FR Doc. 75-12200 Filed 5-8-75; 8:45 am]

[Docket No. E-9398]

C. CRADY DAVIS

Hearing on and Suspension of Proposed Change in Rate, and Allowing Rate Change To Become Effective Subject to Refund

April 17, 1975.

Respondent has filed a proposed change in rate and charge for the jurisdictional sale of natural gas, as set forth in Appendix A hereof.

The proposed changed rate and charge may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the public interest that the Commission enter upon a hearing regarding the lawfulness of the proposed change, and that the supplement herein be suspended and its use be deferred as ordered below.

The Commission orders: (A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR, Chapter II, and the Commission’s rules of practice and procedure, a public hearing shall be held concerning the lawfulness of the proposed change.

(B) Pending hearing and decision thereon, the rate supplement herein is suspended and its use deferred until date shown in the “Date Suspended Until” column. This supplement shall become effective, subject to refund, as of the expiration of the suspension period without any further action by the Respondent or by the Commission. Respondent shall comply with the refunding procedure required by the Natural Gas Act and § 154.162 of the regulations thereunder.

(C) Unless otherwise ordered by the Commission, neither the suspended supplement, nor the rate schedule sought to be altered, shall be changed until disposition of the proceeding or expiration of the suspension period, whichever is earlier.

By the Commission.

KENNETH F. PLUMM
Secretary.

FEDERAL REGISTER, VOL. 40, NO. 91—FRIDAY, MAY 9, 1975
### CENTRAL HUDSON GAS AND ELECTRIC CORP.

**Filing of Supplement to Rate Schedule**

<table>
<thead>
<tr>
<th>Docket No.</th>
<th>Respondent</th>
<th>Rate Schedule No.</th>
<th>Supplemental No.</th>
<th>Purchaser and producing area</th>
<th>Amount of annual increase</th>
<th>Date effective to filing</th>
<th>Effective date susp.</th>
<th>Data suspended until</th>
<th>Costs per Mcf</th>
<th>Rate in effect</th>
<th>Rate in effect after filing suspended</th>
<th>Rate in effect after filing suspended in Docket No.</th>
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<td>R75-129...</td>
<td>C. Cindy Davis et al.</td>
<td>1</td>
<td>14</td>
<td>Southern Union Gathering Co.</td>
<td>$104,391</td>
<td>9-20-75</td>
<td>9-20-75</td>
<td>26.09</td>
<td>$0.48, 38</td>
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</tbody>
</table>

1 Subject to Btu adjustment above 1,550 Btu and below 1,000 Btu.
2 Subject to upward and downward Btu adjustment from a base of 1,000 Btu.
3 The pressure base is 15.025 lb/in²a.
4 The pressure base is 14.73 lb/in²a.

The proposed rate increase exceeds the applicable area ceiling rate set forth in Opinion No. 658 and is suspended for five months.

[FR Doc. 75-12220 Filed 5-8-75; 8:45 am]

[Docket No. E-9402]

### COLORADO INTERSTATE GAS CO. ET AL.

**Order To Show Cause, Consolidating Proceedings, and Prescribing Procedures**

May 1, 1975.

On June 14, 1974, Colorado Interstate Gas Company, a division of Colorado Interstate Corporation (CIG), filed an application in Docket No. CP74-329 in which it seeks to acquire and develop a new gas storage field (Latigo Field) in Arapahoe County, Colorado. A Staff review of Commission files conducted during analysis of that application disclosed that no producer certificates have been issued for the sale of natural gas to CIG from the Latigo Field. Accordingly, in a letter from the Commission’s Secretary dated August 28, 1974, CIG was requested to provide additional information by submitting the following:

1. A detailed map indicating the location of the Latigo Field and the point or points where the gas purchased therefrom is delivered into CIG’s system.
2. Copies of the related producer contracts from whom CIG purchases gas in the Latigo Field and the date that purchases commenced.
3. The above information for any other producers where appropriate Commission certificates have not been received.

In response to this request, CIG submitted copies of contracts and maps containing the detailed information requested with respect to all CIG purchases of gas in Colorado in connection with which the producer has received no FPC certification according to CIG’s files. In submitting this information, CIG stated that their understanding is that no Commission certificate would be required of

[Docket No. CP75-323; Docket No. CP75-300]

[FR Doc. 75-12203 Filed 5-8-75; 8:45 am]
the producers because all the gas involved in these purchases is produced, transported, and used or sold for resale within the State of Colorado.

However, certain of the producers selling to CIG have previously filed with the Commission for blanket producer certificates to cover their sales of production from the Vilas Field which is also located in Colorado. CIG has presented no explanation of why the Commission would not also have jurisdiction over the producer sales to CIG from other fields by the above-listed producer respondents where such gas is commingled with other certificate-protected production moving in CIG's intrastate natural gas facilities. As a further indication of the Commission's jurisdiction here, the map on the First Revised Sheet No. 1 of CIG's FPC Gas Tariff, Revised Volume No. 1, shows that pipelines or distribution lines of companies purchasing gas from CIG cross the state boundary lines of Colorado. We believe the sales by the producer respondents accordingly are jurisdictional since the gas is metered and is being transported through jurisdictional facilities owned and operated by the purchaser, CIG, for the ultimate purpose of being sold pursuant to certificate authorization covering direct industrial sales and sales for resale as reflected in CIG's Form No. 2 (1973).

The courts have held that natural gas produced in one state is subject to Commission jurisdiction if it will flow in a commingled stream with gas from other sources in interstate commerce for resale (See e.g., "California v. Lo-Vaca Gathering Co.", 73 A.2d 536 (1950); "Colorado-Wyoming Gas Co. v. FPC," 324 U.S. 363 (1945) ). The Commission in Opinion No. 610 ("United Gas Pipeline Co.", 47 FPC 255, 262, (1972), aff'd sub nom., "Louisiana Power & Light Co. v. FPC," 483 F. 2d 623 (1973), cert. denied 416 U.S. 974 (1974) ), stated that: the facilities, sales, and services in question became subject to our jurisdiction at such time as they were a part of a pipeline system built to provide the basis for a decision in regard to the producers in the Latigo Field, similarly situated producers and other producers. Since factual as well as legal issues are involved in this consolidated proceeding, we believe that a formal hearing should be held concerning such issues.

The Commission finds: (1) It is necessary and proper in the public interest in the implementation of section 7 of the Natural Gas Act to require CIG and the producer respondents to show cause why they should not be found to be in violation of the Natural Gas Act for the reasons set forth above.

(2) It is necessary and in the public interest to consolidate the proceeding for a declaratory order in Docket No. CP75-300 with the show cause proceeding in Docket Nos. CP75-323 and 324 in order to consider the jurisdictional issues as discussed above and in CIG's Petition for Declaratory Order.

(3) It is necessary and appropriate that this consolidated proceeding be set for formal public hearing.

The Commission orders: (A) That CIG and the producer respondents show cause why they should not be found to be in violation of the Natural Gas Act as set forth in this order.

(B) That Docket Nos. CP75-323 and CP75-300 are consolidated for the purpose of determination of the jurisdictional issues.

(C) A formal hearing shall be convened in this proceeding in a hearing room of the Federal Power Commission.
NOTICES

CFT3-302 for a certificate of public convenience and necessity under section 7 (c) of the Natural Gas Act requesting authorization for the development of a proposed underground gas storage field near Lancaster, Ohio. The proposal would include construction of 30 storage wells, construction of 137.0 miles of pipeline, and other miscellaneous appurtenant facilities.

This final statement has been circulated to Federal, State and local agencies, and has been placed in the public file of the Commission, and is available for public inspection both in the Commission's Office of Public Information, Room 1000, 233 North Capitol Street, NE., Washington, D.C. 20426 and at its regional office located at 26 Federal Plaza, 22nd Floor, New York, New York 10004.


MARY B. KIDD, Acting Secretary.

[FEDERAL REGISTER, VOL. 40, NO. 91—FRIDAY, MAY 9, 1975]

CONSOLIDATED GAS SUPPLY CORP

Order Accepting Filing Pursuant to PGA Clause, Establishing Procedures, Permitting Intervention and Consolidating Proceedings

MAY 1, 1975.

On March 18, 1975, Consolidated Gas Supply Corporation (Consolidated) tendered for filing revised tariff sheets pursuant to section 12 (Purchased Gas Adjustment (PGA) Clause) of the General Terms and Conditions of Consolidated's FPC Gas Tariff, Second Revised Volume No. 1. Consolidated's March 18, 1975, filing reflects (1) a $2.6 million increase in the cost of gas purchased from producer suppliers and (2) a 1.42¢ per Mcf increase in the cost of gas purchased from non-producer suppliers.

We believe, therefore, that it would be premature to establish a procedure for the consolidated small producer rates in excess of the rate levels established in Opinion No. 699-H as contained in the March 18, 1975, filing.

Therefore, we hereby accept the proposal of the notice requirements of the Commission's regulations.

The Commission finds: (1) Good cause exists to accept Consolidated's March 18, 1975, filing, effective May 1, 1975, as proposed.

(2) It is necessary and proper in the public interest and to aid in the enforcement of the Natural Gas Act that the Commission enter upon an investigation and decision thereon, pursuant to section 5 of the Natural Gas Act concerning the lawfulness of the small producer rates in excess of the rate levels established in Opinion No. 699-H as contained in the March 18, 1975, filing.

That participation of said intervenor shall be limited to matters affecting as set forth in its petition to intervene, and provided, further, the admission of such intervenor shall not be construed as recognizing

No. 1 tendered March 18, 1975, are hereby accepted for filing to become effective May 1, 1975, as proposed.

The notice requirements of § 154.38 (v) of the Commission's regulations are hereby waived.

(C) Pursuant to the authority of section 5 of the Natural Gas Act, the Commission's rules of practice and procedure, and the Federal Power Commission's regulations, a section 5 investigation shall be held concerning the lawfulness of Consolidated's small producer rates at excess of the rate levels established in Opinion No. 699-H as contained in Consolidated's March 18, 1975, filing.

(D) The above named party is hereby permitted to intervene in this proceeding subject to the Rules and Regulations of the Commission and the procedures set forth in the order: Provided, however, that participation of said intervenor shall be limited to matters affecting asserted rights and interests specifically set forth in its petition to intervene, and provided, further, the admission of such intervenor shall not be construed as recognizing...
petition by the Commission that it might be aggrieved by any order or orders entered in this proceeding.

(c) The Secretary shall cause prompt publication of this order in the Federal Register.

By the Commission.

[ SEAL]

MARY B. KIDD,
Acting Secretary.

[FEDERAL REGISTER, VOL. 40, NO. 91—FRIDAY, MAY 9, 1975]

EL PASO NATURAL GAS CO. ET AL.
Petition for Extraordinary Relief and Consolidation of Proceedings

MAY 2, 1975.

Take notice that on April 24, 1975, the Public Service Commission of the State of New Mexico (New Mexico PSC), P.O. Box 2088, Santa Fe, New Mexico 87501, filed in Docket No. RP72-6; No. RP75-42-15; No. RP73-2, an application for extraordinary relief, on behalf of all consumers in the State of New Mexico who utilize natural gas to fuel agricultural irrigation pumping units and who are not otherwise represented, for extraordinary relief from the gas curtailment plan of El Paso Natural Gas Company (El Paso), all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

In Opinion No. 697-A, issued December 19, 1974, the Commission changed the classification of gas utilized to fuel irrigation pumps from Priority 2 to Priority 3 for El Paso's curtailment purposes. New Mexico PSC seeks on behalf of the aforementioned New Mexico consumers extraordinary relief from the effects of the curtailment in the aggregate, approximately 80 Mcf of gas per day during the summer peak period deliverable to Jal Gas Company, Inc., the City of Deming, New Mexico, the City of Socorro, New Mexico, and the Capitan-Carrizojo Natural Gas Association. New Mexico PSC requests that the relief granted be permanent.

New Mexico PSC states that the above-named resale customers, and, in turn, all of the end-use customers supplied by them, receive their total supply of gas from El Paso and that there is no other natural gas available to irrigate end-users other than El Paso. The petition indicates that the irrigation end-users have no alternate fuel capacity and that neither storage facilities nor an established supply of transportation network exist. New Mexico PSC claims that the use of alternate fuels would be impractical in view of the widely scattered locations of facilities and their small individual consumption. The petition shows that the current prices per million Btu for natural gas sold to irrigation end-users are less than the only fuel which may be considered as an alternate, high-test gasoline, which is estimated to cost $3.57 per million Btu exclusive of transportation and storage costs. Further, the petition indicates that because the volumes of gas requested are the minimum amounts necessary to maintain viable agricultural operations by the affected end-users, no further conservation steps can be taken to reduce consumption.

Accordingly, New Mexico PSC requests that the volumes of gas specified in the petition be permanently exempted from curtailment by El Paso and that such volumes be supplemental to gas otherwise available through curtailment of lower priorities on a distribution system basis.

By petition filed April 11, 1975, in Docket No. RP75-42-16, Tucson Gas & Electric Company (Tucson) seeks extraordinary relief from the gas curtailment plan of El Paso proposed in the proceeding in Docket No. RP72-6; Pursuant to ordering paragraph (F) of the Commission order issued March 21, 1975, in Docket No. RP72-6 the petitions for extraordinary relief by Tucson and New Mexico PSC in Docket Nos. RP75-42-15 and RP75-42-16, respectively, are hereby consolidated with the proceedings in Docket No. RP72-6.

Any person desiring to be heard or to make any protest with reference to the petition in Docket No. RP75-42-16 should on or before May 19, 1975, file with the Federal Power Commission, Washington, D.C. 20585, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.3 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

MARY B. KIDD,
Acting Secretary.

[FR Doc.75-12306 Filed 5-8-75; 8:45 am]

BILL J. GRAHAM, OPERATOR, ET AL.
Application

MAY 2, 1975.

Take notice that on April 21, 1975, Bill J. Graham, Operator, et al., (Applicant), P.O. Box 8321, Midland, Texas 79701, filed in Docket No. CT75-626 an application pursuant to section 5 of the Natural Gas Act and the Commission's rules for permission and approval to abandon a sale of natural gas in interstate commerce to The Permian Corporation (Permian) from the Susita Field, El Paso County, Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant requests permission and approval to abandon the percentage-type sale of gas to Permian from two wells on the subject acreage because, Applicant alleges, the sale is no longer economical for Applicant or Permian. Applicant states that he presently received 66.75 percent of the 17 cent per Mcf price Permian receives from El Paso Natural Gas Company for the subject gas at the tailgate of Permian's Todd Plant (or 11.68 cents per Mcf of gas). Applicant claims to have experienced losses from his operations of $373 in January 1975 and $636 in February 1975 and anticipates further losses in March 1975. Applicant states that he has reason to believe that the price of the gas sold from Permian to El Paso will increase to at least 25 cents per Mcf, at which rate Applicant would net 0.518 cents per Mcf for the subject gas.

Applicant claims that his production revenues do not justify certain expenses that are necessary to continue production from the subject wells. To prevent impairment of the wells caused by liquids in the subject gas Applicant states that he would have to install separation equipment at the two wells at an estimated cost of $9,000. Further, to remove field gas, gas is being accumulated in one of the two wells. Applicant states that he must install artificial lift equipment at an estimated
cost of $10,000 plus a monthly maintenance cost of $45 per month.

Applicant also claims that due to corrosion of his gas line he estimates that 10 percent of the subject gas is being lost through leakage. In addition, Applicant alleges that he pays for the rental charges (or $45 per month) for a certain compressor for fuel gas of 17 cents per Mcf to operate the compressor. Applicant claims that the royalty owners state that they will operate the aforementioned compressor and sever the connection between Applicant and Permian. Applicant states that Permian has lost approximately 10 percent of the subject gas to El Paso's line.

The application also indicates that Permian will be better served economically by the proposed abandonment. Applicant states that Permian has lost money ever since it installed the aforementioned compressor because Permian receives only 17 cents per Mcf of compressed gas processed in Permian's plant. Permian must operate another compressor to deliver the subject gas to El Paso's line.

Applicant states that he estimates remaining reserves from the subject well to be 200,000 Mcf of gas. Applicant claims that it could sell such reserves to a local market at a profit because he would not have to pay the aforementioned expenses plus the cost of replacing the gas line. Applicant states that after advising Permian that he "did not wish to lose money any longer," Permian removed the aforementioned compressor and severed the connection between Applicant and Permian. Applicant alleges that the aforementioned expenditures plus the cost of replacing the gas line necessitate that Applicant receive $68,000 for 169,000 Mcf of gas (Applicant's share of remaining reserves) in the next 3 years to break even.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 20, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file with the Commission an application for leave to intervene and file a notice of such application.

The Commission finds:

[The text continues with further details and notices regarding the proceeding.]
The Commission orders: (A) Pending a hearing and a decision thereon, the proposed change in rates and charges tendered in Mich-Wis’ Alternate Ninth Revised Sheet No. 27F, Second Revised Volume No. 1; on March 13, 1975, is accepted for filing to be placed into effect as of May 2, 1975, as conditioned below. (B) Pursuant to the authority of the Natural Gas Act, particularly section 4 and 5 thereof, and the Commission’s rules of practice and procedure and the Regulations under the Natural Gas Act (18 CFR, Chapter I), a public hearing shall be held on August 10, 1975 at 10 a.m., in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, concerning the lawfulness of including within rate base those advances set forth at Appendix A. The portion associated with small producer purchases in excess of rate levels prescribed in Opinion No. 699—H is to be placed into effect subject to refund, pending further Commission order on or before May 12, 1975, as conditioned below. (C) On or before July 1, 1975, the Commission Staff shall serve its prepared testimony and exhibits. Any prepared testimony and exhibits of the intervening parties shall not be construed as recognition that they have been served on or before July 15, 1975. Any rebuttal evidence by the Commission’s意见是 to be placed into effect as of May 2, 1975, as conditioned below.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon a hearing regarding the lawfulness of the proposed change, and that the supplement herein be suspended and its use be deferred as ordered below.

The Commission orders: (A) Under the Natural Gas Act, particularly sections 4 and 15, the Regulations pertaining thereto (18 CFR, Chapter I), and the Commission’s rules of practice and procedure, a public hearing shall be held concerning the lawfulness of the proposed change. (B) Pending hearing and decision thereon, the rate supplement herein is suspended and its use deferred until date shown in the “Date Suspended Until” column. This supplement shall become effective, subject to refund, as of the expiration of the suspension period without any further action by the Respondent or by the Commission. Respondent shall comply with the refunding procedure required by the Natural Gas Act and § 144.102 of the regulations thereunder. (C) Unless otherwise ordered by the Commission, neither the suspended supplement, nor the rate schedule sought to be altered, shall be changed until disposition of this proceeding or expiration of the suspension period, whichever is earlier.

By the Commission.
### NOTICE A

**appendix**

<table>
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<tr>
<th>Docket No.</th>
<th>Respondent</th>
<th>Rate Schedule No.</th>
<th>Payer &amp; producing area</th>
<th>Amount of Annual Increase</th>
<th>Effective Date</th>
<th>Date Suspended until</th>
<th>Rate per Mcf effect of subject</th>
<th>Rate Proposed to be Substituted</th>
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<td>RI 75-134</td>
<td>Perry R. Bass</td>
<td>6.75</td>
<td>Transwestern Pipeline Co. (Texas-Pennian Basin)</td>
<td>$2,560 4-75</td>
<td>10-4-75</td>
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*Unless otherwise stated, the rate shown is the total rate, inclusive of any applicable Btu adjustment and tax.

**SIERRA CLUB, ET AL. Extension of Time**

**APRIL 23, 1975.**

Nebraska Public Power District (NPPD) by motion filed April 14, 1975, requested an extension of time to April 21, 1975, within which to file NPPD's answer to Sierra Club's Motion to Modify Case and Docket Order to Enjoin Construction of a Steam Electric Plant Contiguous to the Project Boundary of the Sutherland Reservoir or in the Alternative to Modify the Project Boundary to Include the Land Occupied by the Plant filed in these consolidated proceedings on March 26, 1975. On April 21, 1975, NPPD did file its answer to this motion.

For good cause shown the requested extension of time is granted. This of course makes NPPD's answer of April 21, 1975, timely.

In view of the extension of time and the answer filed on April 21, 1975, the effect of 1.12(e) of the Commission rules and regulations (18 CFR 1.12(e) (1974)) is hereby stayed.

Kenneth P. Plume, Secretary.

**SOUTHERN NATURAL GAS CO. Further Postponement of Hearing**

**MAY 2, 1975.**

On April 14, 1975, Southern National Gas Company filed a motion for reconsideration of the Notice issued April 8, 1975, in the above-designated matter.

Notice is hereby given that the hearing date in the above matter is postponed until July 15, 1975, at 10 a.m. (E.D.T.).

By direction of the Commission.

MARY B. KIBBE, Acting Secretary.

**ETHRISI B. BLACK, Acting Secretary.**

**ELIZABETH, LOUISIANA, AND TENNESSEE GAS PIPELINE CO. Application and Request for Extension of Emergency Service**

**APRIL 17, 1975.**

Take notice that on April 14, 1975, the Town of Elizabeth, Louisiana, Applicant, P.O. Drawer C.R., Oakdale, Louisiana 71463, filed in Docket No. CP 75-302 an application pursuant to section 7(a) of the Natural Gas Act for an order that Respondent is Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Respondent), to sell and deliver to Applicant for a period of one year, or until alternative intrastate suppliers will soon be successfully concluded and that once a supply is obtained, transportation arrangements must then be negotiated with an interstate pipeline to carry the gas to Applicant. Applicant submits that both supply and transportation arrangements can be quickly concluded and that, if Commission transportation authority is granted, the deliveries from Respondent requested herein will not be required for an extended period. Applicant states that no new facilities will be required for the subject proposals. The application indicates that estimated peak day requirements for the Town are 400 Mcf and that periods of peak usage by the Town and the farmers are not expected to coincide and that the expected combined peak day requirement is, therefore, approximately 500 Mcf. Applicant estimates future annual requirements of the system will be approximately 50,000 Mcf.

Any person desiring to be heard or to make any protest with reference to the application should on or before May 8, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 156.9). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protesting parties a party to the proceeding. Any person desiring to become a party to a proceeding or to participate in the hearing thereon must file a petition to intervene in accordance with the Commission's rules.

Kenneth P. Plume, Secretary.

**TRANSCONTINENTAL GAS PIPE LINE CORP. Postponement of Prehearing Conference**

**MAY 2, 1975.**

Take notice that due to a schedule conflict of the presiding administrative law judge, the prehearing conference set for
NOTICES

FEDERAL REGISTER, VOL. 40, NO. 91—FRIDAY, MAY 9, 1975

VIRGINIA ELECTRIC AND POWER CO. 1

Contract Supplement

May 2, 1975.

Take notice that on April 23, 1975, Virginia Electric and Power Company (Virginia) tendered for filing a contract supplement designated as Virginia's Rate Schedule FPC No. 94-26 between Virginia and Central Virginia Electric Cooperative (Central Virginia) for connection of Central Virginia’s Doubleday-Madison Run Delivery Point, located approximately 0.4 mile east of Highway No. 15, 5 miles south of Orange and 4 miles north of Gordonsville in Orange County, Virginia.

The company requests waiver of the Regulations requiring the filing of billing data since, it states, that there will be no significant increase in the unit cost of electricity to Central Virginia as a result of the connection of delivery point facilities.

May 2, 1975, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. 

The application is on file with the Commission and is available for public inspection.

MAY B. KIDD,
Acting Secretary.

[DEP. Doc. 75-12215 Filed 5-8-75; 8:45 am]

[Docket No. E-9391]

VIRGINIA ELECTRIC AND POWER CO.
Contract Supplement

May 2, 1975.


Said supplement requests Commission authorization for connection of Alle­ghanies new Delivery Point (South Mills) located on and east of Route 343 and 0.3 mile east of the intersection of Route 17 and Route 343 in South Mills, Camden County, North Carolina.

The company requests waiver of the requirement to file billing data since it states that there will be no significant increase in the unit cost of electricity to Alleghany.

May 2, 1975, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission’s rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to
make the protestants parties to the proceeding. Persons wishing to become parties to the proceeding must file a petition to intervene as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and is available for public inspection.

MARY B. KIM, Acting Secretary.

[FEDERAL TRADE COMMISSION]

[FR Doc.75-12213 Filed 5-8-75;8:45 am]

[PR Doc.75-12213 Filed 5-8-75;8:45 am]

[FR Doc.75-12219 Filed 5-8-75;7:55 am]

WISCONSIN POWER AND LIGHT CO.

Filing of New Service Schedule A Agreements

MAY 2, 1975.

Take Notice that on April 28, 1975, Wisconsin Power and Light Company (WPL) tendered for filing a Service Schedule A (Revision Dated April 1, 1975) to the Power Pool Agreement dated July 25, 1973, between Wisconsin Power and Light Company (WPL), Wisconsin Public Service Corporation (WPS), and Madison Gas and Electric Company (MGE). Also included in the filing was a Service Schedule A (Revision Dated April 1, 1975) to the Master Interconnection Agreement dated January 5, 1966, between WPL and WPS and a Service Schedule A (Revision Dated April 1, 1975) to the Interconnection Agreement dated February 1, 1965, between WPS and MGE.

The provisions of these revised Service Schedules are to be effective as of the commercial operation date of Columbia I Unit which is presently estimated to be May 15, 1975.

The Service Schedules set the Participation Capacity Rate at $2.14 per KW per month in accordance with the procedures set forth in the basis Agreements on file with the Federal Power Commission.

WPL states that signed copies of each Service Schedule have been provided to the respective Docketing Filing Office.

Any person desiring to be heard or to present written arguments should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol St., N.E., Washington, D.C. 20506, in accordance with Paragraph 1.0 of the Commission's rules of practice and procedure (18 CFR 1.0). All such petitions or protests should be filed on or before May 15, 1975. Protest will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

MARY B. KIM, Acting Secretary.

[FR Doc.75-12219 Filed 5-8-75;7:55 am]

FEDERAL TRADE COMMISSION

[Notice 75-32]

NASA AD HOC ADVISORY SUBCOMMITTEE TO EVALUATE PROPOSALS FOR PARTICIPATION IN THE SCIENTIFIC DEFINITION OF EXPLORER-CLASS PAYLOADS

Meeting

One section of the NASA Ad Hoc Advisory Subcommittee of the Space Science Steering Committee to evaluate proposals for participation in the scientific definition of Explorer-class payloads will meet at NASA Headquarters in Washington, D.C. during June. On June 4, 5, and 6, 1975, Subcommittee Section C (X-rays) will meet in Room 6004 of Federal Office Building 6 (400 Maryland Ave., SW.) from 8:30 A.M. to 4:30 P.M. The meetings of the other subcommittee sections will be advertised in the FEDERAL REGISTER and convened in the near future.

The Subcommittee sessions will discuss, evaluate, and categorize proposals for participation on Mission Definition Teams which will define Explorer-class X-ray payloads. Throughout the Subcommittee sessions, the professional qualifications of the proposers and their potential scientific contributions to the Mission Definition Teams will be candidly discussed and appraised. Discussion of these matters in a public session would invade the privacy of the proposers and the other individuals involved.

The meeting will be closed to members of the public. Since the Subcommittee session will be concerned throughout with matters listed in 5 USC 552(b)(6), it is hereby determined that the session will be closed to the public.

For further information please contact Dr. Albert G. Opp at 202/785-8403.

DUWARD L. CROW, Assistant Administrator for DOD and Interagency Affairs.

MAY 5, 1975.

[FR Doc.75-12240 Filed 5-8-75;8:45 am]

NATIONAL ENDOWMENT FOR THE ARTS AND HUMANITIES

ARCHITECTURE AND ENVIRONMENTAL ARTS PROGRAM

Grant Guidelines

The following are guidelines for grants made under the Architecture and Environmental Arts Program of the National Endowment for the Arts, an independent agency of the Federal government which makes grants to organizations and individuals concerned with the arts throughout the United States.

Notice is hereby given that the deadline dates for this program are:


June 2, 1975: Assistance to State Arts Agencies.

November 3, 1975: National Theme: "Cityscape".


November 3, 1975: Cultural Facilities.

January 2, 1976: Services to the Field.

January 2, 1976: Design Fellowships, General Programs—no deadline (consult guidelines for more information).

Interested persons should contact Bill Lacy, Director, Architecture and Environmental Arts Program, National Endowment for the Arts, Washington, D.C. 20506, (202) 634-6768 for further information and application forms. Only the Architecture and Environmental Arts Program office may distribute application forms.

Signed at Washington, D.C., on April 30, 1975.

FANNIE TAYLOR,
Director, Program Information.

Fiscal Year 1976

ARCHITECTURE + ENVIRONMENTAL ARTS PROGRAM: BACKGROUND

Program scope. The National Endowment for the Arts, which was established in 1965, is the only Federal agency whose major responsibility is the promotion of the arts. The major goal of the Endowment is to make the arts more widely available to Americans, to strengthen cultural organizations, to preserve and strengthen the Arts, and to encourage the development of our nation’s most talented artists. The Architecture + Environmental Arts Program constitutes one of twelve Endowment program areas.

The Architecture + Environmental Arts Program is concerned primarily with the improvement of the visible characteristics of our man-made surroundings. Thus the scope of the program is subject to broad interpretation. It is perhaps useful to associate the program with activities within the design professions, typically: Architecture, Landscape Architecture, Urban Design, City and Regional Planning, Interior Design, and Industrial Design. The program attempts to encourage invention and innovation in design and to bring the best design into the experience of every citizen.

Architecture + Environmental Arts grants are available for research, program development, creative design studies, and improvement of public participation and awareness.
NOTICES

The National Council on the Arts has recom-
mended that the Endowment adopt a policy not to support the acquisition of real property, capital construction, or the modi-
fication or reconstruction of a building. A grant re-
quest will be considered for these purposes.

IMPORTANT INFORMATION

General requirements—Eligibility

Grants may be awarded to individuals "of exce-
tional talent," and to universities, state and local
governmental entities, or other nonprofit,
tax-exempt organizations. Professionals firms
are not eligible for grants, but may partici-
pare jointly with a qualified applicant. The
Number of submissions in each category may
be submitted by each "applicant" or "applicant organiza-
tion" in each grant category within a fiscal year, except in ex-

cceptions which may submit one application for
each of its eligible units.

Grants to individuals. These grants are available for amounts up to $10,000 and re-
quire no matching funds. By statute, Endow-
ments must be awarded under the individu-
als "of exceptional talent." Grants are
awarded only to citizens or permanent
residents of the United States. Applicant,
organizations must be organized under state
in the name of one person. Although modest
use of consultants is permitted if essential for
the completion of the project, applicants
must ensure that the individual applying carry out most
of the work under any grant which may be
awarded. Applications involving substantial
payments to one individual of more than $500,000, which includes an organization must be sub-
mitted by a qualified organization and re-
quire evidence of receipt of payment on gifts

Grants to organizations. Grants to univer-
sities, state and local government entities, or other nonprofit, tax-exempt organiza-

tions will provide the Endowment with evidence of receipt of payment on gifts


demonstrate of broad community, aca-

demic, or professional endorsement. Evi-
dence that objectives can be achieved within the framework of realistic methodol-

ogy, budget, and time schedule is required.

Participation of persons whose professional
qualifications are clearly well suited to the
success of the project. Contributions for the practical work under any grant which may be
awarded only to citizens or permanent
residents of the United States. The National Council reviews
the Arts, an advisory group of twenty-six
representatives of the design and planning
fields. The recommendations of this commit-
tee are submitted to the National Council on
the Arts. Following this, applicants are
notified of approval or rejection in writing.

Notification. Applicants are to understand
that the grant process requires more than six
months to complete and plan their
projects accordingly. An estimate of the an-
ouncement date is given for each grant
category in the table of application deadlines.

Applicants are notified of rejection or appro-
val of projects in writing. App-
licants who are notified of rejection or
rejection of an offer, for funding purposes, will be notified of the reason for the
notification in writing.

Evaluation Criteria. Preference will be
given to those applicants who demonstrate
which meet the following criteria:

Clear response to a public need.

Amplification of existing structures. No grant re-
quirements. These grants are
awarded to nonprofit, tax-exempt, cul-
tural, or educational organizations.

Grants are generally awarded in amounts less than the maximum listed for
each grant category. Applicants are urged to
prepare realistic budgets and request the
minimum Endowment assistance needed to
achieve the purpose of the project.

Local unforeseen general. Generally all projects supported by the Endowment must be performed within
the boundaries of the fifty states, the District of Columbia, Puerto Rico, Guam, American Samoa, or the
Virgin Islands. Full justification in terms of benefits accruing to the United States must
be submitted with each application.

Selection Procedures. Architecture+.
Environmental Arts Staff review all applica-
tions and refer those not meeting the require-
ses. Applications are notified of approval or rejection of the
Endowment for the Arts a notarized letter requesting release of thé

Treasury Fund. Evidence, such as benefit announce-
ment circulars, invitations, posters, etc.

Treasury Fund, evidence, such as benefit announce-
ment circulars, invitations, posters, etc.

Treasury Fund, evidence, such as benefit announce-
ment circulars, invitations, posters, etc.

The Treasury Fund method, the following procedures apply:

Gift transmittal letter is required by the Endowment from donor with above
specified information.

Upon receipt of payment on the gifts, grantees provide the Endowment, with evi-
dence of receipt of payment on gifts

The Endowment encourages use of the Treasury Fund method as an especially ef-

cfective way of combining federal and private

funding. Private contributions from all

potential donors, particularly those represent-
ing new or substantially increased sources of

The Endowment may accept gifts in the form of money and other property. Bequests may be received by the Endowment as well. Do-

nations to the Endowment are generally de-
deductible for federal income, state, and gift

tax purposes.

Gifts must be made to the Endowment for the support of a nonprofit, tax-exempt, cul-
tural organization which has been notified that the Endowment intends to award it a
grant under its regular program guidelines to organizations such as a museum, a symphony

orchestra, a dance, opera, or theatre com-


FEDERAL REGISTER, VOL 40, NO. 91—FRIDAY, MAY 9, 1975
The Architecture + Environmental Arts Program encourages applicants to apply for Treasury Fund grants when applying for substantial and relatively costly projects.

For further information, contact the Office of General Counsel, National Endowment for the Arts, Washington, D.C. 20506.

The National Endowment recognizes that the arts will play an important role in the celebration of our country's bicentennial. It is the purpose of this rulemaking to establish the involvement of the arts in this celebration.

These materials will be made available to architects, planners, government officials, arts administrators and arts organizations.

INSTRUCTIONS FOR SUBMISSION OF APPLICATIONS

NOTE: Additional instructions specifically applicable to particular grant categories are designated in the description of the grant category.

INQUIRIES. These should be addressed to the Architecture + Environmental Arts Program, National Endowment for the Arts, Washington, D.C. 20506. Questions related to grant conditions and budgets should be directed to the Grants Office, National Endowment for the Arts, Washington, D.C. 20506.

APPLICATION FORMS. Application forms may be obtained from the Architecture + Environmental Arts Program, address as shown above. Individual applicants should request form "Individual Grant Application" NEA-2 (Rev.) and applicant organizations should request "Project Grant Application" NEA-3 (Rev.). All state arts agencies should request "Application for Federal Assistance." These should be addressed to the Grants Office, National Endowment for the Arts, Washington, D.C. 20506.

APPLICATION DEADLINES. See table of deadlines and description of each grant category for specific dates. All applications must be postmarked no later than the deadline date for the grant category under which they are to be considered under any circumstances. No exceptions are made. Late applications will be returned.

APPLICATION DEADLINES AND GRANT CALENDAR

<table>
<thead>
<tr>
<th>Grant category</th>
<th>Deadlines</th>
<th>Announcement of rejection of grant award</th>
<th>Do not plan to start before this date</th>
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<tr>
<td>Public education and awareness</td>
<td>June 2, 1975</td>
<td>October 1975</td>
<td>December 1975</td>
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<tr>
<td>Academic and professional research</td>
<td>January 2, 1976</td>
<td>October 1977</td>
<td>December 1977</td>
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<tr>
<td>Assistance to State arts agencies</td>
<td>December 2, 1975</td>
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<td>December 1976</td>
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<tr>
<td>National theme—cityscapes</td>
<td>April 2, 1976</td>
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<td>December 1976</td>
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<tr>
<td>Cultural facilities</td>
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<td></td>
</tr>
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<td>Design workshops</td>
<td>June 1975</td>
<td>December 1975</td>
<td></td>
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</tbody>
</table>

GRANT CATEGORIES

Public education and awareness. To assist projects which will broaden public design awareness and participation in the resolution of design issues.

The measure of a nation's beauty is a reflection of the attitude of its people. Therefore, the improvement of a country's physical fabric is dependent upon awareness, concern, and action by all citizens. Many who are not professional designers are confronted daily with decisions which have important design consequences: consumers in their choice of goods and services, clients in working with professional designers, and persons engaged in the building industry, for example.

Therefore, the objective of this program is to assist projects which are directed to these ends: to provide evidence of new design issues; to advance public appreciation of beauty in the man-made world; and to provide assistance for groups or individuals as they seek ways to improve the quality of their surroundings.

Grants in this category will be awarded for preparation of publishable material, films, video-tapes, exhibits, critical journalism, and other public communication devices. Generally, funds will not be granted for work which should be supported by a publisher who is able to provide the necessary finance.

Applicant organizations must provide similar information about principal consultants or other persons who may be engaged professionally to carry out the proposed projects.

Deadlines June 2, 1975 and January 2, 1976.

Complete applications only are acceptable. Applications may be submitted by either of two deadlines, June 2, 1975 or January 2, 1976. In both cases the application must bear a postmark date no later than the applicable deadline date. Work may not be expected to begin on the project before December 1976.
Eligibility. Grants may be awarded to individuals, universities, state and local governments, museums, and other nonprofit, tax exempt organizations.

Grant limits. Grants to organizations generally may not exceed 50 percent of the total project costs. The maximum grant for any individual is $10,000, and bears no requirement for matching funds.

How to apply. See pages 10-11.

Academic and Professional Research. For research conducted by professionals in the arts, schools, or other research organizations and groups active in design fields, and qualified individuals who are normally associated with such organizations.

The National Endowment for the Arts, through the program for Academic and Professional Research, provides assistance for peer reviews and the final report. The program is not intended for projects of a more technical or scientific nature. Since the total amount of money available is relatively small, special attention is given to this distinction.

Projects for the development of new approaches to design which show promise of significant applications to the solution of any one or more of our surroundings are given highest priority. Those which seek to extend the state of knowledge by presenting current design approaches, are also given consideration. Proposals in any of the following professional areas are appropriate: architecture, landscape architecture, urban design, regional planning, graphic design, interior design, and industrial design.

Deadline, January 2, 1976. Complete applications only are accepted. They may be submitted by either of two deadlines, June 2, 1975 or January 2, 1976. Complete applications only are acceptable after a postmark date no later than the applicable deadline date. Work may not be begun prior to December 1, 1975 for those submitted in June, or before August 1975 for those submitted in January.

Eligibility. Grants are available to universities, professional degree granting institutions, and other qualified nonprofit tax exempt organizations. Individuals in the academic community are eligible for individual grants under this category.

Grant limits. A maximum of $20,000 may be awarded to organizations for projects which represent a maximum of fifty percent of total project costs. The maximum grant for any individual is $10,000, and bears no requirement for matching funds.

How to apply. See pages 10-11.

Special application instructions. Two aspects of any application are of the utmost importance: the expected effect of the proposed project in the field of design concerned, and the evidence given that the proposal is feasible. The expected effect is the essential requirement of the project in a manner which meets the highest standards.

Proposals for the addition of professional staff will be considered in collaboration with the American Institute of Architects. Although applications and grants will be administered by Architecture and Environmental Arts, funding will be provided through Federal-State Program Development.

Deadline June 2, 1975. Complete applications must be submitted by an institution. Proposals under this program, work on the project may not be expected to begin before the first part of December 1975.

Eligibility. Grants are available only to the officially designated state arts agencies. Regional arts agencies are also eligible. They may apply in their own behalf or in behalf of local metropolitan or community wide arts agencies and appropriate government agencies in the state.

Grant limit. The maximum Endowment contribution usually does not exceed $20,000. All grants are awarded in an amount at least equal to the Endowment contribution.

How to apply. See pages 10-11.

National Theme: "Cityscale." A sequel to "City Edges" and "City Options" which seeks to encourage the development of projects to influence the improvement of the quality of design in communities.

A new National Theme program, carried out in Fiscal Years 1974 and 1975, under the title "American Architectural Heritage." This program is sponsored by the American Institute of Architects, the National Trust for Historic Preservation, the National Endowment for the Arts, and the National Park Service. "Cityscale" is conceived to help communities improve the scale and character of their cities.

Grants under this program are awarded to state arts agencies, professional design organizations, or design professionals to assist communities in preparation of projects to demonstrate the positive effect of improvements, thus encouraging similar programs to be initiated in other parts of the country. The program is not intended for projects of statewide or international significance, and to stimulate interest in research which addresses particular local design needs and opportunities. These grants are also intended to give state or regional arts agencies the means for expanding the audience for good design in the states, attending to an increase of citizen awareness and participation.

Proposals for the addition of professional staff will be considered in collaboration with the American Institute of Architects. Although applications and grants will be administered by Architecture and Environmental Arts, funding will be provided through Federal-State Program Development.

Deadline June 2, 1975. Complete applications must be submitted by an institution. Proposals under this program, work on the project may not be expected to begin before the first part of December 1975.

Eligibility. Grants are available only to the officially designated state arts agencies. Regional arts agencies are also eligible. They may apply in their own behalf or in behalf of local metropolitan or community wide arts agencies and appropriate government agencies in the state.

Grant limit. The maximum Endowment contribution usually does not exceed $20,000. All grants are awarded in an amount at least equal to the Endowment contribution.

How to apply. See pages 10-11.

American Architectural Heritage. To assist planning for the conservation of historic structures, significant districts, and special landscapes. (No construction funds.) The preservation of America's architectural heritage has long been a subject of major interest to the American Architectural Heritage program. While the program encourages historic preservation, the primary interest is not in the preservation of individual historic structures, but rather in the sympathetic adaptation of buildings and districts to create new vitality in community life.

In keeping with this interest, the program is sponsoring staff and contractual research to examine the adaptive use potential of older structures to serve as centers of cultural, recreational, or commercial activity. The end result of these studies will be the development of appropriate reference materials for distribution to public officials, design professionals, and interested citizens.

A new National Theme program, carried out in Fiscal Years 1974 and 1975, under the title "American Architectural Heritage." This program is sponsored by the American Institute of Architects, the National Trust for Historic Preservation, the National Endowment for the Arts, and the National Park Service. "Cityscale" is conceived to help communities improve the scale and character of their cities.

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Proposals for the addition of professional staff will be considered in collaboration with the American Institute of Architects. Although applications and grants will be administered by Architecture and Environmental Arts, funding will be provided through Federal-State Program Development.

Deadline June 2, 1975. Complete applications must be submitted by an institution. Proposals under this program, work on the project may not be expected to begin before the first part of December 1975.

Eligibility. Grants are available only to the officially designated state arts agencies. Regional arts agencies are also eligible. They may apply in their own behalf or in behalf of local metropolitan or community wide arts agencies and appropriate government agencies in the state.

Grant limit. The maximum Endowment contribution usually does not exceed $20,000. All grants are awarded in an amount at least equal to the Endowment contribution.

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Proposals for the addition of professional staff will be considered in collaboration with the American Institute of Architects. Although applications and grants will be administered by Architecture and Environmental Arts, funding will be provided through Federal-State Program Development.

Deadline June 2, 1975. Complete applications must be submitted by an institution. Proposals under this program, work on the project may not be expected to begin before the first part of December 1975.

Eligibility. Grants are available only to the officially designated state arts agencies. Regional arts agencies are also eligible. They may apply in their own behalf or in behalf of local metropolitan or community wide arts agencies and appropriate government agencies in the state.

Grant limit. The maximum Endowment contribution usually does not exceed $20,000. All grants are awarded in an amount at least equal to the Endowment contribution.

How to apply. See pages 10-11.
NOTICES

Deadline November 3, 1975. Other details of the program to be announced.

Cultural Facilities. To assist communities in the planning and design of exemplary cultural facilities. To encourage the development of local private and public money for project implementation.

Architecture: Environmental Arts recognizes the necessity for the development needs of an increasing public interest and participation in the arts. While the greatest need for financial assistance to support construction costs and professional design fees, limited resources restrict the Endowment's ability to respond to requests of this nature. The focus with respect to cultural facilities is on the development, through contracts, of firms which will be awarded under this program, work on the project may not be expected to begin before the first part of August 1976.

Eligibility. This grant category is open to the established national membership organizations of the design professions: architecture, landscape architecture, city and regional planning, urban design, interior design, and industrial design. They must have been in existence two years prior to applying. Organizations generally should be in an exemplary manner, and the proposal must be postmarked before the first part of August 1976.

Eligibility. Applicants must have been active continuously in any one of the design fields in the past five years: architecture, landscape architecture, city and regional planning, urban design, interior design, and industrial design. They must be associated primarily with a private practice. Others will be considered. Persons who are fully aware of the nature of the project's proposal, demonstration of expertise and understanding of the field. Fellowships are not limited to the applicant's professional awareness and capability. Each candidate must provide a comprehensive resume of past experience and qualifications for the position to which the fellow is applying.

Special application instructions. In addition to the normal requirements for an application submitted by an organization, the following items must be included: (See page 10)

Evidence of actual demand. Evidence of facility need, for example, the lack of facilities, or inadequacy of existing facilities.

Assurance that the design result may be expected to meet the need of the organization.

Indication that the scale of the proposed facility will meet the demonstrated need.

Statement of property or facility ownership.

A full description of the use of the proposed facility, and its context in a plan for the facility.

Evidence that a grant would attract local funds for project implementation.

Eligibility. Applicants must have been active continuously in any one of the design fields in the past five years: architecture, landscape architecture, city and regional planning, urban design, interior design, and industrial design. They must be associated primarily with a private practice. Others will be considered. Persons who are fully aware of the nature of the project's proposal, demonstration of expertise and understanding of the field. Fellowships are not limited to the applicant's professional awareness and capability. Each candidate must provide a comprehensive resume of past experience and qualifications for the position to which the fellow is applying.

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Assurance that the design result may be expected to meet the need of the organization.

Indication that the scale of the proposed facility will meet the demonstrated need.

Statement of property or facility ownership.

A full description of the use of the proposed facility, and its context in a plan for the facility.

Evidence that a grant would attract local funds for project implementation.

Eligibility. Applicants must have been active continuously in any one of the design fields in the past five years: architecture, landscape architecture, city and regional planning, urban design, interior design, and industrial design. They must be associated primarily with a private practice. Others will be considered. Persons who are fully aware of the nature of the project's proposal, demonstration of expertise and understanding of the field. Fellowships are not limited to the applicant's professional awareness and capability. Each candidate must provide a comprehensive resume of past experience and qualifications for the position to which the fellow is applying.

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Assurance that the design result may be expected to meet the need of the organization.

Indication that the scale of the proposed facility will meet the demonstrated need.

Statement of property or facility ownership.

A full description of the use of the proposed facility, and its context in a plan for the facility.

Evidence that a grant would attract local funds for project implementation.
In May 1972 the President designated the National Endowment for the Arts an agency to implement the Federal Design Program. In response to the President's initiation, Federal agencies undertook several design-related programs to improve the quality of design among Federal agencies. In addition to these efforts, the Endowment is seeking to encourage design programs by state and local governments.

The following Endowment programs sponsored by Federal agencies are modelled as models to state and local governments desirous of initiating their own design programs. The Endowment has been designated as Bicentennial programs by the National Council on the Arts.

**Design Assemblies.** In April 1973, the First Federal Design Assembly was held under the sponsorship of the National Endowment for the Arts and the Humanities and administered by the Federal Endowment. With a theme, "Design Necessity," the event provided a rare opportunity for interaction between professional designers and Federal agency officials. In addition to drawing considerable professional and public attention to the importance of design quality, the Endowment initiated a program of actions by Federal agencies to improve their design standards.

The Second Federal Design Assembly was held in September 1974. Its theme, "Design Reality," concentrated on elements of the working code more: the Endowment's effort to improve design awareness on the part of Federal agencies.

**Federal Architecture Project.** The Federal Architecture Project, a framework for design, was established in October 1972 to review and expand the 1962 Federal Architecture: A Framework for Design. An interim report, Federal Architecture: A Framework for Design, and a staff report on multiple-use facilities have been issued. Additional reports will be published on adaptive use of older buildings and design competitions for architect-engineer selection. A book length visual history of Federal architecture is being prepared for publication in 1976. The Project is guided by a task force composed of distinguished citizens and design professionals and the leadership of the Endowment is composed of 20 Federal agencies.

**Federal Design Assembly.** This assembly of State Arts Agencies' statement of principles and recommendations on the role of state arts agencies in the design improvement programs. These efforts are primarily to enhance children's powers of perception, self-awareness and self-expression. Establish a pattern of achievement in the arts leading to greater achievements in other social and cultural fields.

**For Students, it may: Nourish the innate creativity of students.**

**For Teachers, it may:**

1. **Offer shared insights into the creative process.**
2. **Gain new respect for creativity in their students and in themselves.**
3. **Lead to shared methods for stimulating student interest in the arts, and in other subjects.**
4. **Enhance knowledge and understanding of contemporary arts and artists, and of the role of the arts in society.**
5. **Create the opportunity to communicate with wider audiences.**
6. **Clarify the role of the artist in society.**

**STATEMENT OF THE NATIONAL COUNCIL ON THE ARTS**

*At its February 1974 meeting the National Council on the Arts adopted a statement on Artists-in-Schools recognizing certain fundamental principles and recommending action for future development of the program. Constructive recommendations were also made by the National Assembly of State Arts Agencies in April 1974. Because this program is a joint effort of agencies the Council has decided to adopt this statement as its plan for the 1975-76 school year.*

For the Community, it may provide:

1. **Communication of contemporary arts and artists, and of the role of the arts in society.**
2. **Encourage more involvement in the arts—both as participants and as spectators.**
3. **Enhance knowledge and understanding of contemporary arts and artists, and of the role of the arts in society.**
4. **Create the opportunity to communicate with wider audiences.**
5. **Clarify the role of the artist in society.**

For Teachers, it may:

1. **Offer shared insights into the creative process.**
2. **Gain new respect for creativity in their students and in themselves.**
3. **Lead to shared methods for stimulating student interest in the arts, and in other subjects.**
4. **Enhance knowledge and understanding of contemporary arts and artists, and of the role of the arts in society.**
5. **Create the opportunity to communicate with wider audiences.**
6. **Clarify the role of the artist in society.**

**FISCAL YEAR 1975**

1. **Artists-in-Schools Guidelines**

Recognizes that all are required to make aesthetic decisions each day. Since the purpose of education is preparation for the development of aesthetic awareness and participation in the arts must be an integral part of learning experience in the school and the community. Artists-in-Schools is a nationwide program involving the cooperative efforts of professional artists, students, and teachers. This exchange, which enriches the creativity of each group, should not be a casual or momentary encounter. It is intended to be a sustained interaction continuing through the academic year and thereafter. Artists-in-Schools is based on a shared commitment between the Federal government, the Endowment, the school and the community.

**PURPOSE**

**Artists-in-Schools Guidelines**

- Enhance perception, self-awareness and self-expression.
- Establish a pattern of achievement in the arts leading to greater achievements in other social and cultural fields.
- Nourish the innate creativity of students.
- Offer shared insights into the creative process.
- Gain new respect for creativity in their students and in themselves.
- Lead to shared methods for stimulating student interest in the arts, and in other subjects.
- Enhance knowledge and understanding of contemporary arts and artists, and of the role of the arts in society.
- Create the opportunity to communicate with wider audiences.
- Clarify the role of the artist in society.
- A growing interaction with students, parents, artists, and schools.
- A growing sense of the artists' role in the community, and the importance of community participation in the creative process.
- A recognition that there are artistic activities occurring in many segments of the community.

**STATEMENT OF THE NATIONAL COUNCIL ON THE ARTS**

*At its February 1974 meeting the National Council on the Arts adopted a statement on Artists-in-Schools recognizing certain fundamental principles and recommending action for future development of the program. Constructive recommendations were also made by the National Assembly of State Arts Agencies in April 1974. Because this program is a joint effort of agencies the Council has decided to adopt this statement as its plan for the 1975-76 school year.***
in maintaining the improving standards of excellence.

While responsibility for assuring the high quality of the program is shared by state, local and national agencies, greatest reliance must be placed upon state arts agencies with knowledge of local artists and the community in which the program is to be carried out.

The Council is pleased to note that applications for the 1973-74 school year, submitted in accordance with the guidelines established in 1972, were received from all 50 states. The Council also notes that several states are now matching and urging that efforts in this regard continue.

Increased amounts of public and private money are being committed to arts education and viewpoints which assist in dynamic growth quantitatively and qualitatively. The Council hopes that increased efforts can be made to secure private funds, especially to those that might be used to ensure that Artists-in-Schools is available broadly to schools, children, teachers who wish to participate, and is not just an opportunity for a fortunate few.

The Council is pleased to note that every effort has been made to identify special funds to encourage Architecture and Environment Arts and Folk Arts components as part of the continuing Arts-in-Schools Program in state plans. The Council agrees with the recommendation of the Advisory Panel that because of the vast differences and viewpoints that exist in dynamic growth and funding considerations, that Music and Theatre remain modest pilot efforts not generally open to application. It is the function of the Advisory Panel to meet with other appropriate panels and provide further recommendations to the Council on how monies can be used to enhance the program, including ways to encourage and expand projects which are responsive to the ethnic and cultural traditions of the artists and students participating in the program.

INTRODUCTION

History. The Artists-in-Schools Program of the National Endowment for the Arts (En­ dowment) is funded primarily through grants to state arts agencies (SAAs) and other cooperating organizations, such as the St. Paul Council of the Arts and Sciences, San Francisco Art Institute, Poetry Center and Poets and Writers, Inc. It involves the placement of professional artists in elementary and secondary schools, and is designed to coordinate and to demonstrate their artistic discipline.

The United States Office of Education, Department of Health, Education, and Welfare, has cooperated closely with the Endowment in the development and funding of the program.

A pilot program was launched in 1969-70 with six states participating in a visual artist­residency program. Prior to this time, the Endowment had initiated a poets in schools program, now an integral part of Artists-in­Schools. Both these pilot programs were so successful that in the school year of 1970-71, 31 states participated in programs involving visual arts, theatre, dance, poetry and music residencies.

During the 1971-72 school year, the film and architecture/environmental arts components were added and by the 1972-73 school year, all 50 states and the five special jurisdictions were involved in one or more Artists-in-Schools components involving dancers, musicians, poets, painters, sculptors, graphic artists, photographers, graphic artists, filmmakers, architects and environmentalists.

During the 1972-73 school year, for the first time, the Bureau of Indian Affairs joined with the Endowment and Office of Education to participate in a special summer project involving film, poetry and visual arts at the Institute of American Indian Arts in Santa Fe, New Mexico.

The program now is funded under the Manpower Development and Training Act were provided for a special series of grants for training programs and technical assistance for artists (poets, dancers, filmmakers) throughout the United States. These grants are utilized primarily for workshops and seminars.

In April 1974 at the request of the National Council of State Arts Agencies repre­sentatives met with staff representatives of the National Endowment for the Arts to discuss the future of the Artists-in-Schools Program. Subsequently, at a meeting of the National Assembly of State Arts Agencies, the Assembly adopted a resolution concerning Artists-in-Schools. The resolution follows:

The National Assembly of State Arts Agencies (1) recognizes the support of the National Endowment for the Arts' "Artists-in-Schools" program as it reflects the specific needs of all states and territories. The program is of great value to arts education in this nation and is reason for the following resolution:

In conclusion, the following grants to state arts agencies (SAA) must be conducted no later than August 1, 1975 for the 1975-76 school year.

Notices of grant awards will not be sent before early December 1975 for the 1976-77 school year, thus giving approximately ten months advance notice for planning, selection of arts and sites, and identification of matching funds.

Inquiries—Elementary and Secondary Public and Non-Public Schools. Interested ele­mentary and secondary public and non-public schools should direct inquiries to their state arts agency (see listing, page 27) with information copies to their state education agency.

Professional Artists Artists-in-Schools does not offer grants directly to individual professional artists, Artists interested in participating in one of the components should direct inquiries to their state arts agency.

ARCHITECTURE/ENVIRONMENTAL ARTS COMPONENT

EDUCATION PROGRAM

Program. National Endowment for the Arts, Washington, D.C. 20506

(Phone: 202/684-8620) or State Arts Agency (see page 27)

DANCE COMPONENT

EDUCATION PROGRAM

Program. National Endowment for the Arts, Washington, D.C. 20506

(Phone: 202/684-8623)

ARTS IN SCHOOLS PROGRAM

FILM COMPONENT

ARTS IN SCHOOLS PROGRAM

CENTER FOR UNDERSTANDING MEDIA, INC.

79 Horatio Street

New York, New York 10014

(Phone: 212/968-1009) or

State Arts Agency (see page 27)

POETRY COMPONENT

EDUCATION PROGRAM

National Endowment for the Arts, Washington, D.C. 20506

(Phone: 202/684-8628), or State Arts Agency (see page 27)

LITERATURE PROGRAM

National Endowment for the Arts, Washington, D.C. 20506

(Phone: 202/684-8644) or

State Arts Agency (see page 27)

PUBLIC ART PROGRAM

National Endowment for the Arts, Washington, D.C. 20506

(Phone: 202/684-8644) or

State Arts Agency (see page 27)

except for:

California: San Francisco Poetry Center, 1350 Francisco Street, San Francisco, California 94110, (Phone: 415/409-2297)

Minnesota: St. Paul Council of Arts and Sciences, 30 East 10th Street, St. Paul, Minnesota 55101, (Phone: 612/222-7241)

New York: Poets and Writers, Inc., 201 West 54th Street, New York, New York 10019

(Phone: 212/757-2768).

ARTS IN SCHOOLS PROGRAM

State Arts Agency (see page 27)

Noted. Two pilot components (Music and Theatre) are not open to applications.

Gran amounts. State arts agencies and designated cooperating organizations should

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request only moderate increases for the 1976–77 school year above the amounts received for the prior school year. Where possible, applicants are urged to submit a program balanced by art form.

Screening of Grants. Grants will be awarded to state arts agencies and designated cooperating organizations on the basis of: (1) Quality of the proposed project; (2) Ability to match Endowment monies and (3) Availability of funds to the Endowment.

**Administrative responsibilities.** From the inception of the program, the National Endowment for the Arts has encouraged state arts agencies and designated cooperating organizations, in coordination with state education agencies to assume primary responsibility for setting policies, selecting artists and advisory groups. State agencies are encouraged to shape the program in accordance with local needs and objectives. Specific guidelines and responsibilities of the state arts agencies and cooperating organizations will be to:

1. Develop plans for the implementation of the Arts-in-Schools Panel and National Council on the Arts in coordination with such agencies as state and local education agencies. In response to the Endowment, State agencies are urged to submit a program which must be

2. Prepare applications for submission to the Endowment.

3. Develop and administer the National Endowment for the Arts grants, in accordance with these guidelines.

4. Assist recipients with the preparation of financial and narrative reports to the Endowment as requested in the grant award letter.

**ARTISTS-IN-SCHOOLS COMPONENTS**

At the present time, the components of the Arts-in-Schools Program are:

1. Dance Component. The purpose of this component is to encourage the professional performing arts to enter the schools. The Endowment support in this component must be used only towards payment of the dance component in terms of professional experience. Local businesses, civic associations, or foundations may be interested in participating—perhaps as a bicentennial effort.

2. Selection of Artists. The National Endowment for the Arts recognizes the importance of the arts to the education of children and encourages the participation of artists and advisory groups in consultation with artists and education agencies. In response to the Endowment, a professional school; licensing is not critical. The goal of the residency should be to heighten the dance awareness and exploration of the students and teachers through special programs and workshops organized and carried out by the designer.

3. Matching. Endowment support in this component should be matched at least one-for-one by non-federal funds. Matching for the designer's commitment to allow adequate time to devote to students and teachers as well as time for his or her own work independent of the program. Participating schools must provide adequate studio space, facilities, and equipment necessary for the designer. Participating designers may be from any field of the performing arts. The dance disciplines which take part in designing the built environment. These include, but are not limited to, architects, landscape architects, urban designers, and planners. More specific selection criteria may be established by the panel within each state.

**Amount of Grant.** Generally, grants are in the amount of $10,000 which must be matched in dollars to provide $20,000 to each resident designer for a full school year.

**Sample budget and matching.**

Compensation and supplies for resident designer: $10,000 Honorarium for visiting designer selected by the resident designer to complement his or her own work...

**Documentation.**

__$1,200__

**Total for I designer:**

__$12,200__

Federal share = $6,100, Grantee match = $6,100

**This budget may be modified in consultation with the Panel.**

**Matching.** Endowment support in this component should be matched at least one-for-one by non-federal funds. Matching for this pilot component must be on a dollar for dollar basis. The application must include a statement on the source(s) of the matching funds, which may be provided from school budgets, other public funds or private groups or individuals. Local businesses, civic associations, or foundations may be interested in participating—perhaps as a bicentennial effort.

**Selection of designers is residence.** Selection is by a panel from within each state. Panel composition is approved by the Endowment.

The panel should include: The director of the state arts agency (or a designated representative), a senior or tenured member of the educational, professional, environmental design professions, a dance or art educator, or a design or art supervisor in schools, a professional environmental designer, and a professional dance specialist.

**Dance Component.** The dance component, Arts-in-Schools is designed to utilize professional American dance companies and movement specialists in residency to: 1. Present dance as an art form. 2. Explore movement as a teaching tool. 3. Engage in residencies which encourage self-expression and self-awareness in children.

**Grants.** Grants generally do not exceed $300,000 and in most cases will be considerably less. Endowment 1975–76 school year, the National Endowment for the Arts has encouraged state arts agencies to assume primary responsibility for setting policies, selecting artists and advisory groups. State agencies are encouraged to shape the program in accordance with local needs and objectives. Specific guidelines and responsibilities of the state arts agencies and cooperating organizations will be to:

1. Develop plans for the implementation of the Arts-in-Schools Panel and National Council on the Arts in coordination with such agencies as state and local education agencies. In response to the Endowment, State agencies are urged to submit a program which must be developed and administered by artists and advisory groups in consultation with artists and education agencies. In response to the Endowment, artists must be available to participate as visiting designers. Local businesses, civic associations, or foundations may be interested in participating—perhaps as a bicentennial effort.

2. Selection of Artists. The National Endowment for the Arts recognizes the importance of the arts to the education of children and encourages the participation of artists and advisory groups in consultation with artists and education agencies. In response to the Endowment, a professional school; licensing is not critical. The goal of the residency should be to heighten the dance awareness and exploration of the students and teachers through special programs and workshops organized and carried out by the designer.

3. Matching. Endowment support in this component should be matched at least one-for-one by non-federal funds. Matching for the designer's commitment to allow adequate time to devote to students and teachers as well as time for his or her own work independent of the program. Participating schools must provide adequate studio space, facilities, and equipment necessary for the designer. Participating designers may be from any field of the performing arts. The dance disciplines which take part in designing the built environment. These include, but are not limited to, architects, landscape architects, urban designers, and planners. More specific selection criteria may be established by the panel within each state.

**Amount of Grant.** Generally, grants are in the amount of $10,000 which must be matched in dollars to provide $20,000 to each resident designer for a full school year.

**Sample budget and matching.**

Compensation and supplies for resident designer: $10,000 Honorarium for visiting designer selected by the resident designer to complement his or her own work...

**Documentation.**

__$1,200__

**Total for I designer:**

__$12,200__

Federal share = $6,100, Grantee match = $6,100

**This budget may be modified in consultation with the Panel.**

**Matching.** Endowment support in this component should be matched at least one-for-one by non-federal funds. Matching for this pilot component must be on a dollar for dollar basis. The application must include a statement on the source(s) of the matching funds, which may be provided from school budgets, other public funds or private groups or individuals. Local businesses, civic associations, or foundations may be interested in participating—perhaps as a bicentennial effort.

**Selection of designers is residency.** Selection is by a panel from within each state. Panel composition is approved by the Endowment.

The panel should include: The director of the state arts agency (or a designated representative), a senior or tenured member of the educational, professional, environmental design professions, a dance or art educator, or a design or art supervisor in schools, a professional environmental designer, and a professional dance specialist.

**Dance Component.** The dance component, Arts-in-Schools is designed to utilize professional American dance companies and movement specialists in residency to:

1. Present dance as an art form.
2. Explore movement as a teaching tool.

**Grants.** Grants generally do not exceed $300,000 and in most cases will be considerably less. Endowment funds may be used for the following purposes:

- Professional fees, honorariums and travel for the dance company(ies) in residence under Artists-in-Schools.
- Expenses for matching the Endowment support in this component must be on a dollar for dollar basis. The application must include a statement on the source(s) of the matching funds, which may be provided from school budgets, other public funds or private groups or individuals. Local businesses, civic associations, or foundations may be interested in participating—perhaps as a bicentennial effort.

**Selection of Artists.** The state arts agency will consult with the state and local education agencies to select the dance company and movement specialists for the residency term in terms of professional experience, artistic quality, in-school teaching experience, company stability and suitability for the program. In addition, companies must meet the following qualitative qualifications required for participation in the Endowment's Dance Touring Program.

1. The company must be a nonprofit, tax-exempt organization to which donations from individuals may be eligible. Contributions under section 170(c) of the Internal Revenue Code of 1954, and must submit a copy of its Internal Revenue Service Tax-Exempt Determination Letter to the Endowment.
2. The company must certify to the Endowment that while on tour, it pays all professional performers, related or supporting staff, laborers and mechanics no less than the minimum compensation level as defined by the applicable section of Part 565 of Title 29 of the Code of Federal Regulations. The Company must also meet the applicable requirements of Title VI of the Civil Rights Act of 1964.
3. The company must have performed at least 15 public appearances for which the dancers and staff were paid no less than the minimum compensation level as defined by the appropriate union during the 1973–74 season, and must project at least 15 such performances for the 1974–75 season.
4. The company must have adequate management to provide potential tour sponsors with the necessary services to contract and carry out tour engagements.
5. The company must have a history of social action involvement with the National Endowment for the Arts. This is a reason to question the administrative function of the company, such as a history of cancelled contracts, commitments unfulfilled or deviation from the minimum fee requirements, etc. The company will be required to describe what it has done to correct these problems before it will be considered eligible for participation in the Program. If the problem remains, the company will be ineligible for participation. Each
company's participation in the Program will be reviewed annually to determine that the company is functioning within the Guidelines of the Program.

Implementation of the Program—(1) Planning Orientation Workshops. Summer workshops for program participants (in-school coordinators and school administrators, dance specialists and state arts agency representatives) are held prior to the school year in order to acquaint and train personnel in the importance and effectiveness of the residencies. (2) The Residencies. In order to achieve in-depth impact:

The dance company must be in residence at each school for a minimum of two weeks. Generally, the company will present at least one performance at the end of its residency for those students, teachers, administrators, school board members, and parents who have been involved in participating—perhaps as a bicentennial event and as for community leaders and the general public.

The dance movement specialists must be in residence for at least four weeks preceding and/or following the company's residency.

(3) The National Coordinator. Under the direction of the Endowment, the responsibilities of the National Coordinator for the Dance Program are:

To aid dance companies and dance movement specialists to plan and execute their participation in the school residencies.

To coordinate and carry out evaluation for the implementation of state programs through consultation with state arts agencies, educational units, dance movement specialists and dance companies in order to maximize the effect of the residencies.

To prepare a single national file for the dissemination of information among participants in the AIDS dance component.

To respond to inquiries regarding all aspects of the dance component.

(4) Artists' Fees. Endowment funds may be used only towards payment of the dance company/ies in residence under Artists-in-Schools. All dance company activities (including public performance) as well as transportation costs are included in the fee. The production cost of the public performance is the responsibility of the local sponsor or presenting organization. Participating dance companies must demonstrate either a minimum fee certified to the Endowment or a broad interpretation of both "folk" and "arts".

Selection of artists. Filmmakers will be chosen to meet the needs at each site. This should be done in consultation with the state arts agency, Center for Understanding Media and appropriate education agencies.

Implementation of the program—Center for Understanding Media. The film component is coordinated by the Center for Understanding Media, Inc., 75 Horatio Street, New York, New York 10014 (Phone: 212/989-1001). The role of the Center is to provide guidance for state arts agencies in drawing up their initial project plans and budgets, assistance in the identification of competent professional filmmakers, provision of training programs for teachers and administrators, consultation on equipment, guidance in raising matching funds, and on-site visits of projects. The project coordinator for the Center is Peter Haratony. The Center will provide copies of all program plans and correspondence with the Endowment.

Folk Arts Component (Special). Funds are for the placement of folk artists in elementary or secondary schools. By "folk artists" it is meant artists representing the traditional expressive forms of the various cultures of the United States. The program encourages a broad interpretation of both "folk" and "arts"; however, it strongly urges the use of traditional artists themselves, rather than "interpreters" of folk art who do not truly represent the cultures involved.

NOTE: Since one purpose of the program is to support and encourage the role of practicing artists within the schools, at least 25 percent of the total budget should be assigned for honoraria, travel and living expenses for the artist.

Matching. Endowment support in this component should be matched at least equally by non-federal funds. (However, matching can be done in full program outline or on an individual project basis. The National Council on the Arts has recommended that every effort be made to insure that a cash match is achieved at least in the overall funding provided to each site for Artists-in-Schools.) The application must include a statement on the source(s) of matching funds, which may be provided from school budgets, other public funds or private groups or individuals. Local businesses, civic associations, or foundation may be interested in participating—perhaps as a bicentennial effort.

Sample Budget and Matching.

<table>
<thead>
<tr>
<th>Artists:</th>
<th>15,000</th>
<th>7,500</th>
<th>10,000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Honoraria</td>
<td>15,000</td>
<td>7,500</td>
<td>10,000</td>
</tr>
<tr>
<td>Per diem</td>
<td>1,500</td>
<td>1,500</td>
<td>3,000</td>
</tr>
<tr>
<td>Total</td>
<td>7,500</td>
<td>10,000</td>
<td>15,000</td>
</tr>
<tr>
<td>Teachers:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Summer and in-service training</td>
<td>1,000</td>
<td>1,000</td>
<td>2,000</td>
</tr>
<tr>
<td>Total</td>
<td>3,000</td>
<td>3,000</td>
<td>5,000</td>
</tr>
<tr>
<td>Equipment:</td>
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<td>2,000</td>
<td>3,000</td>
</tr>
<tr>
<td>Film, processing, supplies</td>
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<td>1,500</td>
<td>3,000</td>
</tr>
<tr>
<td>Administration</td>
<td>1,000</td>
<td>1,000</td>
<td>1,000</td>
</tr>
<tr>
<td>Total</td>
<td>6,500</td>
<td>6,000</td>
<td>8,000</td>
</tr>
</tbody>
</table>

These budgets are samples and may be modified in consultation with the Endowment.

1. NOTE: Since one purpose of the program is to support and encourage the role of practicing artists within the schools, at least 25 percent of the total budget should be assigned for honoraria, travel and living expenses for the artist.

The residencies should be in depth; on-site appearances are discouraged. Lighting will be provided in arrangements to accommodate the great variety of traditional arts. Where appropriate, participating schools must provide adequate space and equipment and time for the artist to pursue his or her own work. Appropriate cooperative projects with non-school organisations can occupy part of an artist's time, at the artist's discretion. The folk artist is viewed not as a member of the teaching staff, but as a practicing artist in a school situation.

Amount of Grants. Generally, grants to individual states are in the amount of $7,500 and must be matched dollar for dollar.

Sample Budget and Matching.

| Compensación and supplies for reside- | 10,000 |
| dent folk artist(s)                  |       |
| Honoraria for visiting folk artist(s) | 2,000  |
| Honoraria for folk artist(s)         | 1,000  |
| Documentation                        | 200    |
| Total for resident folk art-         | 15,000 |
| is(t)                                |       |


This budget could be modified in consultation with the Endowment.
Matching. Endowment support in this component should be matched at least equally by non-federal funds. Matching for this pilot component is on an overall state-by-state basis for the Federal share. The application must include a statement on the source(s) of matching funds, which may be provided from school budgets, other public funds or private groups or individuals. Local businesses, civic associations, foundations or other public entities may be interested in participating—perhaps as a bicentennial effort.

Selection of Artists. Selection is by a panel from within the state. The panel will be selected in consultation with the state arts agency Director (or designated representative), a civic association, or a local business. Local businesses, civic associations, foundations or other public entities may be interested in participating—perhaps as a bicentennial effort.

Poetry Component. The poetry component provides funds for the placement of professional creative writers in state, local, and/or secondary classrooms. The poetry component is designed to:

1. Encourage students to learn to use language as an expressive medium.
2. Introduce students to the contemporary poetry and fiction of the United States and the world.
3. Promote the use of self-sufficient new techniques in the teaching of creative writing and inspiring children to read.
4. Build audiences for contemporary writers.
5. Effect positive changes in student attitudes toward learning.

Compensation and supplies for resident artists must be professional, published poets. Selection is by a panel from within the state. The panel should include the state arts agency Director (or designated representative), a civic association, or a local business. Local businesses, civic associations, foundations or other public entities may be interested in participating—perhaps as a bicentennial effort.

Sample Budget and Matching. The budget for 1 artist is $4,000. The Federal share is $2,000 from the National Endowment for the Arts. The matching funds can be provided in the form of a dollar-for-dollar match. The application must be submitted to the state arts agency Director for approval. The application must include a statement on the source(s) of matching funds, which may be provided from school budgets, other public funds or private groups or individuals. Local businesses, civic associations, foundations or other public entities may be interested in participating—perhaps as a bicentennial effort.

Selection of Craftsmen and Visual Artists. Selection is by a panel from within the state. The panel will be selected in consultation with the state arts agency Director (or designated representative), a civic association, or a local business. Local businesses, civic associations, foundations or other public entities may be interested in participating—perhaps as a bicentennial effort.


Dance in the Schools: A New Movement in Education. By George C. Wenner, Associate, Arts in Education Program, JDR 3rd Fund, 1974. This publication describes the development of dance in schools as developed through the Dance Component of the Arts-in-Schools Program of the National Endowment for the Arts.


Distribution: Connecticut Commission on the Arts, 125 Columbus Avenue, Hartford, Connecticut 06106.

Joy To the World! Writing Poems with Children in Georgia," by Rosemary Daniele.

Distribution: Georgia Council for the Arts, P.O. Box 1055, Atlanta, Georgia 30302.

My Sister Looks Like a Pear, Awakening the Curator or Director or a member of a professional ars school, an art educator or art supervisor in schools. For crafts projects, the panel should also include a professional craftsman. Consideration should be given only to thoroughly professional artists who can relate to students and teachers—and can work with classroom teachers and curriculum.
the excitement of demonstration/workshops conducted in Alabama and California by Murray Louis, Virginia Tanner and Bella Lewitzky.

Murray Louis, Virginia Tanner and Bella Lewitzky conducted workshops in Alabama and California by 45th Street, New York, New York 10036.

Resolution on the Accessibility to the Arts

In the capacity of one of the main goals of the National Endowment for the Arts is to assist in making the arts available to all Americans, the Council believes that cultural institutions and individual artists could make a significant contribution to the availability of the arts for all Americans. The Council therefore urges the National Endowment for the Arts to take a leadership role in advocating special provisions for the handicapped in cultural facilities and programs.

Music Component

Music is in the schools at Point Barrow, Alaska. Filmmaker: D. A. Pennebaker records the activities of the Children's Theatre Company of the Minneapolis Institute of the Arts in the Artistic Schools Program.

LIST OF STATE ARTS AGENCIES AND OTHER DESIGNATED COOPERATING ORGANIZATIONS

Alabama State Council on the Arts and Humanities, Robert E. Banks, Exec. Director, 322 Alabama Street, Montgomery, Alabama 36104 (205) 289-7604.

American Samoa Arts Council, Paul Alu Tulasopo, Chairman, Office of the Governor, Pago Pago, American Samoa 96940.


Arkansas State Arts and Humanities, Dr. R. Sandra Perry, Exec. Director, 404 Train Station Square, Victory-at-Markham, Little Rock, Arkansas 72201.

California Arts Commission, James D. Forward, Exec. Director, 808 "O" Street, Sacramento, California 95814 (916) 445-1530.

Colorado Council on the Arts and Humanities, Robert N. Sheets, Exec. Director, 1650 Lincoln Street, Room 204, Denver, Colorado 80203 (303) 825-5171 or 2618.


Delaware Arts Council, Mrs. Sophie Consagra, Exec. Director, Wilmington Tower, Room 803, 1155 Market Street, Wilmington, Delaware 19801. D.C. Commission on the Arts and Humanities, Leroy Washington, Acting Director, 1223 Munsey Building, 1223 E Street NW, Washington, D.C. 20004 (202) 347-5905 or 5906.

Fine Arts Council of Florida, S. Leonard Pate, Jr., Exec. Director, c/o Department of the State, The Capitol Building, Tallahassee, Florida 32304 (904) 488-2416.

Georgia Council for the Arts, Georgia Beatie, Director, 700 Peachtree Center Bldg., 235 Peachtree Street, NE, Atlanta, Georgia 30303 (404) 526-3939.

Illinois Arts Council, Michele Brustein, Director, 111 North Wabash Avenue, Room 1014, Chicago, Illinois 60602 (312) 783-3330.


Iowa State Arts Council, Jack E. Olds, Exec. Director, State Capitol Building, Des Moines, Iowa 50319 (515) 281-5297 or 252-2003.

Kansas Cultural Arts Commission, Jonathan Kass, Executive Director, 117 West 10th Street, Suite 100, Topeka, Kansas 66612 (913) 296-3330.

Kentucky Arts Commission, Miss Nash Cor. Executive Director, 170 West Main Street, Frankfort, Kentucky 40601 (602) 564-7377.


Maine State Commission on the Arts and the Humanities, Alden C. Wilson, Director, State House, Augusta, Maine 04330 (207) 289-2074.

Maryland Arts Council, James Backes, Exec. Director, 15 West Mulberry, Baltimore, Maryland 21210 (301) 286-7433.

Massachusetts Council on the Arts and Humanities, Miss Louise G. Tate, 14 Beacon Street, Boston, Massachusetts 02108 (617) 727-8868.

Michigan Council for the Arts, E. Ray Scott, Exec. Director, Executive Plaza, 1500 Sixth Avenue, Detroit, Michigan 48226 (313) 292-3735.

Minnesota State Arts Council, Louis H. Jas­son, Executive Director, 104 East 10th Street, Minneapolis, Minnesota 55404 (612) 286-2509 or 339-7980.

Missouri Arts Commission, Mrs. Shelby B. Rogers, Exec. Director, State Executive Building, P.O. Box 14, Jackson, Mississippi 39205 (601) 354-7388 or 366-2745. (662) 354-3023.

Missouri State Council on the Arts, Mrs. Emily Rice, Exec. Director, 111 South Benson, Suite 410, St. Louis, Missouri 63165 (314) 721-1672.


Nebraska Arts Council, Gerald Ness, Exec. Director, Oak Park, 7867 Pacific Street, Omaha, Nebraska 68132 (402) 556-2125.


New Jersey State Council on the Arts, Bram J. Wey, Exec. Director, 27 West Street State, Trenton, New Jersey 08623 (609) 292-6183.

The New Mexico Arts Commission, John Wells, Exec. Director, Main Street Building, State Capitol, Santa Fe, New Mexico 87501 (505) 827-2061.
NOTICES

Federal Register, Vol. 40, No. 91—Friday, May 9, 1975

NATIONAL SCIENCE FOUNDATION
UTILITY ADVISORY PANEL

Meeting

The Utility Advisory Panel will hold a two day meeting with the Energy Con­version Alternatives Study (ECAS) Steering Committee as indicated below:

Dates—May 27 (9:30 a.m. to 5 p.m.) and May 28 (8:30 a.m. to 2 p.m.).

Place—National Aeronautics and Space Administration (NASA) Lewis Research Center, Auditorium of the Administration Building Cleveland, Ohio.

The Utility Advisory Panel was established on March 18, 1975, in accordance with the Federal Advisory Committee Act, Pub. L. 92-463. The purpose of this Panel is to review the assumptions made

New York State Council on the Arts, Eric Larabee, Exec. Director, 250 West 57th Street, New York, New York 10019 (212) 397-1700.


North Dakota Council on the Arts and Hu­manities, Maurice D. Coats, Exec. Director, P.O. Box 13406, Capitol Station, Austin, Texas 78711 (512) 475-6593.

Oregon Arts Commission, David Rhoden, Chairman, 328 Oregon Boulevard, 494 State Street, Salem, Oregon 97301 (503) 378-3825.


South Carolina Arts Commission, Rick Smith, Exec. Director, 136 State Street, Columbia, South Carolina 29201 (803) 758-3150.

South Dakota State Fine Arts Council, Mrs. Charlotte Carver, Exec. Director, 103 West 11th Street, Sioux Falls, South Dakota 57104.


Texas Commission on the Arts, Maurice D. Coats, Exec. Director, 423 North 25th Street, East, Greenwich, Rhode Island 02818 (401) 894-6410.

Utah State Division of Fine Arts, Mrs. Ruth Draper, Exec. Director, 500 North 1st Street, Salt Lake City, Utah 84102 (801) 328-3895.

Virginia Commission on the Arts and Hu­manities, Frank R. Dunham, Exec. Director, 1151 Black Lake Boulevard, Capitol Station, Richmond, Virginia 23219 (804) 770-4477 or 770-3591.

Washington State Arts Commission, James L. Haslett, Exec. Director, 1113 Black Box, Olympia, Washington 98504, (503) 783-3860.

Wisconsin Arts Board, Jerald Rouby, Exec. Director, 1215 State Office Building, Richmond, Virginia 23219 (804) 770-4492 or 770-3591.


One on site should be able to free the artist from administrative work so he or she can spend the maximum amount of time doing what he or she was brought in to do.

(9) What provision is being made to insure that artists meet together and with school personnel to discuss the program at the inception, mid-term and conclusion of the project?

(10) What provision is being made for the organization of the program and the methods and training procedures?

(11) Is the flexibility required for the success of the program in the schedule provided (e.g. joining of components, if desired)?

(12) What joint planning is going on under AIS with state departments of education, local schools, state arts agencies, or other related state groups?

(13) How are artists being involved each step of the way in AIS planning along with teachers, coordinators, and administrators to insure that the artists are doing what they want to do and are capable of doing in the schools, and not what someone else thinks might be worthwhile?

(14) What provision does the program outline have for avoiding misunderstandings by offering contracts which are carefully negotiated with artists (consideration should be given to health and other benefits).

(15) What provision is there for showings of AIS films? What provision for dissemination of information?

(16) Does the program outline encourage schools to assume a larger amount of cash matching in your area?

(17) Does the program outline provide for early notification to the artist of continu­ation of the residency of the following year?

(18) What provision is there in the program outline for artists to work with students for more than the usual classroom period (e.g. joining of components, if desired).

(19) How is the program outline for artists being incorporated in the states in the preparation of their program outlines.

(20) What provision is there in the pro­gram outline for school participation in the residency of the following year?

(21) What provision is there in the pro­gram outline for the program initiating the residency of the following year?

(22) What provision is there in the pro­gram outline for the program initiating the residency of the following year?

(23) What provision is there in the pro­gram outline for an exhibition of the work of the art in the school by the end of the school year? (This might help generate support and stimulate community interest in the project.)

[FTD Doc. 75-12225 Filed 5-8-75 8:45 am]

NEW YORK FOUNDATION FOR THE ARTS, INC., 60 East 42nd Street, Room 935, New York, New York 10017, (212) 995-3140.

Poets and Writers Inc., 210 West 45th Street, New York, New York 10019, (212) 757-3766.


San Francisco Poetry Center, San Francisco State, San Francisco, California 94132, (415) 669-2227.

St. Paul Council of Arts and Sciences, 30 East 10th Street, St. Paul, Minnesota 55101, (612) 227-8344.

ADDITIONS

In submitting their application for Artists-in-Schools, SAAs will be formulating a program outline. The format of the program outline is as follows:

For Each Component:

(1) Description of goals and objectives.

(2) Artist selection procedures.

(3) School responsibilities, provision of: Facilities, Personnel (in-school coordinators, etc.), Education of local school personnel.


(5) Length.

(6) Activities.

(7) Reporting.

Deadline.

The following questions have been raised in discussions with the state arts agencies, artists, and Endowment consultants and are listed here in the belief that they may assist in developing the program outline:

(1) How does the component outline insure the involvement of the best available professional and practicing artists in the ATS Program under the national guidelines?

(2) How does the program outline insure standards and balance by art form consistent with the national guidelines?

(3) What provision is there for showings of AIS films? What provision for dissemination of information?

(4) How are matching funds to be secured?

(5) How will evaluation be accomplished? (Artists-in-Schools in an artist-oriented program, so evaluation efforts should be tailored to the special nature of the program. Strictly educational criteria may not always accommodate to the uniqueness of the Artists-in-Schools Program).

What provision is being made for the inclusion of the artists’ viewpoint to be included in the evaluation process.

What indication is there of concentration on "in-depth" as opposed to "spread" activity?

What plan exists to assure follow-up in the second year? (Follow up or take-over funding is an essential ingredient for a good program in this year).

What provision is made for a state Artists-in-Schools coordinator? What provision is made for regional coordination of the regional coordination by the state coordinators at the individual project sites? What provision will be made for adequate release time for these coordinators? (Locally, some-
by, and the results of, the Energy Conversion Alternatives Study which is supported by the National Science Foundation, the National Aeronautics and Space Administration, and the Department of Interior’s Office of Coal Research. As the aim of the study is to evaluate candidate alternative energy conversion systems for application to electric power generation, it is necessary to ensure that the results are applicable to electric utilities.

The agenda for May 27th includes presentations by both the General Electric Corporation and the Westinghouse Corporation on energy conversion alternatives. On May 28th the Panel will discuss the NASA/Lewis work and will then make recommendations to the ECAS Steering Committee.

The meeting will be open to the public. Anyone who plans to attend or would like more information about this Panel should contact Dr. Richard I. Schoen, Division of Advanced Energy Research and Technology, National Science Foundation, Washington, D.C. 20555, telephone (202) 632-7364.

Summary minutes of this meeting can be obtained from the Committee Management Coordination Staff, Management Analysis Branch, Division of Advanced Energy Research, National Science Foundation, Washington, D.C. 20558.

FRED K. MURAKAMI, Committee Management Officer.

MAY 6, 1975.

[FR Doc. 75-12233 Filed 5-8-75; 8:45 am]

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-534]

INSTITUTE FOR RESOURCE MANAGEMENT

Applicant for and Consideration of
Issuance of Facility Export License

Please take notice that the Institute for Resource Management has submitted to the Nuclear Regulatory Commission an application for a license to authorize the export of a research reactor with a thermal power level of 0.1 watts to Kyung Hee University, Seoul, Korea and that the issuance of such license is under consideration by the Nuclear Regulatory Commission.

No license authorizing the proposed reactor export will be issued until the Nuclear Regulatory Commission determines that such export is within the scope of and consistent with the terms of an applicable agreement for cooperation arranged pursuant to section 123 of the Atomic Energy Act of 1954, as amended (Act), nor until the Nuclear Regulatory Commission has found that:

(a) The application complies with all the requirements of the Act, and the Commission regulations set forth in 10 CFR Ch. I, and

(b) The reactor proposed to be exported is a utilization facility as defined in said Act and regulations.

In its review of applications solely to authorize the export of production or utilization facilities, the Nuclear Regulatory Commission does not evaluate the health and safety characteristics of the facility to be exported.

Unless on or before May 27, 1975, a request for a hearing is filed with the Nuclear Regulatory Commission by the applicant, or a petition for leave to intervene is filed by any person whose interest may be affected by the proceeding, the Director of the Office of Nuclear Material Safety and Safeguards may, upon the determination and findings noted above, cause to be issued to the Institute for Resource Management a facility export license and may cause the Draft Environmental Statement from interested persons of the public to be made available for public inspection at the Commission’s Public Document Room in Washington, D.C. and the Davie County Public Library, 416 N. Main Street, Mocksville, North Carolina 27028. Upon consideration of comments submitted with respect to the Draft Environmental Statement, the Commission’s staff will prepare a Final Environmental Statement and the availability of which will be published in the Federal Register.

Comments on the Draft Environmental Statement are requested from interested persons of the public. Any person who plans to attend or would like more information about this Panel should contact Dr. Richard I. Schoen, Division of Advanced Energy Research, National Science Foundation, Washington, D.C. 20555, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Md., this 6th day of May 1975.

For the Nuclear Regulatory Commission.

G. WAYNE KERR,
Agreements & Exports Branch,
Division of Materials and Fuel Cycle Facility Licensing.

[FR Doc. 75-12233 Filed 5-8-75; 8:45 am]

[Draft No. 677N 50-408, 409, and 490]

DUKE POWER CO.

Availability of Draft Environmental Statement for Perkins Nuclear Station, Units 1, 2, and 3

Pursuant to the National Environmental Policy Act of 1969 and the United States Nuclear Regulatory Commission’s regulations in 10 CFR Part 51, notice is hereby given that a Draft Environmental Statement prepared by the Commission’s Office of Nuclear Reactors and related to the proposed Perkins Nuclear Station, Units 1, 2, and 3 by Duke Power Company in Davie County, North Carolina is available for inspection by the public at the Commission’s Public Document Room located at 1717 H Street NW, Washington, D.C.

Dated at Bethesda, Md., this 6th day of May 1975.

For the Nuclear Regulatory Commission.

W. H. REGAN, Jr.,
Chief, Environmental Projects Branch #4, Division of Re­actor Licensing.

[FR Doc. 75-12231 Filed 5-8-75; 8:45 am]

[Draft No. Stn 50-482]

KANSAS GAS AND ELECTRIC CO. AND KANSAS CITY POWER AND LIGHT CO. (WOLF CREEK GENERATING STATION, UNIT NO. 1)

Convening Special Prehearing Conference

The Atomic Safety and Licensing Board has been informed of applications for the parties to the proceeding have agreed to request that a special prehearing conference be convened by the Board on Monday, May 19, 1975 in Lawrence, Kansas.

Wherefore, it is ordered, in accordance with the Atomic Energy Act, as amended, and the Rules of Practice of the Commission, at 1717 H Street NW, Washington, D.C., Attention: Division of Reactor Licensing.

The Applicant’s Environmental Report, as supplemented, submitted by Duke Power Company is also available for public inspection at the above-designated locations. Notice of availability of the Applicant’s Environmental Report was published in the Federal Register on July 9, 1974 (39 FR 76472).

Pursuant to 10 CFR Part 51, interested persons may submit comments on the Applicant’s Environmental Report, as supplemented, and the Draft Environmental Statement for the Commission’s consideration. Federal and State agencies are being provided with copies of the Applicant’s Environmental Report and the Draft Environmental Statement (local agencies may obtain these documents upon request). Comments are due by July 1, 1975. Comments by Federal, State, and local officials, or other persons received by the Commission will be made available for public inspection at the Commission’s Public Document Room in Washington, D.C. and the Davie County Public Library, 416 N. Main Street, Mocksville, North Carolina 27028.
NOTICES

Office of Management and Budget

Advisory Committee on the Balance of Payments Statistics Presentation

Public Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the Advisory Committee on the Balance of Payments Statistics Presentation which will be held on Friday, May 23, 1975, in room 10104 of the New Executive Office Building, 17th Street between Pennsylvania Avenue and H Street, NW., Washington, D.C. starting at 9:45 a.m.

The objective of the Committee is to develop recommendations to improve the presentation of the official statistics of the U.S. balance of payments which are published quarterly by the Department of Commerce in press releases and in the "Survey of Current Business." The Committee will consider the merits of the present and alternative methods of presenting and summarizing the accounts which would facilitate a more meaningful analysis by the government and the public, and will recommend to the Director of OMB improvements in the tables which could be implemented with the available basic data.

The meeting will be open to public observation and participation. Further information, regarding the meeting may be obtained from the Statistical Policy Division, Office of Management and Budget, Room 10208, New Executive Office Building, Washington, D.C., telephone (202) 395-3138.

Vela N. Baldwin, Assistant to the Director for Administration.

Clearance of Reports

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 May 6, 1975 (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.
CLEARANCE OF REPORTS

Request

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 May 5, 1975 (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 number of copies in the collection; and the purpose of the 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 list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202-395-4539), or from the reviewer listed.

Application for Federal Assistance (Construction), LEA 4000/4, on occasion, Marsha Trayham, 395-4529.

Phillip D. Larsen, Budget and Management Officer.

LEA 75-13387 Filed 5-2-75; 8:45 am -

FEDERAL REGISTER, VOL. 40, NO. 91—FRIDAY, MAY 9, 1975.
NOTICES

SECURITIES AND EXCHANGE COMMISSION

Application and Opportunity for Hearing

MAY 2, 1975.

Notice is hereby given that Cornning Glass Works (the "Company"), a New Yorker Corporation, has filed an application pursuant to clause (ii) of section 316(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding by the Securities and Exchange Commission (the "Commission") that the trusteeships of First National City Bank under (i) an Indenture of the Company, dated as of October 1, 1951 (the "1951 Corning Indenture"), which has not been qualified under the Act, (ii) an Indenture of Corning International Corporation (a Delaware corporation and hereinafter referred to as "International"), dated as of March 15, 1971 (the "1971 International Indenture"), which has not been qualified under the Act, (iii) an Indenture of Dow Corning Overseas Capital Company N.V. (a Netherlands Antilles corporation and hereinafter referred to as "Overseas"), dated as of June 15, 1971 (the "1971 Overseas Indenture"), which has not been qualified under the Act, and (iv) two Indentures of the Company, dated as of November 15, 1973 (the "1973 Corning Indenture") and as of November 15, 1978 (the "1978 Corning Indenture"), respectively, both of which have been heretofore qualified under the Act are not so likely to involve a material conflict of interest as to make it necessary in the public interest of or for the protection of investors to disqualify such trustee from acting as trustee under either of such indentures.

The Company alleges the following:

1. It has issued and outstanding:
   (a) $8,100,000 principal amount of its 3%senior debentures due March 1, 2002 under the 1951 Corning Indenture between the Company and First National City Bank, Trustee. The 1951 Corning Indenture has not been qualified under the Act.
   (b) $50,000,000 principal amount of its 7¾ percent Sinking Fund Debentures due November 15, 1998 under the 1973 Corning Indenture between the Company and First National City Bank, Trustee. The 1973 Corning Indenture has been qualified under the Act.
   (c) $50,000,000 principal amount of its 8.85 percent Notes due May 1, 1980 under the 1974 Corning Indenture between the Company and First National City Bank, Trustee. The 1974 Corning Indenture has been qualified under the Act.
   (d) $50,000,000 principal amount of its 8¾ percent Guaranteed Sinking Fund Debentures due January 1, 2015 under the 1975 International Indenture between International, the Company and First National City Bank, Trustee. The 1975 International Indenture has been qualified under the Act.

2. International has issued and outstanding $20,000,000 principal amount of its 8½ percent Guaranteed Sinking Fund Debentures due September 15, 1986 under the 1973 International Indenture between International, the Company and First National City Bank, Trustee. The 1973 International Indenture has not been qualified under the Act.

3. Overseas has issued and outstanding $30,000,000 principal amount of its 8½ percent Guaranteed Debentures under the 1971 Overseas Indenture among Overseas, The Dow Chemical Company (a Delaware corporation and hereinafter referred to as "Dow"), the Company and First National City Bank, Trustee. The 1971 Overseas Indenture contains the Company's and Dow's joint and several unconditional guarantee of the securities issued thereunder.

4. The trusteeships of First National City Bank under the 1951 Corning Indenture, the 1971 International Indenture, and the 1974 Corning Indenture were disclosed in connection with the Registration Statement Form S-7 (File No. 2-49434 (22-7869)) and Registration Statement Form S-7 (File No. 2-52173 (22-8100)) of the Company under the Securities Act of 1933.

5. The trusteeships of First National City Bank under the 1971 Overseas Indenture were disclosed in connection with the Registration Statement Form S-7 (File No. 2-52173 (22-8100)) of the Company under the Securities Act of 1933.

6. The trusteeships of First National City Bank under the 1974 Overseas Indenture were disclosed in connection with the Registration Statement Form S-7 (File No. 2-52173 (22-8100)) of the Company under the Securities Act of 1933.

7. Overseas, as trustee under the 1971 Overseas Indenture, has qualified under the Act, as trustee thereunder, $6,100,000 principal amount of its 3%senior debentures due March 1, 2002 under the 1951 Corning Indenture and $50,000,000 principal amount of its 7¾ percent Sinking Fund Debentures due November 15, 1998 under the 1973 Corning Indenture.

8. Overseas is an active participant in the protection of investors in the securities issued under the 1971 Overseas Indenture and the 1974 Corning Indenture. Overseas has qualified under the Act, as trustee thereunder, $50,000,000 principal amount of its 8.85 percent Notes due May 1, 1980 under the 1974 Corning Indenture.

9. Dow, as trustee under the 1971 Overseas Indenture, has qualified under the Act, as trustee thereunder, $20,000,000 principal amount of its 8½ percent Guaranteed Sinking Fund Debentures due September 15, 1986 under the 1973 International Indenture.

10. The Company and Dow are parties to a reciprocal indemnification agreement, dated May 26, 1971, which provides that they shall share equally in all payments made by them as guarantors of the Securities issued under the 1971 Overseas Indenture.

11. The trusteeships of First National City Bank under the 1951 Corning Indenture, the 1971 International Indenture, and the 1974 Corning Indenture were disclosed in connection with the Registration Statement Form S-7 (File No. 2-49434 (22-7869)) and Registration Statement Form S-7 (File No. 2-52173 (22-8100)) of the Company under the Securities Act of 1933.

12. Overseas would not be so likely to involve a material conflict of interest as to make it necessary in the public interest of or for the protection of investors to disqualify said Bank from acting as Trustee.

13. Overseas would not be so likely to involve a material conflict of interest as to make it necessary in the public interest of or for the protection of investors to disqualify said Bank from acting as Trustee under the 1971 Overseas Indenture.

14. Overseas would not be so likely to involve a material conflict of interest as to make necessary in the public interest of or for the protection of investors to disqualify said Bank from acting as Trustee under the 1974 Corning Indenture.

15. Overseas would not be so likely to involve a material conflict of interest as to make it necessary in the public interest of or for the protection of investors to disqualify said Bank from acting as Trustee under the 1971 Overseas Indenture.

16. Overseas would not be so likely to involve a material conflict of interest as to make it necessary in the public interest of or for the protection of investors to disqualify said Bank from acting as Trustee under the 1974 Corning Indenture.

17. Overseas would not be so likely to involve a material conflict of interest as to make it necessary in the public interest of or for the protection of investors to disqualify said Bank from acting as Trustee under the 1971 Overseas Indenture.

18. Overseas would not be so likely to involve a material conflict of interest as to make it necessary in the public interest of or for the protection of investors to disqualify said Bank from acting as Trustee under the 1974 Corning Indenture.

19. Overseas would not be so likely to involve a material conflict of interest as to make it necessary in the public interest of or for the protection of investors to disqualify said Bank from acting as Trustee under the 1971 Overseas Indenture.

20. Overseas would not be so likely to involve a material conflict of interest as to make it necessary in the public interest of or for the protection of investors to disqualify said Bank from acting as Trustee under the 1974 Corning Indenture.

21. Overseas would not be so likely to involve a material conflict of interest as to make it necessary in the public interest of or for the protection of investors to disqualify said Bank from acting as Trustee under the 1971 Overseas Indenture.

22. Overseas would not be so likely to involve a material conflict of interest as to make it necessary in the public interest of or for the protection of investors to disqualify said Bank from acting as Trustee under the 1974 Corning Indenture.

23. Overseas would not be so likely to involve a material conflict of interest as to make it necessary in the public interest of or for the protection of investors to disqualify said Bank from acting as Trustee under the 1971 Overseas Indenture.

24. Overseas would not be so likely to involve a material conflict of interest as to make it necessary in the public interest of or for the protection of investors to disqualify said Bank from acting as Trustee under the 1974 Corning Indenture.

25. Overseas would not be so likely to involve a material conflict of interest as to make it necessary in the public interest of or for the protection of investors to disqualify said Bank from acting as Trustee under the 1971 Overseas Indenture.

26. Overseas would not be so likely to involve a material conflict of interest as to make it necessary in the public interest of or for the protection of investors to disqualify said Bank from acting as Trustee under the 1974 Corning Indenture.
under any of said Indentures. First National City Bank has continued to act as Trustee under the 1971 Overseas Indenture, the 1963 Dow Indenture and the 1970 Dow Indenture.

6. Aside from differences between the 1971 Overseas Indenture and the 1951 Coming Indenture, the 1973 Coming Indenture, the 1974 Coming Indenture, the 1971 International Indenture, the 1973 Corning Indenture and the 1974 Corning Indenture as to amounts, dates, interest rates and certain other figures, the principal difference between the provisions of the 1971 Overseas Indenture and of said other Indentures, are as follows:

(a) As in the case of the 1971 International Indenture, the Company is a party to the 1971 Overseas Indenture only as a guarantor of the Debentures, whereas the Company is the principal obligor on the securities outstanding under the 1951 Coming Indenture, the 1973 Coming Indenture and the 1974 Coming Indenture.

(b) The Debentures issued under the 1971 Overseas Indenture, as in the case of the securities issued under the 1971 International Indenture, are issuable as coupon debentures not registerable as to principal and interest, whereas the securities issued under the 1951 Coming Indenture, the 1973 Coming Indenture and the 1974 Corning Indenture are registered without coupons.

(c) The 1971 Overseas Indenture (Article Three thereof), as the 1951 Coming Indenture, the 1971 International Indenture, the 1973 Coming Indenture (Article Twelve thereof), and the 1974 Corning Indenture (Article Three thereof), whereas the 1974 Corning Indenture contains no such requirements.

(d) The 1971 Overseas Indenture, as the 1951 Coming Indenture, the 1971 International Indenture, does not contain provisions under which failure to make payment in respect of other indebtedness results in an event of default, whereas both the 1973 Coming Indenture (section 501(5) of Article Five thereof) and the 1974 Corning Indenture (section 501(4) of Article Five thereof) contain cross-default provisions.

(e) The 1971 Overseas Indenture (section 5.01 of Article Five thereof), as the 1951 Corning Indenture (section 505 of Article Five thereof), the 1973 Corning Indenture (section 1008 of Article Ten thereof) and the 1974 Corning Indenture (section 1008 of Article Ten thereof), contains provisions for protection against mortgages and other liens on the property of the obligor thereunder, whereas the 1971 International Indenture does not contain such provisions.

(f) The sections on the disqualification of the Trustee in the case of conflicting interests (Section 6.08 of Article Six in the 1973 Corning Indenture and Section 6.08 of Article Five thereof), and the limitation on the rights of the Trustee as a creditor (Section 613 of Article Six in the 1973 Corning Indenture and Section 613 of Article Six in the 1974 Corning Indenture) are omitted from the 1971 Overseas Indenture as from the 1951 Corning Indenture and the 1971 International Indenture.

(g) The 1951 Corning Indenture provides that (1) each installment of interest on the unpaid principal amount of the debentures issued thereunder due on any interest payment date shall be payable only to the extent of the obligor's Consolidated Earnings for the preceding Earnings Period (as such terms are defined in the 1951 Corning Indenture), (ii) any deficiency shall be fully cumulative and each such deficiency and all prior deficiencies, to the extent not paid, shall be due and payable on each succeeding interest payment date, but only to the extent of the excess of Consolidated Earnings for the Earnings Period next preceding such succeeding interest payment date over the interest due and payable on such succeeding interest payment date, and (iii) all accrued but unpaid interest on the principal amount of the debentures or a portion thereof, as the case may be, shall be due and payable in full on the maturity date thereof. This provision is unique to the 1951 Corning Indenture.

7. The joint and several unconditional guarantee of the Company under the 1971 Overseas Indenture, the 1951 Corning Indenture, the unconditional guarantee of the Company under the 1971 International Indenture, the 1973 Corning Indenture and the 1974 Corning Indenture are each wholly unsecured. Should the joint and several unconditional guarantee of the Company under the 1971 Overseas Indenture be enforced against the Company, it would rank on a parity with the obligations of the Company evidenced by the securities issued under the 1971 Overseas Indenture, the 1973 Corning Indenture and the 1974 Corning Indenture and with the obligations of the Company as guarantor of the securities issued under the 1971 International Indenture.

8. The differences between the provisions of the 1971 Overseas Indenture and the 1951 Corning Indenture, the 1971 International Indenture, the 1973 Corning Indenture and the 1974 Corning Indenture are unlikely to cause any conflict of interest between the respective trusteeships of First National City Bank under said Indentures.


For a more detailed statement of the matters of fact and law asserted, all persons are referred to said application which is on file in the Commission's Public Reference Section, 1100 L Street NW., Washington, D.C. 20549.

Notice is further given that any interested person may, not later than May 26, 1975, 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 law or fact raised by such application 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, 500 North Capitol Street NW., Washington, D.C. 20549. At any time after said date, the Commission may issue an order granting the application upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and the interest of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

[Seal] George A. Pfitschmann, Secretary.

[FR Doc.75–12241 Filed 5–8–75;8:45 am]

OFFICE OF TELECOMMUNICATIONS POLICY

ELECTROMAGNETIC RADIATION MANAGEMENT ADVISORY COUNCIL

Meeting

Notices is hereby given that the Electromagnetic Radiation Management Advisory Council (ERMAC) will meet at 9 a.m. in Room 704, 1800 G Street NW., Washington, D.C., on Wednesday, May 21, 1975.

The principal agenda items will be the discussions of certain classified documents. In addition, there will be a short discussion of possible personnel actions.


BRONLEY SMITH
Advisory Committee Management Officer.
VETERANS ADMINISTRATION
COOPERATIVE STUDIES EVALUATION
COMMITTEE
Meeting

The Veterans Administration gives notice pursuant to Public Law 92-463 that a meeting of the Cooperative Studies Evaluation Committee, authorized by 36 USC 4101, will be held in Room 119 of the main Veterans Administration building, 810 Vermont Avenue, NW., Washington, DC, on June 10, 11 & 12, 1975. The meeting will be for the purpose of reviewing proposed cooperative studies and advising the Veterans Administration on the relevance and feasibility of the studies, the adequacy of the protocols, the scientific validity and the propriety of technical details, including involvement of human subjects. The Committee advises the Assistant Chief Medical Director for Research and Development through the Chief, Cooperative Studies Program on its findings.

The meeting will be open to the public at the seating capacity of the room from 8 to 9 a.m., June 10, to discuss the general status of the program. To assure adequate accommodations, those who plan to attend should contact Dr. James A. Hagans, Coordinator of the Committee, Veterans Administration Central Office, Washington, D.C., (202-389-3702) prior to May 28. The meeting will be closed from 9 a.m. to 5 p.m. on June 10 and all day each day on June 11 & 12 for consideration of specific proposals in accordance with provisions set forth in section 10(d) of Pub. L. 92-463 and sections 552(b)(2) and 552(b)(6) of Title 5, U.S. Code. During this portion of the meeting, discussion and decisions will deal with qualifications of personnel conducting the studies and the medical records of patients who are study subjects, the disclosure of which would constitute an invasion of personal privacy.

[Seal]
R. L. ROUSEBUSH, Administrator.

[FR Doc.75-12385 Filed 5-8-75; 8:45 am]

DEPARTMENT OF LABOR
Bureau of Labor Statistics

BUSINESS RESEARCH ADVISORY COUNCIL'S COMMITTEE ON OCCUPATIONAL SAFETY AND HEALTH STATISTICS
Meeting

The BRAC Committee on Occupational Safety and Health Statistics will meet at 10 a.m., May 28, 1975, at the General Accounting Office Building, 441 G Street NW., Room 4454, Washington D.C. The agenda for the meeting is as follows:

1. Discussion of Alternative Questions for Inclusion in the Varying Section of the 1975 Survey.
   a) Status of proposal for employee access to information on the log.
   b) Discussion of desirability of issuing guidelines for distinguishing between first aid and medical treatment.
   c) Demonstration of audio aid on recordkeeping.
3. Research Activities.
   a) Fatality Task Force project.
   b) The collective bargaining study of safety and health provisions, just completed by Office of Wages and Industrial Relations.
   c) Discussion of a research proposal on direct wage incentives and work injuries and illnesses.
   a) Status of grant program FY 75-76.
   c) BLS role in evaluating progress of State 18(b) plans.

This meeting is open to the public. It is suggested that persons planning to attend this meeting contact Kenneth G. Van Auken, Executive Secretary, Business Research Advisory Council on (Area Code 202) 961-2559.

Signed at Washington, D.C., this 1st day of May 1975.

JULIUS SHISKIN, Commissioner of Labor Statistics.

[FR Doc.75-12394 Filed 5-8-75; 8:45 am]

Manpower Administration
EMPLOYMENT TRANSFER AND BUSINESS COMPETITION DETERMINATIONS UNDER RURAL DEVELOPMENT ACT

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 of an area to another of any employment or business activity provided by operations of the applicant. It is permissible to aid 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, where 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, published January 29, 1975 (40 FR 3383). 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 competitive effect 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 Manpower, 601 D Street, NW., Washington, D.C. 20213.

Signed at Washington, D.C. this fifth day of May 1975.

BEN BURDETSKY,
Deputy Assistant Secretary
for Manpower.
ASSIGNMENT OF HEARINGS

ASSIGNMENT OF HEARINGS

INTERSTATE COMMERCE COMMISSION
[Notice No. 762]

ASSIGNMENT OF HEARINGS

MAY 6, 1975

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 postponement of hearings in which they are interested.


IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY

Elimination of Gateway Applications

MAY 6, 1975.

The following applications to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination Rules (49 CFR 1055(d) (2)), and notice thereof to all interested persons is hereby given as provided in such rules.

Carriers having a genuine interest in an application may file an original and three copies of verified statements in opposition to the Interstate Commerce Commission within 30 days from the date of publication. (This procedure is outlined in the Commission's report and order in Gateway Elimination, 118 M.C.C. 530.) A copy of the verified statement in opposition must also be served upon applicant or its named representative. The verified statement shall contain all the evidence upon which protestant relies in the application proceeding including a detailed statement of protestant's interest in the proposal. No rebuttal statements will be accepted.

No. MC 504 (Sub-No. 99G), filed May 3, 1974. Applicant: HARPER MOTOR LINES, INC., 1020 South Mill Avenue, St. Paul, Minn. 55101. Applicant's representative: John W. Koltes, 3506 Tamarac Avenue, St. Paul, Minn. 55116. Applicant's representative is now assigned July 8, 1975, at South Carolina, is postponed indefinitely.

[Seal] JOSEPH M. HARRINGTON,
Acting Secretary.

[F.R.Doc.75-12211 Filed 5-6-75;8:45 am]

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(4) Marble and granite (except commodities requiring special equipment), from points in South Carolina, to points in Elberton, Ga. (5) Granite (except commodities requiring special equipment), from points in South Carolina, to points in Delaware, Indiana, Kentucky, Maryland, Michigan, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Tennessee, Virginia, West Virginia, Illinois, Iowa, Wisconsin, and the District of Columbia and St. Louis, Mo., and points within 25 miles thereof. The purpose of this filing is to eliminate the gateway of New York. 

MC 1042 (Sub-No. B-G), filed June 3, 1974. Applicant: C.P.T. FREIGHT, INC., 10048. Authority sought to operate as a common carrier, by motor vehicle, 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, livestock, commodities injurious or contaminating to other lading, clay products, refractory products, undeliverable and refused to other lading, clay products, refractory products): 

(a) between points in Connecticut, Rhode Island and Massachusetts, on the one hand, and, on the other, points in New Jersey, New York, New Jersey Highway 130, thence along U.S. Highway 130 to Bridgeport, N.J., thence along Alternate U.S. Highway 130 to intersection U.S. Highway 130, thence along U.S. Highway 130 to Trenton, N.J., and also on, north and west of a line beginning at the Delaware River near Penns Grove, N.J. and extending along an unnumbered highway, to U.S. Highway 202 to intersection U.S. Highway 202 to Trenton, N.J., and also on, north and west of a line beginning at the New Jersey-New York State Boundary line and extending along U.S. Highway 263 to intersection New Jersey Highway 130 at U.S. Highway 130, thence along U.S. Highway 130 to Bridgeport, N.J., thence along Alternate U.S. Highway 130 to intersection U.S. Highway 130, thence along U.S. Highway 130 to Trenton, N.J., and also on, north and west of a line beginning at the Delaware River near Penns Grove, N.J. and extending along an unnumbered highway, to U.S. Highway 611 to the Pennsylvania-New Jersey State Boundary line; points in Hudson, Essex, Union, Mercer, Bergen, Hunterdon, Passaic, Morris, and Sussex Counties, N.J.; and points in Middlesex County, N.J. on and north of New Jersey Highway 18. The purpose of this filing is to eliminate gateways at Newark, N.J. and points in New Jersey within 15 miles of Newark, N.J.

(b) Between points in Mercer, Bergen, Hunterdon, Passaic, Morris, and Sussex Counties, N.J., on the one hand, and, on the other, points in Baltimore, Md.; the District of Columbia; points in Orange, Rockland and Westchester Counties, N.Y.; points in New Jersey within 15 miles of Newark, N.J. thence along Alternate U.S. Highway 130 to intersection U.S. Highway 130, thence along U.S. Highway 130 to Trenton, N.J., and also on, north and west of a line beginning at the Delaware River near Penns Grove, N.J. and extending along an unnumbered highway, to U.S. Highway 202 to intersection U.S. Highway 202 to Trenton, N.J., and also on, north and west of a line beginning at the New Jersey-New York State Boundary line and extending along U.S. Highway 202 to intersection U.S. Highway 202 to Trenton, N.J., and also on, north and west of a line beginning at the Atlantic Ocean at Ocean Grove, N.J.; points in that part of New Jersey north and west of a line beginning at the New Jersey-New York State Boundary line and extending along U.S. Highway 611 to the Pennsylvania-New Jersey State Boundary line; points in Hudson, Essex, Union, Bergen and Passaic Counties, N.J. and Newark, N.J. and points in Middlesex County, N.J. on and north of a line beginning at the SUSQUEHANNA RIVER and on and south of a line beginning at the Susquehanna River at or near Pittston, Pa., and extending along U.S. Highway along U.S. Highway 18. The purpose of this filing is to eliminate gateways at points in Berks and Passaic Counties, N.J. located on and east of U.S. Highway 202.
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No. MC 5470 (Sub-No. 88G), filed June 7, 1974. Applicant: DON JACOBY, 700 World Center Building, 918 Sixteenth Street NW., Washington, D.C. 20066. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) Airplane parts, and airplane supplies and equipment, between points in California, on the one hand, and, on the other, points in Alabama, Georgia, Louisiana, Mississippi, South Carolina and Tennessee. The purpose of this filing is to eliminate the gateway of Pensacola, Fla. (2) Guided missile parts, and guided missile supplies and equipment used in the maintenance, servicing, repair, and operation of guided missiles, between points in California, on the one hand, and, on the other, points in Alabama, Georgia, Louisiana, Mississippi and South Carolina. The purpose of this filing is to eliminate the gateway of Pensacola, Fla. (3) Commodity BGPS (except boats), the transportation of which because of their size or weight requires the use of special equipment, between points in California, on the one hand, and, on the other, points in Arizona. The purpose of this filing is to eliminate the gateway of Yuma, Ariz.

No. MC 14732 (Sub-No. 57-G), filed June 4, 1974. Applicant: OHIO FAST FREIGHT, INC., P.O. Box 808, Warren, Ohio 44482. Applicant’s representative: Paul F. Beery, 8 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: General commodities (except those of unusual size, dangerous, explosive, household, goods, and those injurious to other insuring), between points in Ohio, on the one hand, and, on the other, points in Virginia, West Virginia and the District of Columbia. The purpose of this filing is to eliminate the gateways of Warren and Blair, Ohio.

No. MC 14781 (Sub-No. 10-G), filed June 3, 1974. Applicant: GORTY CROS, 999 Beahan Road, Rochester, NY 14624. Applicant’s representative: Paul F. Sullivan, 711 Washington Blvd., Washington, D.C. 20005. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Commodities which by reason of size or weight, require the use of special equipment and self-propelled articles, each weighing 15,000 pounds or more, to trailers, between points in New York on the one hand, and, on the other, points in the International Boundary line between the United States and Canada and extending southerly along Interstate Highway 40 to its intersection with Interstate Highway 12 near Watertown, NY., thence along New York Highway 12 via Utica, N.Y., to its intersection with Interstate Highway 81 near Glen, N.Y., thence along Interstate Highway 81 to the New York-Pennsylvania State Boundary line on the one hand, and, on the other, points in Illinois, Indiana, Ohio, West Virginia, Virginia, Maryland, Delaware, Pennsylvania, New Jersey, New York, North Carolina, Ohio, Pennsylvania, West Virginia, Wisconsin, and the District of Columbia. The purpose of this filing is to eliminate gateways at points in Monroe County and Rochester, N.Y.

No. MC 19227 (Sub-No. 202G), filed June 3, 1974. Applicant: LEONARD BROS. TRUCKING CO., INC., 2515 Northwest 30th Street, Miami, Fl., 33152. Applicant’s representative: William O. Turner, 2061 Massachusetts Avenue NW., Washington, D.C. 20036. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) Airplane parts, and airplane supplies and equipment, between points in California, on the one hand, and, on the other, points in Alabama, Georgia, Louisiana, Mississippi, South Carolina and Tennessee. The purpose of this filing is to eliminate the gateway of Pensacola, Fla. (2) Guided missile parts, and guided missile supplies and equipment used in the maintenance, servicing, repair, and operation of guided missiles, between points in California, on the one hand, and, on the other, points in Alabama, Georgia, Louisiana, Mississippi and South Carolina. The purpose of this filing is to eliminate the gateway of Pensacola, Fla. (3) Commodity BGPS (except boats), the transportation of which because of their size or weight requires the use of special equipment, between points in California, on the one hand, and, on the other, points in Arizona. The purpose of this filing is to eliminate the gateway of Yuma, Ariz.

This page contains notices of filings for various transportation routes, including the elimination of gateways in various states and regions. The notices detail the commodities transported, the routes affected, and the purpose of each filing. The notices cover a wide range of transportation activities, including air and ground transport, and involve various states and regions in the United States.
of this filing is to eliminate the gateways of Yuma, Ariz., and El Paso, Tex. (d) Between points in California, on the one hand, and, on the other, points in Alabama, Georgia and South Carolina. The purpose of this filing is to eliminate the gateways of Yuma, Ariz., and El Paso, Tex. Pensacola, Fla. (e) Between points in California, on the one hand, and, on the other, points in Connecticut, Delaware, Massachusetts, Maine, Maryland, Massachusetts, Michigan, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin and the District of Columbia. The purpose of this filing is to eliminate the gateways of Yuma, Ariz., El Paso, Tex. and Pensacola, Fla. (f) Between points in Arizona, on the one hand, and, on the other, points in Michigan, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin and the District of Columbia. The purpose of this filing is to eliminate the gateways of Yuma, Ariz., El Paso, Tex. Pensacola, Fla. (g) Between points in Arizona, on the one hand, and, on the other, points in Massachusetts, Maine, Maryland, Massachusetts, Michigan, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin and the District of Columbia. The purpose of this filing is to eliminate the gateways of points in Texas and Pensacola, Fla. (h) Between points in Alabama, Georgia and South Carolina, on the one hand, and, on the other, points in Connecticut, Delaware, Illinois, Indiana, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin and the District of Columbia. The purpose of this filing is to eliminate the gateways of points in Texas and Pensacola, Fla. (i) Between points in Arkansas and Louisiana on the one hand, and, on the other, points in Connecticut, Delaware, Illinois, Indiana, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin and the District of Columbia. The purpose of this filing is to eliminate the gateways of points in Texas and Pensacola, Fla. (j) Between points in Arkansas, on the one hand, and, on the other, points in Connecticut, Delaware, Illinois, Indiana, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin and the District of Columbia. The purpose of this filing is to eliminate the gateways of points in Texas and Pensacola, Fla.
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on the one hand, and, on the other, New York, N.Y. and points in Bergen, Essex, Hudson, Middlesex, Monmouth, Morris, Passaic, Sussex and Union Counties, N.J. The purpose of this filing is to eliminate the gateways of Crewe, Va.

(9) Between Enfield, N.C., on the one hand, and, on the other, New York, N.Y. and points in Bergen, Essex, Hudson, Middlesex, Monmouth, Morris, Passaic, Sussex and Union Counties, N.J. The purpose of this filing is to eliminate the gateways of Crewe, Va.

(3) Between points in New York, New Jersey, Delaware, Maryland, Pennsylvania, and the District of Columbia, on the one hand, and, on the other, points in Delaware, Maryland, and West Virginia within 75 miles of Philadelphia. (1) Between points in New York, New Jersey, Delaware, Maryland, Pennsylvania, and the District of Columbia, on the one hand, and, on the other, new points in New York, New Jersey, and Delaware, Maryland, and Pennsylvania within 75 miles of Philadelphia. (2) Iron and steel articles as described in Appendix V of the Descriptions case, 61 M.C.C. 269, between points in Maryland Highway 146 to West Virginia Highway 61 to the point of beginning at Gibson Island, Md., thence west over Maryland Highway 148 to White Marsh Md., to junction Maryland Highway 7, thence northeast over Maryland Highway 7 to junction Maryland Highway 4, thence north over Maryland Highway 142 to junction Maryland Highway 147, thence southwest over Maryland Highway 147 to junction Maryland Highway 146, thence west over Maryland Highway 145 to junction Maryland Highway 519, thence west over Maryland Highway 519 to Glyndon, Md., thence southeast over U.S. Highway 146 to junction Maryland Highway 125, thence southwest over Maryland Highway 125 to junction Maryland Highway 99, thence east over Maryland Highway 99 to junction Maryland Highway 4, thence north over Maryland Highway 105 to junction U.S. Highway 29, thence south over U.S. Highway 29 to junction Maryland Highway 103, thence south over Maryland Highway 103 to junction Maryland Highway 176, thence east over Maryland Highway 176 to Glen Burnie, Md., thence southeast over Maryland Highway 177 to Gibson Island, Md., and thence south over the Chesapeake Bay to the point of beginning at Chase, Md., including points on the indicated portions of the highways specified, on the one hand, and on the other, New York, New Jersey, Delaware, Maryland, Pennsylvania, and the District of Columbia. The purpose of this filing is to eliminate the gateways of points within 75 miles of Philadelphia. (3) Structural steel and equipment used in the erection thereof and moving therewith, from points in Delaware, Maryland, New Jersey, Ohio, New York, Pennsylvania, and the District of Columbia, on the one hand, and on the other, Ohio, New York, Pennsylvania, and the District of Columbia, to points in Con-
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complete, knocked down, or in sections, and equipment and materials incidental to the erection and completion of such buildings when shipped therewith, and reflecting such commodities, and equipment incidental to the handing of such commodities, from all points in Missouri to all points in Colorado. The purpose of this filing is to eliminate the gateway of Charlotte or Roanoke, N.C.

No. MC 100447 (Sub-No. 86G), filed June 4, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., Box 988—Lincoln Highway & Meyer Road, Port Wayne, Ind. 46801. Applicant's representative: Terry G. Powell (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: New commercial and institutional fixtures, crates, and equipment incidental to the handling of such commodities, from all points in California, to points in Arkansas, Iowa, and Texas. The purpose of this filing is to eliminate the gateway of Greene County, Ark.

(10) From points in Georgia, to points in Arkansas, Iowa, and Texas. The purpose of this filing is to eliminate the gateway of Greene County, Ark.

(11) From points in Idaho, to points in Arkansas, Texas and Virginia. The purpose of this filing is to eliminate the gateway of Greene County, Ark.

(12) From points in Iowa, to points in Alabama, Arkansas, Georgia, Kentucky, Louisiana, New Mexico, North Carolina, South Carolina, Arizona, Colorado, Idaho, Kansas, Nevada, North Carolina, South Carolina, and Texas. The purpose of this filing is to eliminate the gateway of Greene County, Ark.

(13) From points in Kansas, to points in Arkansas, Kentucky, Louisiana, Mississippi, and Virginia. The purpose of this filing is to eliminate the gateway of Greene County, Ark.

(14) From points in Louisiana, to points in California, Colorado, Iowa, Kansas, Nevada, North Carolina, South Carolina, and Texas, by motor vehicle, and by water. The purpose of this filing is to eliminate the gateway of Greene County, Ark.

(15) From points in Maine, to points in North Carolina, South Carolina, and West Virginia. The purpose of this filing is to eliminate the gateways of points in Tennessee and Kentucky.

(16) From points in Maryland, to points in Florida, Georgia, North Carolina, and South Carolina. The purpose of this filing is to eliminate the gateway of Greene County, Ark.

(17) From points in Massachusetts, to points in North Carolina and South Carolina. The purpose of this filing is to eliminate the gateway of Greene County, Ark.

(18) From points in Minnesota, to points in Arkansas, North Carolina, South Carolina, Tennessee, and Texas. The purpose of this filing is to eliminate the gateway of Greene County, Ark.
of this filing is to eliminate the gateway of Greene County, Ark. (20) From points in Montana, to points in Arkansas, Kentucky, Texas, and Virginia. The purpose of this filing is to eliminate the gateway of Greene County, Ark. (21) From points in Nevada, to points in Arkansas, Louisiana, Texas, and Oklahoma. The purpose of this filing is to eliminate the gateway of Greene County, Ark. (22) From points in New Hampshire, to points in North Carolina and South Carolina. The purpose of this filing is to eliminate the gateway of points in Tennessee. (23) From points in New Jersey, to points in Georgia, North Carolina, and South Carolina. The purpose of this filing is to eliminate the gateway of Greene County, Ark. (24) From points in New Mexico, to points in Alabama, Florida, and Mississippi. The purpose of this filing is to eliminate the gateway of Greene County, Ark. (25) From points in New York, to points in North Carolina and South Carolina. The purpose of this filing is to eliminate the gateway of Greene County, Ark. (26) From points in North Dakota, to points in North Carolina and South Carolina. The purpose of this filing is to eliminate the gateway of Greene County, Ark. (27) From points in North Dakota, to points in Arkansas, Kentucky, North Carolina, South Carolina, Tennessee, and Texas. The purpose of this filing is to eliminate the gateway of Greene County, Ark. (28) From points in Oklahoma, to points in Alabama, Florida, Mississippi, and Tennessee. The purpose of this filing is to eliminate the gateway of Greene County, Ark. (29) From points in Ohio, to points in Arkansas, Idaho, Montana, Wyoming, and South Dakota. The purpose of this filing is to eliminate the gateways of Greene County, Ark. and Grand Rapids, Mich. (30) From points in Pennsylvania, to points in North Carolina and South Carolina. The purpose of this filing is to eliminate the gateway of Greene County, Ark. (31) From points in Rhode Island, to points in North Carolina and South Carolina. The purpose of this filing is to eliminate the gateway of Greene County, Ark. (32) From points in South Carolina, to points in Arkansas, Iowa, Louisiana, Texas, and North Dakota. The purpose of this filing is to eliminate the gateway of Greene County, Ark. (33) From points in South Dakota, to points in Arkansas, Kentucky, North Carolina, South Carolina, Tennessee, and Texas. The purpose of this filing is to eliminate the gateway of Greene County, Ark. (34) From points in Texas, to points in Alabama, California, Florida, Georgia, Iowa, Illinois, Indiana, Kansas, Kentucky, North Dakota, South Carolina, South Dakota, and Tennessee. The purpose of this filing is to eliminate the gateway of Greene County, Ark. (35) From points in Utah, to points in Arkansas and Louisiana. The purpose of this filing is to eliminate the gateway of Greene County, Ark. (36) From points in Vermont, to points in North Carolina and South Carolina. The purpose of this filing is to eliminate the gateway of points in Tennessee. (37) From points in Virginia, to points in Colorado, Iowa, Kansas, Louisiana, Minnesota, Mississippi, Tennessee, Idaho, Montana, Wyoming, and South Dakota. The purpose of this filing is to eliminate the gateways of Greene County, Ark. and Grand Rapids, Mich. (38) From points in Washington, to points in Arkansas, Oklahoma, Louisiana, Texas, and Tennessee. The purpose of this filing is to eliminate the gateway of Greene County, Ark. (39) From points in West Virginia, to points in North Carolina and South Carolina. The purpose of this filing is to eliminate the gateway of points in Tennessee. (40) From points in Wyoming, to points in Arkansas, Kentucky, Louisiana, Texas, and Virginia. The purpose of this filing is to eliminate the gateway of Greene County, Ark.

No. MC 107103 (Sub-No. 7G), filed June 4, 1974. Applicant: ROBINSON CARTAGE CO., a Corporation, 2712 Chicago Drive SW, Grand Rapids, Mich. 49509, Applicant's representative: Robert D. Schuler, 100 West Long Lake Road, Suite 102, Bloomfield Hills, Mich. 48013. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Commodities which because of size or weight require the use of special equipment or specialized handling: (1) Between points in the Lower Peninsula of Michigan south and east of a line beginning at Lake Michigan and extending along the southern boundary lines of Allegan, Barry and Eaton Counties, Mich. to intersection U.S. Highway 27, thence northeasterly along U.S. Highway 27 to Mackinaw City, Mich., on the one hand, and, on the other, points in Illinois and Wisconsin. The purpose of this filing is to eliminate the gateway of points in the Lower Peninsula of Michigan on and west of U.S. Highway 27 and on and north of the southern boundaries of Allegan, Barry, and Eaton Counties, Mich. The transportation of which because of size or weight requires the use of special equipment or specialized handling: (2) Between points in the Lower Peninsula of Michigan south and east of a line beginning at Lake Michigan and extending along the southern boundary lines of Allegan, Barry and Eaton Counties, Mich. to intersection U.S. Highway 27, thence northeasterly along U.S. Highway 27, thence on the one hand, and, on the other, points in Ohio. The purpose of this filing is to eliminate the gateway of points in the Lower Peninsula of Michigan on and west of U.S. Highway 27, (3) Between points in Ohio, on the one hand, and, on the other, points in Illinois. The purpose of this filing is to eliminate the gateway of points in the Lower Peninsula of Michigan on and west of U.S. Highway 27 and on and north of the southern boundaries of Allegan, Barry and Eaton Counties, Mich. (4) From points in Wisconsin on, north and east of a line beginning at Superior, Wis. and extending along Wisconsin Highway 35 to intersection Wisconsin Highway 71, thence along Wisconsin Highway 71 to intersection Wisconsin Highway 161, thence along Wisconsin Highway 161 to intersection Wisconsin Highway 27, thence along Wisconsin Highway 27 to intersection Wisconsin Highway 176, thence along Wisconsin Highway 176 to intersection U.S. Highway 53, thence along U.S. Highway 53 to intersection Wisconsin Highway 35, thence along Wisconsin Highway 35 to intersection Wisconsin Highway 93, thence along Wisconsin Highway 93 to intersection Wisconsin Highway 94, thence along Wisconsin Highway 94 to intersection Missouri River, thence along the Mississippi River to the north county boundary line of La Crosse County, Wis., thence

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[Descriptions in Motor Carrier Certificates, (a) from Omaha, Nebr., to points in Virginia. The purpose of this filing is to eliminate the gateway of Charlette, Ga. (c) From Oklahoma, Nebr., to points in New York, Pennsylvania, New Jersey, and Maryland. The purpose of this filing is to eliminate the gateways of Gatesville or Ayden, N.C. (2) Dairy products, from Omaha, Nebr., to points in Virginia. The purpose of this filing is to eliminate the gateway of Charlotte, N.C.]

No. MC 108341 (Sub-No. 35G), filed June 3, 1975. Applicant: MOSS TRUCKING COMPANY, INC., P.O. Box 8409, Charlotte, N.C. 28208. Applicant's representative: Morton E. Kiel, Suite 6193, World Trade Center, New York, N.Y. 10046. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Commodities which because of size or weight require the use of special equipment or specialized handling: (1) Meats, meat products, and meat by-products, as described in Appendix XIII to the report in "Descriptive Descriptions in Motor Carrier Certificates, (a) from Omaha, Nebr., to points in Virginia. The purpose of this filing is to eliminate the gateway of Charlette, Ga. (c) From Oklahoma, Nebr., to points in New York, Pennsylvania, New Jersey, and Maryland. The purpose of this filing is to eliminate the gateways of Gatesville or Ayden, N.C. (2) Dairy products, from Omaha, Nebr., to points in Virginia. The purpose of this filing is to eliminate the gateway of Charlotte, N.C.]

No. MC 108449 (Sub-No. 37G), filed June 3, 1974. Applicant: INDIANHEAD TRUCK LINE, INC., 1974 West County Road C, St. Paul, Minn. 55113. Applicant's representative: Adolph J. Bienstein, 121 West Doty Street, Madison, Wis. 53705. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Petroleum and petroleum products, as described in Appendix XIII to the report in "Descriptive Descriptions in Motor Carrier Certificates, 51 M.C.C. 209, in bulk (except petroleum chemicals (but including naphtha) from Chicago, Ill.), from LeMort, Lockport and Chicago, Ill., to points in Wisconsin on, north and east of a line beginning at Superior, Wis. and extending along Wisconsin Highway 35 to intersection Wisconsin Highway 71, thence along Wisconsin Highway 71 to intersection Wisconsin Highway 161, thence along Wisconsin Highway 161 to intersection Wisconsin Highway 27, thence along Wisconsin Highway 27 to intersection Wisconsin Highway 176, thence along Wisconsin Highway 176 to intersection U.S. Highway 53, thence along U.S. Highway 53 to intersection Wisconsin Highway 35, thence along Wisconsin Highway 35 to intersection Wisconsin Highway 93, thence along Wisconsin Highway 93 to intersection Missouri River, thence along the Mississippi River to the north county boundary line of La Crosse County, Wis., thence
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along the north county boundary lines of La Crosse, Monroe, Juneau, Adams, Waushara, Waupaca, Outagamie, Brown and Kewaunee Counties, Wis., except to points in the counties of Manitowoc and Davis Counties, Illinois. The purpose of this filing is to eliminate the gateway of La Crosse, Wis.

No. MC 109720 (Sub-No. 4G), filed June 4, 1974. Applicant: BROWN MOVING & STORAGE CO., 98 Wisconsin Street, New Britain, Conn. 06051. Applicant's representative: Robert J. Gallagher, 1776 Broadway, New York, N.Y. 10019. Authority sought to operate as a common carrier, by motor vehicle, 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, perishable commodities, and commodities having a prior or subsequent movement by air, water, or rail (other than trailer-on-flatcar service) on the part of 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 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, Grunau, Harrison, Henry, Hickory, Holt, Howard, Jackson, Jasper, Johnson, Lacelde, Lafayette, Lawrence, Linn, Madison, Maries, Marion, Mercer, Miller, Moniteau, Morgan, Newton, Nodaway, Pettis, Platte, Polk, Putnam, Randolph, Ray, St. Clair, Saline, Schuyler, Stone, Sullivan, Taney, Vernon, Warren, and Washington Counties, Mo. Restriction: (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, or paper packages or articles shall be considered as a separate and distinct shipment; (b) 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 such department stores, specialty shops, or retail stores, or the branches or warehouses thereof, on the one hand, and, on the other, points in Ohio north of U.S. Highway 40. The purpose of this filing is to eliminate the gateways of Hartford, Conn. and points within 10 miles thereof, New Britain, Conn. and points within 10 miles thereof, and Hartford and Tolleson Counties, Conn.

No. MC 111894 (Sub-No. 63G), filed May 31, 1974. Applicant: C W TRANSPORT, INC., 610 High Street, Wisconsin Rapids, Wis. 54444. Applicant's representative: Carl Steiner, 3900 South LaSalle Street, Chicago, Ill. 60609. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: General commodities (except Classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Louisville, Ky., on the one hand, and, on the other, Columbus, Ohio. The purpose of this filing is to eliminate the gateway of Winchester, Ind. (2) between points in Indiana, on the one hand, and, on the other, points in Ohio north of U.S. Highway 40. The purpose of this filing is to eliminate the gateways of Chicago and Chicago Heights, Ill.

No. MC 114604 (Sub-No. 27G), filed June 4, 1974. Applicant: CAUDELL TRANSPORT, INC., State Farmers Market, Building 33, Forest Park, Ga. 30050. Applicant’s representative: Guy B. Postell, Suite 718, 3384 Peachtree Road NE, Atlanta, Ga. 30328. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Meat, meat products, meat by-products, dairy products, and articles distributed by meat packhouses, as described in Sections A, B and C of Appendix I to the report in Descriptions in Meat Products, issued April 10, 1956, and 766; and foodstuffs, from points in Georgia, to points in Alabama, South Carolina and Chattanooga, Tenn. The purpose of this filing is to eliminate the gateway of Atlanta, Ga.

No. MC 115495 (Sub-No. 21G), filed June 4, 1974. Applicant: UNITED PARCEL SERVICE, INC., 300 North 2nd Street, St. Charles, Ill. 60174. Applicant's representative: S. Harrison Kahn, 733 Investment Bldg., Washington, D.C. 20005. Authority sought to operate as a common carrier, by motor vehicle, 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, perishable commodities, and commodities having a prior or subsequent movement by air, water, or rail (other than trailer-on-flatcar service) on the part of 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 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, Grunau, Harrison, Henry, Hickory, Holt, Howard, Jackson, Jasper, Johnson, Lacelde, Lafayette, Lawrence, Linn, Madison, Maries, Marion, Mercer, Miller, Moniteau, Morgan, Newton, Nodaway, Pettis, Platte, Polk, Putnam, Randolph, Ray, St. Clair, Saline, Schuyler, Stone, Sullivan, Taney, Vernon, Warren, and Washington Counties, Mo. Restriction: (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, or paper packages or articles shall be considered as a separate and distinct shipment; (b) 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 such department stores, specialty shops, or retail stores, or the branches or warehouses thereof, on the one hand, and, on the other, points in Ohio north of U.S. Highway 40. The purpose of this filing is to eliminate the gateways of Hartford, Conn. and points within 10 miles thereof, New Britain, Conn. and points within 10 miles thereof, and Hartford and Tolleson Counties, Conn.

No. MC 117874 (Sub-No. 239G), filed May 31, 1974. Applicant: DAILY EXPRESS INC., Post Office Box 39, Carlisle, Pa. 17013. Applicant’s representative: James W. Hagar, P.O. Box 1166, 210 Pine Street, Harrisburg, Pa. 17108. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) Articles which because of their size or weight require the use of special equipment, except boilers and machinery, equipment, materials and supplies used in, or in connection with, the construction, operation, repair, servicing, maintenance and dismantling of pipelines (except boilers, heaters and casting), (2) such commodities as by reason of their size or weight require the use of special equipment (except machinery, equipment, materials and supplies used in, or in connection with, the construction, operation, repair, servicing, maintenance and dismantling of pipelines), but not excluding heavy machinery, contractor's equipment and building materials, (a) between points in New York, New Jersey, New York, New Jersey and Pennsylvania, (b) Between points in Connecticut, Massachusetts, Rhode Island, New York, New Jersey, and Pennsylvania. The purpose of this filing is to eliminate the gateways of Scranton, Pa. and York County, Pa. (c) Between points in Connecticut, Massachusetts, Rhode Island, and points within 80 miles of Columbus, Ohio. The purpose of this filing is to eliminate the gateways of Columbus, Ohio, New York, New Jersey, Pennsylva

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tion, operation, repair, servicing, main-
tenance and dismantling of pipelines,
(a) between points in Illinois, Indiana,
Kentucky, Michigan, Minnesota, and
Wisconsin, on the one hand; and, on the
other, points in North Carolina, South
Carolina, Georgia and Florida. The purpose
of this filing is to eliminate the gateways
of Limestone, N.Y., between points in
Illinois, Indiana, Kentucky, Michigan,
and Wisconsin, on the one hand; and, on the
other, points in Illinois, Indiana, Kentucky,
and Michigan, on the one hand; and, on the
other, points in Illinois, Indiana, Kentucky,
and Virginia. The purpose of this filing is to
eliminate the gateways of Columbus, Ohio and points within 80 miles thereof, Bradford, Du Bois, Lewistown, Middletown, Canton, Pa., York, Adams, Lancaster, and Fulton Counties, Pa., Middletown, Ohio and points within 80 miles thereof, Adams, Lancaster, and Fulton Counties, Pa., Middletown, Ohio and points within 80 miles thereof, and York County, Pa.

No. MC 117574 (Sub-No. 24G), filed June 4, 1974. Applicant: DAILY EX-
PRESS, INC., Post Office Box 39, Carlisle, Pa., 17013. Applicant’s representative:
__ James W. Hagar __, 100 Pine Street,
P.O. Box 1166, Harrisburg, Pa., 17108. Author-
ity sought to operate as a common carri-
der, by motor vehicle, over irregular
routes, transporting: (1) Iron and steel
articles and equipment and supplies used or
used in the manufacture of iron and steel,
and iron and steel articles, which because of
size or weight require the use of special
equipment, between the plant site of Beth-
lehem Steel Corporation located at Burns
Harbor (Porter County), Ind., on the one hand,
and, on the other, points in Pennsyl-
vania, New York, New Jersey, Ohio,
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vania, New York, New Jersey, Ohio,
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Classes A and B explosives, commodities in bulk, commodities requiring special equipment, and canned and canned media of all kinds, dental products, optical equipment, audit and accounting media in bulk, commodities requiring special packaging, with or without closures, and empty fiberboard cartons when accompanying shipments of empty containers, with or without closures, and empty fiberboard cartons when accompanying shipments of empty fiberboard cartons.

The purpose of this filing is to eliminate the gateways of Muncie, Ind. (f) From South Beaver Dam, Brandon, Eden, Calvary, Plymouth, Green Bay, Ladysmith, Cumberland, Clear Lake, Milltown, Frederick, Chetek, Wautoma, and Astico, Wis., and points within 10 miles of Astico, Wis., and Muscatine, Iowa, to points in Iowa and Missouri on the Mississippi River, and points in Iowa and Missouri on the Mississippi River. The purpose of this filing is to eliminate the gateways of Tipton and Indianapolis, Ind.

(b) From points in Illinois, to points in West Virginia (except points within 10 miles of the Ohio River). The purpose of this filing is to eliminate the gateways of Muncie, Ind. (f) From South Beaver Dam, Brandon, Eden, Calvary, Plymouth, Green Bay, Ladysmith, Cumberland, Clear Lake, Milltown, Frederick, Chetek, Wautoma, and Astico, Wis., and points within 10 miles of Astico, Wis., and points within 10 miles of the Ohio River. The purpose of this filing is to eliminate the gateway of Winchester, Ind.

(k) From Cincinnati, Ohio, to points in Kentucky (except Louisville) and West Virginia on the Ohio River. The purpose of this filing is to eliminate the gateways of Tipton and Indianapolis, Ind.

(c) From Louisiana, Ky., and Cincinnati, Ohio, to points in West Virginia (except points within 10 miles of the Ohio River). The purpose of this filing is to eliminate the gateway of Muncie, Ind. (e) From Louisville, Ky., to points in West Virginia (except points within 10 miles of the Ohio River). The purpose of this filing is to eliminate the gateway of Lapel, Ind.

(f) From points in Illinois, to Lafayette, Lebanon, Seymour, New Albany, Ind., the Cincinnati, Ohio Commercial Zone, Indiana (except Lafayette, Lebanon, Seymour, and New Albany), Ohio (except the Cincinnati, Ohio Commercial Zone), and Wisconsin, Ohio (except Lafayette, Lebanon, Seymour, and New Albany). The purpose of this filing is to eliminate the gateways of Tipton and Indianapolis, Ind.

(g) From Chicago, Ill., to points in West Virginia (except points within 10 miles of the Ohio River). The purpose of this filing is to eliminate the gateway of Muncie, Ind. (e) From Louisville, Ky., to points in West Virginia (except points within 10 miles of the Ohio River). The purpose of this filing is to eliminate the gateway of Lapel, Ind.

(d) From South Beaver Dam, Brandon, Eden, Calvary, Plymouth, Green Bay, Ladysmith, Cumberland, Clear Lake, Milltown, Frederick, Chetek, Wautoma, and Astico, Wis., and points within 10 miles of Astico, Wis., to points in Kentucky (except points within 10 miles of the Ohio River). The purpose of this filing is to eliminate the gateway of Winchester, Ind.

(e) From points in Indiana, to points in West Virginia (except points within 10 miles of the Ohio River). The purpose of this filing is to eliminate the gateway of Muncie, Ind. (f) From South Beaver Dam, Brandon, Eden, Calvary, Plymouth, Green Bay, Ladysmith, Cumberland, Clear Lake, Milltown, Frederick, Chetek, Wautoma, and Astico, Wis., and points within 10 miles of Astico, Wis., and points within 10 miles of the Ohio River. The purpose of this filing is to eliminate the gateway of Winchester, Ind.

(h) From points in Ohio, to points in West Virginia (except points within 10 miles of the Ohio River). The purpose of this filing is to eliminate the gateway of Louisville, Ky. (k) From Star City, W. Va., to points in Indiana within 75 miles of Indianapolis, Ind. (except Indianapolis, Lafayette, Lebanon, and Seymour). The purpose of this filing is to eliminate the gateway of Winchester, Ind.

(i) From Star City, W. Va., to points in Indiana within 75 miles of Indianapolis, Ind. (except Indianapolis, Lafayette, Lebanon, and Seymour). The purpose of this filing is to eliminate the gateway of Winchester, Ind.
The purpose of this filing is to eliminate the gateways of Tipton, Indianapolis, and Greenwood, Ind.

No. MC 129729 (Sub-No. 5G), filed May 31, 1974. Applicant: FRANCIS J. BECKOFF, INC., Seckman Road, P.O. Box 195, King of Prussia, Pa. 19406. Applicant's representative: Raymond A. Thistle, Jr., Suite 1012, Four Penn Center Plaza, Philadelphia, Pa. 19103. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Brick, from the plant sites of Grays Ferry Brick Company at Iona, N.J., to points in New York and Fairfield County, Va. The purpose of this filing is to eliminate the gateway of Perkiomen Junction, Pa.

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY—ELIMINATION OF GATEWAY LETTER NOTICES

May 5, 1975.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating traffic jams, reducing pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination Rule 49 CFR 1059, and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before May 19, 1975. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successive filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

No. MC 4405 (Sub-No. E7), filed July 13, 1974. Applicant: DEALERS TRANSIT INC., P.O. Box 361, Lansing, Ill. 60436. Applicant's representative: Robert E. Joyner, 2008 Clark Tower, 5100 Poplar Avenue, Memphis, Tenn. 38137. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Household goods as defined by the Commission, between points in Arkansas, on the one hand, and, on the other, points in New Jersey, New York, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, West Virginia, Kentucky, Delaware, Maryland, West Virginia, West Virginia, West Virginia, South Carolina, North Carolina, and the District of Columbia. The purpose of this filing is to eliminate the gateways of Eureka, Kans., and points in Missouri.

No. MC 44321 (Sub-No. E4), filed June 4, 1974. Applicant: ENGEL VAN LINES, 901 Julia St., Elizabeth, N.J. 07201. Applicant's representative: Joseph W. Engel (Same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Household goods as defined by the Commission, between points in Colorado on the one hand, and, on the other, points in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, West Virginia, Kentucky, Delaware, Maryland, West Virginia, West Virginia, South Carolina, North Carolina, and the District of Columbia. The purpose of this filing is to eliminate the gateways of Eureka, Kans., and points in Missouri or Arkansas.

No. MC 14321 (Sub-No. E4), filed June 4, 1974. Applicant: ENGEL VAN LINES, 901 Julia St., Elizabeth, N.J. 07201. Applicant's representative: Joseph W. Engel (Same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Household goods as defined by the Commission, between points in Colorado on the one hand, and, on the other, points in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, West Virginia, Kentucky, Delaware, Maryland, West Virginia, West Virginia, South Carolina, North Carolina, and the District of Columbia. The purpose of this filing is to eliminate the gateways of Eureka, Kans., and points in Missouri or Arkansas.
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jof this filing is to eliminate the gateways
of Eureka, Kans., and points in Missouri.
No. MC 14321 (Sub-No. E9), filed
June 4, 1974. Applicant: ENGEL VAN
LINES, 901 Julia St., Elizabeth, N.J.
07201. Applicant’s representative: Joseph
W. Engel (Same as above). Authority
sought to operate as a common carrier,
by motor vehicle, over irregular routes,
transporting: Household goods as de­
fined by the Commission, between points
in Texas on the one hand, and, on the
other, points in Missouri, Minnesota,
Wisconsin, Illinois, Tennessee, Kentucky,
Indiana, Michigan, Ohio, West Vir­
ginia, Pennsylvania, Maryland, Dela­
ware, Maine, New Hampshire, Vermont,
Rhode Island, Massachusetts, Connecti­
cut, Virginia, North Carolina, South
Carolina, and the District of Columbia.
The purpose of this filing is to eliminate
the gateways of Eureka, Kans., and
points in Missouri, as points in Arkansas
and points in Missouri, Tennessee,
Louisiana, or Alabama.
No. MC 14321 (Sub-No. E10), filed
June 4, 1974. Applicant: ENGEL VAN
LINES, 901 Julia St., Elizabeth, N.J.
07201. Applicant’s representative: Joseph
W. Engel (same as above). Authority
sought to operate as a common carrier,
by motor vehicle, over irregular routes,
transporting: Household goods as defined
by the Commission, between points in
Minnesota on the one hand, and, on the
other, points in Texas. The purpose of
this filing is to eliminate the gateways of
Eureka, Kans., and points in Missouri.
No. MC 14321 (Sub-No. E ll), filed
June 4, 1974. Applicant: ENGEL VAN
LINES, 901 Julia St., Elizabeth, N.J.
07201. Applicant’s representative: Jo­
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ity sought to operate as a common car­
rier, by motor vehicle, over irregular
routes, transporting: Household goods as
defined by the Commission, between
points in Minnesota on the one hand,
and, on the other, points in Oklahoma.
The purpose of this filing is to eliminate
the gateways of Eureka, Kans., and
points in Missouri.
No. MC 14321 (Sub-No. E12), filed
June 4, 1974. Applicant: ENGEL VAN
LINES, 901 Julia St., Elizabeth, N.J.
07201. Applicant’s representative. Joseph
W. Engel (same as above). Authority
sought to operate as a common carrier,
by motor vehicle, over irregular routes,
transporting: Household goods as defined
by the Commission, between points in
Minnesota on the one hand, and, on the
other, points in Mississippi. The purpose
of this filing is to eliminate the gateway
of points in Arkansas.
No. MC 14321 (Sub-No. E13), filed
June 4, 1974. Applicant: ENGEL VAN
LINES, 901 Julia St., Elizabeth, N.J.
07201. Applicant’s representative: Joseph
W. Engel (Same as above). Authority
sought to operate as a common carrier,
by motor vehicle, over irregular routes,
transporting: Household good as defined
by the Commission, (1) between points
in Missouri on the one hand, and on the

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other, points in Mississippi (except Missouri Highway 92, thence west along
points in Alcorn, Tischomingo, Prentiss, Missouri Highway 92 to junction Mis­
Itawamba, Tippah, Benton, and Monroe souri Highway 61, thence north along
Counties), and (2) between points in Missouri Highway 61 to junction Missouri
that part of Missouri located on and west Highway 2, thence west along Missouri
and south of a line beginning a t the Highway 2 to the Nebraska-South Da­
Tennessee-Missouri State line, thence kota State line, and
(5)
Between points in New York south
along Missouri Highway 84 to Missouri
Highway 91 to Marble Hill, thence north of Interstate Highway 84, on the one
along Missouri Highway to junction Mis­ hand, and, on the other, points in that
souri Highway 72, thence west along part of Nebraska located on, west and
Missouri Highway 72 to Fredericktown, south of a line beginning a t the Kansasthence north along U.S. Highway 67 to Nebraska State line and extending north
junction Interstate Highway 55 and along U.S. Highway 77 to Lincoln, thence
thence north along Interstate Highway west along Missouri Highway 34 to junc­
55 to St. Louis, Mo., on the one hand, tion Missouri Highway 15, thence north
and, on the other, points in Mississippi, along Missouri Highway 15 to junction
and (3) between points in Alcorn, Tisho­ Missouri Highway 92, thence west along
mingo, Prentiss, Itawamba, Tippah, Missouri Highway 92 to junction U.S.
Benton and Monroe Counties, Miss., on Highway 81, thence north along U.S.
the one hand, and, on the other, points Highway 81 to Columbus, thence west
in Missouri (except points in Scott, along U.S. Highway 30 to junction Mis­
Stoddard, Butler, Dunklin, Pemiscot, souri Highway 22, thence west along Mis­
New Madrid, Mississippi, and Lake Coun­ souri Highway 22 to junction Missouri
ties) . The purpose of this filing is to Highway 39, thence north along Missouri
eliminate the gateway of points in Highway 39 to junction Missouri High­
way 14, thence north along Missouri
Arkansas.
14 to junction U.S. Highway
No. MC 14321 (Sub-No. E13), filed Highway
thence west along U.S. Highway 275
June 4, 1974. Applicant: ENGEL VAN 275,
to junction U.S. Highway 20, thence west
LINES, 901 Julia St., Elizabeth, N.J. along
Highway 20 to Valentine,
07201. Applicant’s representative: Joseph thence U.S.
north along U.S. Highway 83 to
W. Engel (same as above). Authority the
Dakota State line.
sought to operate as a common carrier, The Nebraska-South
of this filing is to eliminate
by motor vehicle, over irregular routes, the purpose
of Eureka, Kans., and
transporting Household goods as defined pointsgateway
within 45 miles thereof.
by the Commission, (1) between New
No. MC 14552 (Sub-No. E4), filed
York, N.Y., on the one hand, and, on the
other, points in Nebraska on and south May 20, 1974. Applicant: J. V. Mcof U.S. Highway 30, (2) between points NICHOLAS TRANSPORTATION CO.,
in New Jersey on and south of U.S. P.O. Box 749, Youngstown, Ohio 44501.
Highway" 80,' on the one hand, and on the Applicant’s representative: James R.
other, points in Nebraska on and south Grace (same as above). Authority sought
of U.S. Highway 30, (3) between points to operate as a common carrier, by motor
in New York and New Jersey, on the one vehicle, over irregular routes, transport­
hand, and, on the other points in that ing: Steel mill equipment, materials, and
part of Nebraska on, west and south of supplies (except commodities, in bulk,
a line beginning a t the Kansas-Nebraska and rolling mill rolls), from points in
State line and extending along U.S. Pennsylvania located in a territory
Highway 183 to Ansley, Nebr., thence bounded on the north by lines beginning
west along Nebraska Highway 92 to at the junction of U.S. Highway 62 and
junction Nebraska Highway 61, thence the New York-Pennsylvania State line,
north along Nebraska Highway 61 to and bounded on the east by the Penn­
junction Nebraska Highway 2, thence sylvania State line and bounded on the
west along Nebraska Highway 2 to the south by the Pennsylvania State line and
Nebraska-South Dakota State line, (4) bounded on the west by a line beginning
between points in New York north of at the Maryland-Pennsylvania State line
Interstate Highway 84, on the one hand, and U.S. Highway 70, thence along U.S.
and, on the other, points in that part of Highway 70 to junction U.S. Highway 70
Nebraska located on, west and south of and Pennsylvania Highway 51, thence
a line beginning at the Kansas-Nebraska along Pennsylvahia Highway 51 to the
St^te line and extending north along Ohio-Pennsylvania State line to the
U.S. Highway 77 to Beatrice, Nebr., junction of the Ohio-Pennsylvania State
thence west along Nebraska Highway 4 line and U.S. Highway 62, thence along
to junction Missouri Highway 15, thence U.S. Highway 62 to the Pennsylvanianorth along Missouri Highway 15 to New York State line, to points in Ohio
junction Missouri Highway 74, thence located in a territory bounded on the
west along Missouri Highway 74 to junc­ west by the Indiana-Ohio State line and
tion U.S. Highway 81, thence north along bounded on the north by a line begin­
U.S. Highway 81 to junction U.S. High­ ning a t the Ohio-Indiana-Michigan
way 6, thence west along U.S. Highway 6 State line, thence along the Ohio State
to junction U.S. Highway 281, thence line to junction Ohio State line, Lake
north along U.S. Highway 281 to junc­ Erie, and Ohio Highway 91 and bounded
tion Missouri Highway 2, thence along on the east by a line beginning a t Lake
Missouri Highway 2 to Mema, thence Erie, the Ohio State line, and Ohio High­
west along Missouri Highway 70 or 92 way 91, thence along Ohio Highway 91
to junction U.S. Highway 83, thence to junction Ohio Highway 91 and U.S.
north along U.S. Highway 83 to junction Highway 422,'thence along U.S. Highway

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422 to the Ohio-Pennsylvania State line, thence along the Ohio-Pennsylvania State line to U.S. Highway 224 and bounded on the south by a line beginning at the Ohio-Pennsylvania State line and ending at U.S. Highway 224, thence along U.S. Highway 224 to junction U.S. Highway 224 and Interstate Highway 71, thence along Interstate Highway 71 to the Ohio-Kentucky State line, thence along the Ohio-Kentucky State line to the Ohio-Kentucky-Indiana State line, restricted against the shipment of refractories and clay products from Womelsdorf and Plymouth Meeting, Pa., destined to the plant sites of the Youngstown Sheet and Tube Company, located at or near Youngstown and Struthers, Ohio, and the warehouse facilities of The Edward Corporation, located at or near Warren, Ohio. The purpose of this filing is to eliminate the gateway of the facilities of Youngstown Sheet & Tube, at Youngstown, Ohio.

No. MC 49053 (Sub-No. E13), filed June 4, 1974. Applicant: MACON TRADING POST, INC., 103 Cherry St., Macon, Ga. 31208. Applicant's representative: Thomas R. Kingsley, 1819 H St. NW, Washington, D.C. 20006. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Household goods, as defined by the Commission; (1) from points in Mississippi, to points in South Carolina; (2) from points in South Carolina in and west of McCor-nick, Greenwood, Laurens, and Spartanburg Counties, to points in Alabama in and south of Sumter, Greene, Hale, Perry, Coffee, and Elmore Counties; and (3) between points in Claiborne, Jefferson, Copiah, Lincoln, Simpson, Lawrence, Jefferson Davis, Smith, Covington, Newton, Jasper, Jones, Lauderdale, Clarke, Wayne, and Winston Counties, on the one hand, and, on the other, points in Tennessee in and east of Hamilton, Sequatchie, Van Buren, White, Putnam, Jackson, and Clay Counties; (2) between points in Adams, Franklin, Wilkinson, Amite, Pike, Walthall, Marion, Lamar, Forrest, Perry, and Greene Counties, Miss., on the one hand, and, on the other, points in Tennessee in and east of Polk, McMinn, Loudon, Knox, Union, and Claiborne Counties, and (3) between points in Claxton, Jefferson, Copiah, Lincoln, Simpson, Lawrence, Jefferson Davis, Smith, Covington, Newton, Jasper, Jones, Lauderdale, Clarke, Wayne, and Winston Counties, on the one hand, and, on the other, points in Tennessee in and east of Hancock, Hawkins, and Greene Counties. The purpose of this filing is to eliminate the gateway of the Counties of Muscogee County, Ga.

No. MC 49052 (Sub-No. E15), filed June 4, 1974. Applicant: MACON TRADING POST, INC., 103 Cherry St., Macon, Ga. 31208. Applicant's representative: Thomas R. Kingsley, 1819 H St. NW, Washington, D.C. 20006. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Household goods, as defined by the Commission, from points in Alabama, to points in South Carolina in and east of Edgefield, Saluda, Newberry, Fairfield, Chester, York, Aiken, Barnwell, Allendale, Hampton, and Jasper Counties; and (2) from points in South Carolina in and west of McCormick, Greenwood, Laurens, and Spartanburg Counties, to points in Alabama in and south of Sumter, Greene, Hale, Perry, Coffee, and Elmore Counties; and (3) between points in Claiborne, Jefferson, Copiah, Lincoln, Simpson, Lawrence, Jefferson Davis, Smith, Covington, Newton, Jasper, Jones, Lauderdale, Clarke, Wayne, and Winston Counties, on the one hand, and, on the other, points in Tennessee in and east of Hancock, Hawkins, and Greene Counties. The purpose of this filing is to eliminate the gateway of Bibb County, Ga.

No. MC 49052 (Sub-No. E16), filed June 4, 1974. Applicant: MACON TRADING POST, INC., 103 Cherry St., Macon, Ga. 31208. Applicant's representative: Thomas R. Kingsley, 1819 H St. NW, Washington, D.C. 20006. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Household goods, as defined by the Commission, from points in Mississippi in and south of Pearl River, Stone, and George Counties, on the one hand, and, on the other, points in Mississippi, to points in Florida in and west of Okaloosa, Walton, Santa Rosa, and Escambia Counties. The purpose of the filing is to eliminate the gateway of Muskogee County or Dougherty County, Ga.

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Columbus, Braden, Sampson, Wayne, Greene, Pick, Beaufort, and Washington Counties. The purpose of this filing is to eliminate the gateway of Jasper County, Ga.

No. MC 49052 (Sub-No. E20), filed June 4, 1974. Applicant: MACON TRADING POST, INC., 103 Cherry St., Macon, Ga. 31208. Applicant's representative: Thomas R. Kingsley, 1819 H St. NW, Washington, D.C. 20006. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Household goods, as defined by the Commission, from points in Kentucky in and west of Calloway and Marshall Counties, to points in Virginia Beach, Chesapeake, Portsmouth, Newport News, Hampton, Norfolk and Northampton, Mathews, Gloucester, York, James City, Surry, Isle of Wight and Nansemond Counties, Va. The purpose of this filing is to eliminate the gateway of Baldwin County, Ga.

No. MC 49052 (Sub-No. E21), filed June 4, 1974. Applicant: MACON TRADING POST, INC., 103 Cherry St., Macon, Ga. 31208. Applicant's representative: Thomas R. Kingsley, 1819 H St. NW, Washington, D.C. 20006. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Household goods, as defined by the Commission, from points in Kentucky in and west of Calloway and Marshall Counties, to points in Virginia Beach, Chesapeake, Portsmouth, Newport News, Hampton, Norfolk and Northampton, Mathews, Gloucester, York, James City, Surry, Isle of Wight and Nansemond Counties, Va. The purpose of this filing is to eliminate the gateway of Baldwin County, Ga.

By the Commission.

[ SEAL ]
ROBERT L. OSWALD,
Secretary.

[FR Doc.75-12309 Filed 5-8-75;8:45 am]

MOTOR CARRIER TERMINAL AUTHORITY APPLICATIONS

May 5, 1975.

The following are notices of filing of application, 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, for temporary authority under section 210a (a) of the Interstate Commerce Act provided by the rules of Ex Parte No. MC-67 (49 CFR 172) published in the Federal Register, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the Federal Register publication, within 15 calendar days after the date of notice of the filing of the application.

No. MC 1238 (Sub-No. 16TA), filed April 25, 1975. Applicant: M0S TRANSPORTATION, INC., P.O. Box 270, Alexandria, Ind. 46001. Applicant's representative: Charles Garrett (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Roll paper stock, from Cleve-Pak Corp., at Piermont, N.Y., to Cleve-Pak at Eaton, Ind., for 189 days. Supporting shipper: Cleve-Pak Corp., at Piermont, N.Y., to Silver Spring Drive, Milwaukee, Wis. 53209. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 345 West Waubee St., Fort Wayne, Ind. 46802.

No. MC 17051 (Sub-No. 14TA) (Correction), filed April 10, 1975, published in the Federal Register issue of April 22, 1975, and republished as corrected this issue. Applicant: BARNET'S EXPRESS INC., 788 Ligerwood Ave., Elizabeth, N.J. 07202. Applicant's representative: S. Michael Richards, 44 North Ave, Elizabeth, N.J. 07202. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Wearing apparel, equipment, materials and supplies used or useful in the conduct of such businesses, except commodities in bulk over irregular routes, (1) Between Milford, Conn., on the one hand, and, on the other, points in Delaware, New York, New Jersey, Massachusetts, and Pennsylvania, and (2) Between New York, Conn. and New Jersey, on the one hand, and, on the other, points in Connecticut, Delaware, New Jersey, New York, Massachusetts, and Pennsylvania. Restriction: The authority sought herein is limited to a transportation service to be performed, under contract, or contracts, with Supermarkets General Corporation, for 180 days. Supporting shipper: Supermarkets General Corporation, 301 Blair Road, Woodbridge, N.J. 07095. Send protests to: Robert E. Johnston, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 9 Clinton St., New York, N.Y. 10012.

No. MC 17051 (Sub-No. 14TA) (Correction), filed April 10, 1975, published in the Federal Register issue of April 22, 1975, and republished as corrected this issue. Applicant: BARNET'S EXPRESS INC., 788 Ligerwood Ave., Elizabeth, N.J. 07202. Applicant's representative: S. Michael Richards, 44 North Ave, Elizabeth, N.J. 07202. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Wearing apparel, equipment, materials and supplies used or useful in the conduct of such businesses, except commodities in bulk over irregular routes, (1) Between Milford, Conn., on the one hand, and, on the other, points in Delaware, New York, New Jersey, Massachusetts, and Pennsylvania, and (2) Between New York, Conn. and New Jersey, on the one hand, and, on the other, points in Connecticut, Delaware, New Jersey, New York, Massachusetts, and Pennsylvania. Restriction: The authority sought herein is limited to a transportation service to be performed, under contract, or contracts, with Supermarkets General Corporation, for 180 days. Supporting shipper: Supermarkets General Corporation, 301 Blair Road, Woodbridge, N.J. 07095. Send protests to: Robert E. Johnston, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 9 Clinton St., New York, N.Y. 10012.

No. MC 88860 (Sub-No. 22TA), filed April 29, 1975. Applicant: RUSSELL TRANSFER INCORPORATED, 441 Glenmore Drive, Salem, Va. 24435. Applicant's representative: Linell G. Gregory (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Such commodities as are dealt in by wholesale, retail, chain grocery and food business houses, and equipment and supplies used in the conduct of such business, except those of unusual value, Classes A and B explosives, commodities in bulk, household goods, those requiring special equipment, or those injurious or contaminating and no other inidating between the Plant Site of Service Warehouse Corp., Huntington, W. Va., on the one hand, and, on the other points in Virginia, North Carolina, South Carolina, Washington, D.C., and Washington, D.C., to the facilities of the Charmin Paper Products Company at Albion, Ga., to the facilities of The Charmin Paper Products Company at Oxford, Calif., for 180 days. Supporting shipper: The Charmin Paper Products Company, P.O. Box 599, Cincinnati, Ohio 45201. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Bureau of Operations, 135 West Wells St., Room 807, Milwaukee, Wis. 53203.

No. MC 1146 (Sub-No. 42TA), filed April 25, 1975. Applicant: SCHNEIDER TRANSPORT INC., 2661 South Broad-
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PORT, INC., P.O. Box 4022, Chattanooga, Tenn. 37405. Applicant's representative: Sam Speer (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Anhydrous aluminum chloride, in bulk and special containers, from Alcoa, Tenn., to points in Bexar County, La., for 180 days. Supporting shipper: Aluminum Company of America, 1301 Alcoa Bldg., Pittsburgh, Pa., 15219. Send protests to: Jo E. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, A-422 Federal Bldg., 801 Broadway, Nashville, Tenn. 37203.

No. MC 117851 (Sub-No. 18TA), filed April 22, 1975. Applicant: JOHN R. CHEESEMAN, 501 North First Street, Fort Recovery, Ohio 45746. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Water softeners and parts thereof, and filter media (except commodities in bulk), (1) from Chardon, Ohio, to points in Deerfield, Wis.; (2) from Deerfield, Wis., to points in the states of Alabama, Arkansas, Kentucky, Mississippi, Missouri, North Carolina, Ohio, Oklahoma, South Carolina, Tennessee, Texas, and West Virginia, for 180 days. Supporting shipper: Continental Research, 40 W. Nelson St., Deerfield, Ill. 60515. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: Materials and supplies used in the manufacture and distribution of containers and container closures (except commodities in bulk), and scrap metal, from the plantsite of American Can Company, located at Whitehouse, Ohio, to points in Indiana, Illinois, Michigan, Missouri, Kentucky, Wisconsin and West Virginia, for 180 days. Supporting shipper: American Can Company, 915 Harger Road, Oak Brook, Ill. 60521. Applicant's representative: Robert H. Levy, 29 South LaSalle St., Chicago, Ill. 60603. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Containers, container ends, and closures, and materials and supplies used in the manufacture and distribution of containers and container closures (except commodities in bulk), and scrap metal, from the plantsite of American Can Company, located at Whitehouse, Ohio, to points in Indiana, Illinois, Michigan, Missouri, Kentucky, Wisconsin and West Virginia, for 180 days. Supporting shipper: Interpace Corp., Lapp Insulator Division, P.O. Box 776, Sandusky, Ohio 44870. Applicant's representative: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce St., Room 13C12, Dallas, Tex. 75202.

No. MC 119980 (Sub-No. 65TA), filed April 22, 1975. Applicant: DRUM TRANSPORT, INC., P.O. Box 2056, East Peoria, Ill. 61611. Applicant's representative: H. N. Drum (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Alcoholic liquors, in bulk, in tank vehicles, from points in Newark, N.J. to Portland, Maine. Supporting shipper: Peter Distilleries Inc., 2131 N. E. 19th Street, Portland, Ore. Send protests to: Richard K. Shullaw, District Supervisor, Interstate Commerce Commission, 1100 Commerce St., Room 13C12, Dallas, Tex. 75202.
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No. MC 129685 (Sub-No. 1TA), filed April 24, 1975. Applicant: DAVID HAU-LING COMPANY, INC., Murray Road, P.O. Box 4018, Augusta, Ga. 30907. Applicant's representative: Charles Davis, Jr., 586 Loyola Drive, Augusta, Ga. 30904. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Ornamental iron products and accessories, and materials, supplies and equipment useful in the manufacture, distribution, and display of the above commodities (except commodities in bulk) on return, from Jefferson County, West Dindee, East Dindee, Henry County, West Dindee, East Dindee, Lake County, Elgin Village, Elgin, and from the state of Illinois, to points in O'Hare Airport, Bensenville, Elk Grove Village, Des Plaines, Schiller Park, and Rosemont, Ill., on the one hand, and, on the other, points in McHenry County, East Dundee, Carpentersville, Wauconda, Palatine, Prospect, Rolling Meadows, and Barrington, Ill., for 180 days. Supporting shippers: There are approximately 13 counties in and west of Arkansas, Illinois, Louisiana, Missouri, and Wisconsin. Restrictions: (1) Restricted against the transportation of commodities in bulk; (2) Restricted to traffic either originating at or destined to the plant sites and facilities of Champion International Corporation. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Meat, meat products and meat by-products and articles distributed by meat packinghouses as described in Sections A and C of Appendix 1 to the report in 61 M.C.C. 209 and 766; mayonnaise and salad dressings, frozen food, from Jersey City, N.J., and points within 25 miles thereof, to points in the state of New York, for 180 days. Supporting shippers: Simon Pure Food Products, Inc., Passaic, N.J., Delisco Food Corp., E. Rutherford, N.J.; White Packing Company, North Bergen, N.J. L. N. White & Company, Inc., New York, N.Y. Authorities send protests to: Morris H. Gross, District Supervisor, Interstate Commerce Commission, Room 3104, 341 Erie Blvd., West, Syracuse, N.Y. 13202.


No. MC 140865 (Sub-No. 1TA), filed April 21, 1975. Applicant: A. C. WRIGHT TRUCKING, INC., Route 1, P.O. Box 35, Booneville, Miss. 38829. Applicant's representative: Joe Ray Langston, 7 Downing Drive, P.O. Box 748, Booneville, Miss. 38829. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Basic slag, agricultural limestone, from Colbert, Bibb, Franklin, Shelby, and Fayette Counties, Ala., and Hardin County, Tenn., to points in Tishomingo, Alcorn, Tippah, Prentiss, Tippah, Itawamba, Lee, Union, Tishomingo, Calhoun, Chickasaw, Monroe, Lowndes, Oktibbeha, and Clay Counties, Miss.; (2) Crushed limestone and Rip-rap limestone, from Colbert, Bibb, Franklin, Tippah, Prentiss, Itawamba, and Hardin County, Tenn., to points in the state of Mississippi; (3) Rip-rap and crushed limestone and agricultural limestone, from Tishomingo County, Miss., to points in Shelby County, Tenn.; (4) Crushed gravel or rock, washed gravel or rock, clay gravel or rock, from McNaury and Hardin Counties, Tenn., to points in Alcorn, Prentiss, Lee, Union, Benton, Tishomingo, Calhoun, Chickasaw, Monroe, Lowndes, and Oktibbeha Counties, Miss., to be restricted in bulk, in dump trucks or dump trailers, for 180 days. Supporting shippers: I.M.C. Tupelo, Miss. 38801. Nichols Farm Supply, P.O. Box 1316, Tupelo, Miss. Forest Products Con­tractors, Route 1, Ecu, Miss. 38841. Southern Stone & Slag Co., Inc., 5120 Galaxie Drive, Jackson, Miss. 39206. Send protests to: Floyd A. Johnson, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 435 Federal Office Bldg., 167 North Main Street, Memphis, Tenn. 38110.

No. MC 140840 (Sub-No. 1TA), filed April 24, 1975. Applicant: R. DOUGLAS JENNINGS, doing business as BENNETT & WHITE, 517 21st Street, Greeley, Colo. 80631. Applicant's representative: Charles M. Williams, Suite 646 Metropolitan Bldg., 1612 Court Place, Denver, Colo. 80202. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: Meat scrapes, meat and bone meal, and blood meal, in bulk, from the Denver, Colo., Commercial Zone, to points in Flagstaff, Aria., Sparks, Nev.; and Pocatello, Idaho. Restricted: (1) against the transportation of the above commodities in bulk, in tank vehicles, and (2) to services restricted: (1) against the transportation of the above commodities in bulk, in dump vehicles, from Jefferson County, West Dindee, East Dindee, Henry County, West Dindee, East Dindee, Lake County, Elgin Village, Des Plaines, Schiller Park, and Rosemont, Ill., on the one hand, and, on the other, points in McHenry County, East Dundee, Carpentersville, Wauconda, Palatine, Prospect, Rolling Meadows, and Barrington, Ill., for 180 days. Supporting shippers: There are approximately 13 counties in and west of Arkansas, Illinois, Louisiana, Missouri, and Wisconsin. Restrictions: (1) Restricted against the transportation of commodities in bulk; (2) Restricted to traffic either originating at or destined to the plant sites and facilities of Champion International Corporation. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Meat, meat products and meat by-products and articles distributed by meat packinghouses as described in Sections A and C of Appendix 1 to the report in 61 M.C.C. 209 and 766; mayonnaise and salad dressings, frozen food, from Jersey City, N.J., and points within 25 miles thereof, to points in the state of New York, for 180 days. Supporting shippers: Simon Pure Food Products, Inc., Passaic, N.J., Delisco Food Corp., E. Rutherford, N.J.; White Packing Company, North Bergen, N.J. L. N. White & Company, Inc., New York, N.Y. Authorities send protests to: Morris H. Gross, District Supervisor, Interstate Commerce Commission, Room 3104, 341 Erie Blvd., West, Syracuse, N.Y. 13202.
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No. MC 140846 (Sub-No. 1 TA), filed April 23, 1975. Applicant: CENTRAL DE-
LIVERY SERVICE OF MASSACU-
SETTS INC. 125 Magazine Street, Boston, Mass. 02119. Applicant's repre-
sentative: S. Harrison Kahn, Suite 733, 20005. Authority sought to operate as a
SETTS INC., 125 Magazine Street,
by motor vehicle, over
April 23, 1975. Applicant: CENTRAL DE-
Milford and Stamford, Conn.; (2) be-
Mass., Logan Airport, Boston and Law-
and Maridan, Cheshire, Bridgeport, Bea-
cept cases), (1) between Norwood, Mass.,
rence, Mass.; (3) Between Warwick, R.I.,
pervisor, Bureau of Operations, Inter-
tests to: John B. Thomas, District Su-
supporting shipper: Polaroid Corpora-
Ave., Philadelphia, Pa. 19148. Applicant's
representative: Richard M. Ochroch,
Apt. #1, 9001 Ridge Avenue, Philadel-
by motor ve-
irregular routes, transporting: Polaroid
land instant in special round-trip operations, between
points in Elmsford, N.Y., and points in
Philadelphia, Pa., for 180 days. Support-
ing shippers: There are 13 statements of
support attached to the application
which may be examined at the Inter-
state Commerce Commission, in Wash-
ington, D.C., or copies thereof which may
be examined at the field office named be-
low. Send protests to: Robert R. Hadler, Dis-
District Supervisor, 518 Federal Bldg.
Albany, N.Y. 12297.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FED Doc.75-13213 Filed 5-8-75; 8:45 am]

FOURTH SECTION APPLICATIONS FOR
RELIEF

May 6, 1975.

An application, as summarized below, has been filed requesting relief from the
requirements of Section 4 of the Inter-
tate Commerce Act, to permit common-
 carriers, by order of the Commission, to
apply 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 applica-
tion must be prepared in accordance
with Rule 40 of the general rules of prac-
tice (49 CFR 1100.40) and filed on or be-
fore May 27, 1975.

PSA No. 42892—Iron or Steel Articles
from Minnequo, Colorado. Filed by
Trans-Continental Freight Burea,
Agent (No. 493), for interested rail car-
riers. Rates on iron and steel articles, in
carloads, as described in the application,
from Minnequo, Colorado, to points in
California taking Rate Basis 4 or 5 as
specified in the application.

Grounds for relief—Motor carri-
competition.

PSA No. 42984—Resin or Plastic
Plastics or Solvents to Cincinnati, Ohio.
Filed by Southwestern Freight Burea,
Agent (No. B-332), for interested rail car-
riers. Rates on resin or plastic plas-
carriers or solvents in tank-car loads, as
described in the application, from Bay-
port, Texas, to Cincinnati, Ohio. Grounds
for relief—Rate relationship.

Tariff—Supplement 153 to South-
western Freight Bureau, Agent, tariff
535-C, I.C.C. No. 5062. Rates are pub-
lished to become effective on June 3,
1975.

AGGREGATE-OF-INTERMEDIATES

PSA No. 43283—Iron or Steel Articles
from Minnequo, Colorado. Filed by
Trans-Continental Freight Bureau,
Agent (No. 692), for interested rail car-
riers. Rates on iron and steel articles, in
in special round-trip operations, between
points in Elmsford, N.Y., and points in
Philadelphia, Pa., for 180 days. Support-
ing shippers: There are 13 statements of
support attached to the application
which may be examined at the Inter-
state Commerce Commission, in Wash-
ington, D.C., or copies thereof which may
be examined at the field office named be-
low. Send protests to: Robert R. Hadler, Dis-
District Supervisor, 518 Federal Bldg.
Albany, N.Y. 12297.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FED Doc.75-13213 Filed 5-8-75; 8:45 am]

[AB6 Sub-No. 217; Finance Docket No.
27780]

BURLINGTON NORTHERN, INC.
Abandonment and Trackage Rights

May 6, 1975.

Upon consideration of the record in the
above-entitled proceedings, and of a
staff-prepared environmental threshold
assessment survey which is available to
the public upon request; and

It appearing, That no environmental
impact statement need be issued in these
proceedings because these proceedings
do not represent a major Federal action
significantly affecting the quality of the
human environment within the meaning of
the National Environmental Policy Act
of 1969, 42 U.S.C. §§ 4321, et seq.; and
good cause appearing therefor;

IT IS ORDERED, That this applicant be,
and it is hereby, directed to publish the
announced notice in a newspaper of general
circulation in Lancaster County, Ne-
braska, on or before May 20, 1975 and
verify to the Commission that this has
been accomplished.

And it is further ordered, That notice
of this order shall be given to the general
public by depositing a copy thereof in the
Office of the Secretary of the Commission
at Washington, D.C., and by forwarding
a copy to the Director, Office of the Fed-
eral Register, for publication in the Fed-
eral Register.

Dated at Washington, D.C., this 28th
day of April, 1975.

By the Commission, Commissioner
Tuggle.

[SEAL] ROBERT L. OSWALD,
Secretary.

BURLINGTON NORTHERN, INC., ABANDON-
MENT ACROSS OAK CREEK WEST OF
LINCOLN, IN LANCaster COUNTY, NE-
BRASKA

BURLINGTON NORTHERN, INC.—TRAFFIC
RIGHTS—OVER UNION PACIFIC RAIL-
ROAD COMPANY AT LINCOLN, LANCaster
COUNTRY, NEBRASKA

The Interstate Commerce Commission
hereby gives notice that by order dated
May 6, 1975, it has been determined
that the proposed abandonment by Bur-
nington Northern, Inc. of the Oak Creek
Bridge No. 160 and the proposed track-
age rights acquisition of Burlington
Northern over 1.2 miles of parallel Union
Pacific Railroad Company trackage, all
in Lancaster County, Nebraska, if ap-
proved by the Commission, do not con-
stitute a major Federal action signifi-
cantly affecting the quality of the human
environment within the meaning of the
National Environmental Policy Act of

FEDERAL REGISTER, VOL. 40, NO. 91—FRIDAY, MAY 9, 1975
NOTICES

1969 (NEPA), 42 U.S.C. 4321, et seq., and that preparation of a detailed environmental impact statement will not be required under section 4332 (2) (C) of the NEPA.

It was concluded, among other things, that the environmental impacts of the proposed action are considered insignificant because no traffic would be diverted from rail to motor carriers, no shippers would be affected, no land use plans would be disrupted, and the historic, ecological, safety and other environmental impacts are absent or minor. Additionally, the proposed action is consistent with Lincoln/Lancaster Railroad Transportation Safety District’s plans to improve Lincoln’s existing railroad facilities. Authorization of the proposed abandonment and trackage rights agreement would enable the removal of Burlington Northern’s rail bridge over Oak Creek by enabling rail access of Union Pacific’s pollution plan.

This determination was based upon the staff preparation and consideration of an environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202-343-2086. Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C. 20423, on or before June 19, 1975.

This negative environmental determination shall become final unless good and sufficient reason demonstrating why an environmental impact statement should be prepared for this action is submitted to the Commission by the above-specified date.

[FR Doc.75-12313 Filed 5-8-75; 8:45 am]

[AB 7 (Sub-No. 17)]

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD CO.

Abandonment Between Menomonee Falls and Merton

MAY 6, 1975.

Upon consideration of the record in the above-entitled proceeding, and of a staff-prepared environmental threshold assessment survey which is available to the public upon request, and

It appearing, That no environmental impact statement need be issued in this proceeding because this proceeding does not represent a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321, et seq.; and good cause appearing therefor:

It is ordered, That applicant be, and it is hereby directed to publish the above-specified notice in a newspaper of general circulation in Waukesha County, Wls., on or before May 20, 1975 and certify to the Commission that this has been accomplished.

And it is further ordered, That notice of this order shall be given to the general public by depositing a copy thereof in the Office of the Secretary of the Commission at Washington, D.C., and by forwarding a copy to the Director, Office of the Federal Register, for publication in the Federal Register.

Dated at Washington, D.C., this 26th day of April, 1975.

By the Commission, Commissioner Tuggle.

[SEAL] ROBERT L. OSWALD, Secretary.

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY

Abandonment Between Menomonee Falls and Merton, ALL IN WAUKESHA COUNTY, WISCONSIN

The Interstate Commerce Commission hereby gives notice that by order dated April 26, 1975, it has been determined that the proposed abandonment by the Chicago, Milwaukee, St. Paul and Pacific Railroad Company of a branch line between Menomonee Falls and Merton, a distance of 14.53 miles all in Waukesha County, if approved by the Commission, does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq., and that preparation of a detailed environmental impact statement will not be required under section 4332 (2) (C) of the NEPA.

It was concluded, among other things, that the environmental impacts of the proposed action are considered insignificant because the shift of rail traffic to motor carriers would have only minimal impacts on air, noise, and water pollution and fuel consumption. The historical/archaeological sites in the area are not expected to be affected. Recreational development and activities such as hiking and bicycle trails would benefit by the abandonment. If abandoned, the rights-of-way would be available for a line of railroad through the area or for a hiking and bicycling trail. This would be consistent with recreational developmental activities in the area.

This determination was based upon the staff preparation and consideration of an environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202-343-2086. Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C. 20423, on or before June 19, 1975.

This negative environmental determination shall become final unless good and sufficient reason demonstrating why an environmental impact statement should be prepared for this action is submitted to the Commission by the above-specified date.

[FR Doc.75-12313 Filed 5-8-75; 8:45 am]

GEORGIA NORTHERN RAILWAY CO.

Abandonment Between Pavo and Barwick, in Thomas and Brooks Counties, Georgia

MAY 6, 1975.

Upon consideration of the record in the above-entitled proceeding, and of a staff-prepared environmental threshold assessment survey which is available to the public upon request, and

It appearing, That no environmental impact statement need be issued in this proceeding because this proceeding does not represent a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321, et seq.; and good cause appearing therefor:

It is ordered, That applicant be, and it is hereby directed to publish the above-specified notice in a newspaper of general circulation in Thomas and Brooks Counties, Ga., on or before May 20, 1975 and certify to the Commission that this has been accomplished.

And it is further ordered, That notice of this order shall be given to the general public by depositing a copy thereof in the Office of the Secretary of the Commission at Washington, D.C., and by forwarding a copy to the Director, Office of the Federal Register, for publication in the Federal Register.

Dated at Washington, D.C., this 26th day of April, 1975.

By the Commission, Commissioner Tuggle.

[SEAL] ROBERT L. OSWALD, Secretary.

GEORGIA NORTHERN RAILWAY COMPANY

Abandonment Between Pavo and Barwick, in Thomas and Brooks Counties, Georgia

The Interstate Commerce Commission hereby gives notice that by order dated April 26, 1975, it has been determined that the proposed abandonment by the Georgia Northern Railway Company of its line of railroad between Pavo and Barwick, Ga., a distance of 4.6 miles, if approved by the Commission, does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq., and that preparation of a detailed environmental impact statement will not be required under section 4332 (2) (C) of the NEPA.

It was concluded, among other things, that the environmental impacts of the proposed action are considered insignificant because area environmental quality will only be degraded slightly due to increased air pollution and energy consumption resulting from diversion of rail traffic to motor carrier transport upon abandonment. Lack of direct rail service may impede local development efforts, although there are no identifiable plans...
or projects dependent upon continued rail access. There will be no effect on historic sites or recreational areas.

This determination was based upon the staff preparation and consideration of an environmental threshold assessment survey, which is available upon request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423, telephone 202-243-2036.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C. 20423, on or before June 19, 1975.

This negative environmental determination shall become final unless good and sufficient reason demonstrating why an environmental impact statement should be prepared for this action is submitted to the Commission by the above-specified date.

TEMPORARY AUTHORITY TERMINATION

The temporary authorities granted in the dockets listed below have expired as a result of final action either granting or denying the issuance of a Certificate or Permit in a corresponding application for permanent authority, on the date indicated below:

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<th>Temporary authority application</th>
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<td>MC-56344 Sub-2</td>
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ROBERT L. OSWALD, Secretary.
FEDERAL ENERGY ADMINISTRATION

IMPLEMENTATION OF ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Administrative Procedures, Coal Utilization, and New Powerplant Regulations and Intention To Issue Prohibition Orders
A notice of proposed rulemaking was issued by the Federal Energy Administration ("FEA") on February 5, 1975 (40 FR 5452) that proposed to amend Chapter II of Title 10 of the Code of Federal Regulations by the addition of the following parts: Part 303—Administration and New Powerplants. These parts would implement sections 2(a), (b) and (c) of the Energy Supply and Environmental Coordination Act of 1974 (Pub. L. 93–319) ("ESECA") relating to prohibiting certain powerplants and major fuel burning installations from burning petroleum products or natural gas as their primary energy source, and requiring certain powerplants in the early planning process to be designed and constructed to be capable of using coal as their primary energy source. Written comments were received from interested persons, to be submitted by February 18, 1975. In addition, a public hearing, at which eleven persons made oral presentations, was held on February 19, 1975. Including statements made at the public hearing, approximately 40 comments were received. All comments, including those received subsequent to February 18, have been reviewed and considered.

Certain modifications to the proposed regulations have been made, reflecting FEA consideration of these comments and presentations, as well as other information available to FEA.

**GENERAL.**

Several definitions have been changed. In response to comments received, the term "powerplant" has been modified so that it now refers to one fossil-fuel-fired steam electric generating unit that produced electric power for purposes of sale or exchange, rather than to one or more units as proposed.

ESECA excludes combined cycle units and combustion gas turbines from the category of powerplants in the early planning process to which FEA is authorized to issue construction orders. As a clarifying amendment, a definition of the term "combined cycle unit" has been added to the regulations; the term is defined to mean an electric power generation unit that consists of a combination of one or more combustion gas turbine units and one or more steam turbine units, with the required energy input of the steam turbine(s) provided by and approximately matched to the energy in the exhaust gas from the combustion turbine unit(s). Use of small amounts of supplemental firing for the steam turbine(s) is permitted from being a combined cycle unit. In addition, a definition of the term "combustion gas turbine" has been added: it is defined to mean an electric power generation unit that consists of a single-rotary engine driven by a gas under pressure that is the product of combustion of a fuel (usually natural gas or a petroleum product), with an electric power generator driven by such engine.

Several comments requested that the definition of the term "primary energy source" be expanded to permit greater use of petroleum products and natural gas. Except in the case of the comments discussed below (relating to intermittent control systems), the definition has not been expanded. The purpose of ESECA is to encourage the burning of coal to the greatest extent possible. To accomplish this, the regulations provide that the term "primary energy source" should be interpreted in a manner consistent with this purpose to permit more than the minimum use of petroleum products and natural gas specified in the regulations.

The definition of the term "primary energy source" has been expanded in one respect, in response to comments that the proposed definition did not accommodate the requirements of intermittent control systems. One aspect of ESECA's requirement is that fuel being utilized to a supply of coal with a sulfur content when necessary to assure maintenance of air quality. Although a powerplant or major fuel burning installation in many insurances could meet these requirements by switching to a supply of coal with a sulfur content lower than that usually burned, FEA has determined that in some cases the switch to the lower sulfur coal cannot be made in the short response time that may be required to meet the applicable air pollution requirements, and that the short response necessary can only be satisfied by switching to oil or natural gas, as appropriate.

FEA has therefore modified the definition of "primary energy source" to provide that the powerplant or major fuel gas in such minimum amounts as are required to enable such powerplant or installation "to comply with applicable primary standard conditions prescribed by EPA in accordance with 40 CFR 55.04 provided such minimum amounts of fuel may be used under such primary standard conditions include utilization of intermittent control systems and only during such temporary periods as use of such minimum amounts is absolutely necessary to meet the applicable intermittent control system, or other primary standard conditions relating to use of intermittent control systems, or other primary standard conditions relating to use of intermittent control systems, or other primary standard conditions relating to use of intermittent control systems, or other primary standard conditions relating to use of intermittent control systems, or other primary standard conditions relating to use of intermittent control systems, or other primary standard conditions relating to use of intermittent control systems, or other primary standard conditions relating to use of intermittent control systems, or other primary standard conditions relating to use of intermittent control systems, or other primary standard conditions relating to use of intermittent control systems, or other primary standard conditions relating to use of intermittent control systems, or other primary standard conditions relating to use of intermittent control systems, or other primary standard conditions relating to use of intermittent control systems, or other primary standard conditions relating to use of intermittent control systems, or other primary standard conditions relating to use of intermittent control systems, or other primary standard conditions relating to use of intermittent control systems, or other primary standard conditions relating to use of intermittent control systems, or other primary standard conditions relating to use of intermittent control systems, or other primary standard conditions relating to use of intermittent control systems, or other primary standard conditions relating to use of intermittent control systems, or other primary standard conditions relating to use of intermittent control systems, or other primary standard conditions relating to use of intermittent control systems, or other primary standard conditions relating to use of intermittent control systems, or other primary standard conditions relating to use of intermittent control systems, or other primary standard conditions relating to use of intermittent control systems, or other primary standard conditions relating to use of intermittent control systems, or other primary standard conditions relating to use of intermittent control systems, or other primary standard conditions relating to use of intermittent control systems.

In the proposed regulations, comment was specifically requested on the definition of the term "early planning process". In response to these comments the definition as proposed has been substantially changed. The new definition is more fully discussed below, in the portion of this preamble dealing with Part 307.

Several commentators suggested that ESECA provides authority for FEA to encourage the use of petroleum coke as a fuel for powerplants or major fuel burning installations. To accomplish this, as proposed, FEA requested the definition of "coal," be modified to include petroleum coke. This interpretation would be proscribed by ESECA, which defines coal, in section 2(e)(2), as including only "coal derived from petroleum coke by decomposition ... and not a coal derivative. By contrast, petroleum coke is a coal derivative, and not a petroleum coke. The inclusion of petroleum coke in these regulations is not possible under the existing language of ESECA. In any event, it would not advance the purposes of the Act to allow powerplants and installations to burn this petroleum product in response to prohibition orders.

**CONSIDERATION OF ENVIRONMENTAL IMPACT.**

A number of comments expressed concern that the proposed coal utilization regulations did not explain the procedures by which FEA would perform environmental impact studies of particular prohibition orders and construction orders. Comments also expressed concern that the regulations would be issued prior to close of the comment period for FEA's final programmatic environmental impact statement ("EIS") for the implementation of section 2 of ESECA.

The regulations have been revised fully to describe how FEA will consider environmental impacts of the coal utilization program and of particular prohibition orders and construction orders in a manner consistent with the National Environmental Policy Act of 1969, 42 U.S.C. 4331 et seq. ("NEPA"). Further, the regulations are being promulgated subsequent to publication of FEA's final programmatic EIS on the coal utilization program. Notice of this publication was published in the Federal Register dated April 24, 1975 (40 FR 18034).

Specifically, new sections, entitled "Consideration of Environmental Impact" have been added to Parts 306 and 307, as §§ 306.9 and 307.7. The sections describe the manner in which FEA will satisfy the objectives of NEPA prior to service of a Notice of Effectiveness for either a prohibition order or a construction order. The sections provide that:

(a) Hearings in connection with the issuance of prohibition orders shall not be held prior to publication of the final programmatic EIS, and that construction orders shall not be issued prior to such time; (b) during the period for public comment prior to issuance of a prohibition order or construction order, there will be an opportunity for interested persons to identify and comment on any site-specific environmental impacts that are likely to result from issuance of the prohibition order or construction order and that were not adequately considered in the programmatic EIS; and (c) FEA, before issuance of a Notice of Effectiveness for a prohibition or construction order, will perform an analysis of the environmental impact of the issuance of the particular order.

This analysis will result in either (1) issuance of a declaration that a specific prohibition order, construction order, or group of such orders 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 of an impact statement covering significant site-specific impacts that are likely to result from a specific prohibition order, construction order, or group of such orders, and that have not been adequately discussed in the final programmatic EIS or in other official

**RULES AND REGULATIONS.**
documents made publicly available, including those made available during the FEA proceedings prior to the issuance of those orders, or by EPA in the course of its determinations with respect to certification and notification concerning orders under section 119 of the Clean Air Act. If FEA prepares an environmental impact statement covering significant site-specific impacts from a prohibition order or construction order, or group of such orders, the statement will be prepared and published for comment in accordance with section 102(2) (C) of NEPA prior to issuance of a Notice of Effectiveness. With respect to prohibition orders, an additional public hearing to consider a draft EIS may be afforded in appropriate cases in FEA's discretion.

The approach set out in the sections discussed above is based on the conclusion that the issuance of a Notice of Effectiveness for prohibition orders and construction orders, rather than issuance of the orders themselves, is the "major Federal action for which a site-specific EIS might be required. This conclusion was based on several practical considerations. First, a prohibition order does not become a final order for purposes of NEPA until after PEA has a firm idea of what mode of pollution control the powerplant or major fuel burning installation that will be subject to a prohibition order will use. Therefore, the minimum design firing rate of 50 million Btu's per hour would be eligible for a prohibition order, if the findings required by ESECA could be made. A number of comments were received, to provide a two-step process in the issuance of construction orders. The proposed regulations provided that construction orders or a group of such orders, if an EIS is required. In addition, several other revisions have been made in the regulations, relating to consideration of environmental impacts of construction orders, or a group of such orders, if an EIS is required. The most significant change to Part 305 is the addition of §305.9, "Consideration of Environmental Impact," which is discussed above. Certain other modifications have also been made. The proposed regulations provided that a major fuel burning installation that had a design firing rate of 50 million Btu's per hour would be eligible for a prohibition order, if the findings required by ESECA could be made. A number of comments were received that a combustor with a design firing rate of 50 million Btu's per hour was too small to be issued a prohibition order, given the amount of potential fuel savings, the financial impact of the project, and the size of the combustor, and several other factors. Therefore, the minimum design firing rate has been raised to 100 million Btu's per hour in the regulations as promulgated.

There has been some modification of the findings stated in §§305.3(b) and 305.4(b). The discussion of the findings regarding "practicability" now provides that, in addition to the factors listed in the proposed regulations, FEA will evaluate the various costs in the context of the financial responsibilities of the owner of the powerplant. The finding with regard to "reliability of service" has been significantly modified. Several comments criticized the proposed finding as being too narrow. The revised language contemplates a more extended analysis of the impact of a prohibition order on the electric power dispatching system which would be defined as the powerplant itself as well as the powerplant's own fuel supply, as well as other powerplants that could be affected by the prohibition order. The definition of "impairment" has been expanded to include the possibility of loss of load to the powerplant's electric users and the energy output once a prohibition order becomes effective. The definition of "impairment" has been expanded to include the possibility of loss of load to the powerplants' electric users and the energy output once a prohibition order becomes effective. The definition of "impairment" has been expanded to include the possibility of loss of load to the powerplants' electric users and the energy output once a prohibition order becomes effective. The definition of "impairment" has been expanded to include the possibility of loss of load to the powerplants' electric users and the energy output once a prohibition order becomes effective. The definition of "impairment" has been expanded to include the possibility of loss of load to the powerplants' electric users and the energy output once a prohibition order becomes effective. The definition of "impairment" has been expanded to include the possibility of loss of load to the powerplants' electric users and the energy output once a prohibition order becomes effective. The definition of "impairment" has been expanded to include the possibility of loss of load to the powerplants' electric users and the energy output once a prohibition order becomes effective. The definition of "impairment" has been expanded to include the possibility of loss of load to the powerplants' electric users and the energy output once a prohibition order becomes effective.
While others indicated various points elsewhere, but prior to field erection of boiler steel.

FEA has determined to define the early planning process as beginning 10 years from the powerplant's planned commissioning of electric power. Ten years was chosen because much of the electric power generation industry currently is geared to planning ten years in advance of commercial operation, and given the long lead-times that are associated with the construction of an electric power generating facility, many aspects of the planning frequently are well-known at that point.

The beginning of the early planning process has been defined as the driving of the foundation piling, or the equivalent structural event, in accordance with approved final drawings for the main building or other construction work, or by the completion of the design of the powerplant. Typically, as of the time of driving of foundation piling, enough specifications and drawings have been finalized and sufficient money has been expended that the plant can no longer properly be considered in the early planning process. Any FEA-ordered major change in boiler design, after this planning process, would require approval of new drawings and specifications. The findings contained in §307.3 have been revised.

FEA has concluded that the potential uncertainties for the recipient of the order. The Notice of Effectiveness is the length of time needed to install air pollution control equipment—will take longer than the date certified by EPA as the earliest date the prohibition order can go into effect. Thus, any construction order for coal burning can be completed before the date certified by EPA.

The description of the content of a prohibition order has been revised to provide for a schedule of events and dates ("compliance schedule") that must take place by a stated date if the powerplant or major fuel burning installation is to be in compliance with the order. The compliance schedule may require that actions be taken at any time after service of the Notice of Effectiveness.

Subparts B and C—Prohibition Orders and Construction Orders. The basic procedure for issuance of prohibition orders and construction orders has not been revised.

FEA expects the public comments received in response to its determination of prohibition orders or construction orders to be an important factor in these proceedings.

As discussed above, in appropriate cases, FEA will provide additional opportunity for interested persons to comment on site-specific environmental impacts prior to issuance of the Notice of Effectiveness and will consider such comments in determining the Notice of Effectiveness. After issuance of the Notice of Effectiveness, the order can be reconsidered, if appropriate, in the modification/rescission proceeding or on appeal.
may apply for a stay of the order in connection with an appeal of such order or an application for modification/rescission.

Subpart J—Modification/rescission. The modification/rescission procedures have been changed to include the new two-step procedure for issuance of construction orders, and have been clarified in one aspect.

The modification/rescission procedure for a construction order has been modified so that now it is the same as for a prohibition order (other than the modification of a prohibition order that is applicable for the period ending prior to or on June 30, 1975 (“long-term”) to make it applicable after June 30, 1975 (“short-term”).

The subpart has been revised to make explicit FEA’s authority to modify or rescind an order or construction order on FEA’s initiative prior to issuance of a Notice of Effectiveness. This proceeding would enable FEA to address any substantial changes to the issued order or FEA’s determinations or FEA’s environmental analysis. If the purpose of this proceeding is to modify an order, the order of modification will not be immediately appealable before the OAG. If the order of modification as modified can be the subject of an appeal or application for modification/rescission once it is made effective by the Notice of Effectiveness. However, if the proceeding’s purpose is to rescind a prohibition or construction order, an order of rescission will be appealable pursuant to Subpart H immediately upon receipt. A modification/rescission proceeding prior to issuance of a Notice of Effectiveness cannot be initiated by application.

It was suggested that the order modifying or rescinding a prohibition order should contain the same information as was stated in the initial order, or in an order modifying a short-term prohibition order to make it long-term ESECA requires that certain findings be made prior to a determination of a prohibition order or a construction order (or the modification of a short-term order to make it a long-term order); it does not, however, require findings to be made in other modification/rescission proceedings. The regulations reflect this distinction. However, they do require an order issued at the conclusion of modification/rescission proceedings (other than an order making a short-term order into a long-term order), to include a written statement setting forth the pertinent facts and the legal basis for the order.

The regulations do not require that FEA request public comments through issuance of a public notice prior to issuance of an order of modification (other than for the modification of a short-term order to make it long-term) or rescission. This approach is based on the expectation that not all of these proceedings will warrant public comment. If the modification/rescission proceeding hinges on a reconsideration of any of the findings required by section 2 of ESECA, however, FEA will issue a notice of intention and invite public participation.

Miscellaneous. The section numbers have been changed for Subpart E through and including Subpart K of Part 303. Thus, Subpart E now begins at § 303.70, rather than at § 303.60 as in the proposed regulations.

The dates by which applications must be filed for prohibition orders, construction orders or for modification/rescission of short-term orders to make them long-term have been changed.

The inflationary impact of this proposal has been considered by the FEA, consistent with Executive Order 11821, issued November 27, 1974.

In consideration of the foregoing, Chapter II of Title 10 of the Code of Federal Regulations is amended as set forth below:


ROBERT E. MONTGOMERY, JR.,
General Counsel,
Federal Energy Administration.

PART 303—ADMINISTRATIVE PROCEDURES AND SANCTIONS

Chapter II of 10 Code of Federal Regulations is amended to add Part 303, which reads as follows:

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303.4 Filing of documents.
303.5 Computation of time.
303.6 Extension of time.
303.7 Service.
303.8 Subpoenas; witness fees.
303.9 FEA evaluation.
303.10 Effective date of orders.
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303.31 What to file.
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Subpart N—Conferences, Hearings, and Public Hearings

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Subpart Q—Investigations, Violations, Sanctions and Judicial Actions

303.200 Investigations.
303.201 Violations.
303.202 Sanctions.
303.203 Injunctions.

Authority: (Energy Supply and Environmental Coordination Act of 1974 (Pub. L. 93-518); Federal Energy Administration Act of 1974 (Pub. L. 93-275); EO 11790 (39 FR 23185)).

Subpart A—General Provisions

§ 303.1 Purpose and scope.

(a) Part 303 establishes the procedures to be utilized and identifies the sanctions that are available in proceedings before the Federal Energy Administration in accordance with Parts 305 and 307 of this chapter.

(b) This subpart defines certain terms and establishes procedures that are applicable to each proceeding described in this part.

§ 303.2 Definitions.

As used in this part, the term:

"Action" means an order, or modification or rescission thereof, interpretation, notice of probable violation, or ruling is issued by the FEA.

"Aggrieved", for purposes of administrative proceedings, means a person with an interest sought to be protected under FEA, unless otherwise defined in this part.

"Air pollution requirement" means any emission limitation, schedule or timetable for compliance, or other requirement, which is prescribed under any Federal, State, or local law or regulation, including the Clean Air Act (except for any requirement prescribed under subsections (c) or (d) of section 119, section 110(a)(2) (F)(v), or section 303 of such Act), and which limits stationary source emissions resulting from combustion of fuels (including a prohibition on, or specification of the use of any fuel or any type, grade, or pollution characteristic.

"Coal" includes coal derivatives.

"Combined cycle unit" means an electric power generation unit that consists of the combination of one or more combustion gas turbine units and one or more steam turbine units with the required energy input of the steam turbine(s) provided by and approximately matched to the energy in the exhaust gas from the combustion turbine unit(s). Use of small amounts of supplemental firing for the steam turbine does not preclude the unit from being a combined cycle unit.

"Combustion gas turbine" means an electric power generation unit that consists of a combination of a rotary engine driven by a gas under pressure that is created by the combustion of a fuel, usually natural gas or a petroleum product, with an electric power generator driven by such engine.

"Compliance date extension" means an extension issued by the Administrator of EPA in accordance with section 119(c) of the Clean Air Act. A written statement issued by FEA to a person who has been designated as an interested person, including prohibition orders, and construction or other requirements.

"Convocation" means an informal meeting, incident to any proceeding, between the FEA and any person aggrieved by that proceeding.

"Construction order" means a directive issued by FEA pursuant to section 2 (c) of ESECA that requires a powerplant in the early planning process to be designed and constructed to be capable of using coal as its primary energy source.

"Duly authorized representative" means a person who has been designated to appear for or on behalf of the FEA in connection with a proceeding on behalf of a person interested in or aggrieved by that proceeding. Such appearance may consist of the submission of applications, requests, statements, memoranda of law, other documents, or of a personal appearance, verbal communication, or any other participation in the proceeding.

"EPA" means the Environmental Protection Agency.


"Exemption" means a written statement issued by FEA to a person who has been designated as an interested person, including prohibition orders, and construction or other requirements.

"FEA" means the Federal Energy Administration, including the Administrator of FEA or his delegate.

"FEA" means the Federal Energy Administration, including the Administrator of FEA or his delegate.

"FEA" means the Federal Energy Administration, including the Administrator of FEA or his delegate.


"Interpretation" means a written statement issued by FEA to a person who has been designated as an interested person, including prohibition orders, and construction or other requirements.

"Interested person" includes members of the public, as well as any person with an interest sought to be protected under ESECA.

"Major fuel burning installation" means an installation or unit other than a powerplant that has or is a fossil-fuel fired boiler, burner, or other combustor of fuel, or any combination thereof at a single site, and includes any person who owns, leases, operates or controls any such installation or unit.

"Notice of effectiveness" means both a written statement issued by FEA to a person by the President or the Congress of the United States.

"Notice of probable violation" means a written statement issued to a person by the FEA that states one or more alleged violations of the provisions of Parts 305, 306, or 307 of this chapter.

"Order" means a written directive or other written communication of a written directive, if promptly confirmed in writing, issued by the FEA pursuant to Parts 305, 306 or 307 of this chapter. It may be an order issued pursuant to section 119(d) (1) of the Clean Air Act, advising such powerplant or installation of the date that a prohibition order becomes applicable to it becomes effective; and a written statement issued by FEA to a powerplant in the early planning process advising such powerplant of the date that a construction order applicable to it becomes effective.

"Person" means any association, firm, company, corporation, estate, individual, joint stock, partnership, or sole proprietorship or any other entity organized into a national holiday by the President or the Congress of the United States.

"Person" means any association, firm, company, corporation, estate, individual, joint stock, partnership, or sole proprietorship or any other entity organized into a national holiday by the President or the Congress of the United States.
(a) A parent and the consolidated and unconsolidated entities (if any) which it directly or indirectly controls.
(b) A parent and its consolidated entities.
(c) An unconsolidated entity, or
(d) A parent and its consolidated and unconsolidated entities.

"Petroleum product" means crude oil, residual fuel oil or any refined petroleum product, as that last term is defined in section 3(5) of the Emergency Petroleum Allocation Act of 1973.

"Powerplant" means a fossil-fuel fired steam electric generating unit that produces electric power for purposes of sale or exchange, and includes any person who owns, leases, operates or controls any such unit.

"Primary energy source" means, with respect to a powerplant or major fuel burning installation that utilizes a fossil-fuel, the fuel that is or will be used for all purposes except for the minimum amounts required for startup, testing, flame stabilization and control; and except for such minimum amounts required to generate each powerplant or major fuel burning installation to comply with applicable primary standard conditions prescribed by EPA in accordance with 40 CFR 55.54, provided such minimum amounts are such as are necessary to meet the terms of the primary standard conditions relating to use of intermittent control systems.

"Proceeding" means the process and activity, and any part thereof, instituted by the FEA, either on its initiative or in response to an application, complaint, petition or request submitted by a person, that may lead to an action by the FEA.

"Prohibition order" means a directive issued by FEA pursuant to sections 2(a) and (b) of ESECA that prohibits a powerplant or major fuel burning installation from burning natural gas or petroleum products as its primary energy source.

"Remedial order" means a directive issued by the FEA requiring a person to cease a violation or to eliminate or to compensate for the effects of a violation, or both.

"Rule" means an official interpretative statement of general applicability issued by the FEA General Counsel and published in the Federal Register that applies the FEA regulations to a specific set of circumstances.

"Stationary source fuel or emission limitation" means any emission limitation, schedule or timetable of compliance, or the requirement, which is prescribed under the Clean Air Act (other than sections 119, 111(b), 112, or 303) or contained in an applicable implementation plan (other than a requirement imposed under authority or authority described in section 110(a) (2) (P) (v) of such Act), and which is designed to limit, stationary source emissions resulting from combustion of fuels, including a prohibition on, or specification of, the use of any fuel of any type, grade, or pollution characteristic.

"Temporary suspension" means a suspension issued to any person by the Administrator of EPA in accordance with subpart (B) of title 30, of the order that results in the temporary suspension of any stationary source fuel or emission limitation as it applies to such person during any period beginning June 25, 1974 and ending prior to or on June 30, 1975.

"United States", when used in the geographic sense, means the several States, the District of Columbia, Puerto Rico, and the territories and possessions of the United States.

Throughout this part the use of a word or term in the singular shall include the plural and the use of the male gender shall include the female gender.

§ 303.3 Appearance before the FEA.

(a) A person may make an appearance and participate in any proceeding described in this part, or by a duly authorized representative.

(b) Suspension and disqualification. The FEA may deny, temporarily or permanently, the privilege of participating in proceedings, including oral presentation, to any individual who is found by FEA—

(1) To have made false or misleading statements, either verbally or in writing;
(2) To have filed false or materially altered documents, affidavits or other writings;
(3) To lack the specific authority to represent the person seeking an FEA action; or
(4) To have engaged in or to be engaged in contumacious conduct that substantially disrupts a proceeding.

§ 303.4 Filing of documents.

(a) Any document, including, but not limited to, an application, request, complaint, petition and other documents submitted in connection therewith, filed with the FEA under this Part 303, Part 305 or 307 of this chapter and § 303.145(a) (3), respectively, is considered to be filed when it has been received by the FEA National Office. Documents transmitted to the FEA shall be addressed as required by § 303.12. All documents and exhibits submitted become part of an FEA file and will not be returned.

(b) Notwithstanding the provisions of paragraph (a) of this section, if transmitted by registered or certified mail and addressed to the appropriate office, the following are considered to be filed upon mailing: (1) An application for a prohibition order or for a modification of a prohibition order that is applicable for a period ending prior to or on June 30, 1975 to make it applicable after June 30, 1975, or for a construction order, (2) an appeal, (3) a response to a denial of an appeal or application for modification, or modification of a prohibition order for immediate effectiveness, (4) an application for the quashing or modification of a subpoena, (5) a reply to a notice of probable violation, (7) the appeal of a remedial order or remedial order for immediate compliance, (6) a response to denial of a claim of confidentiality, or (9) a complaint submitted in connection with any proceeding.

(c) Hand-delivered documents to be filed with the Office of Exceptions and Appeals shall be postmarked by 5:00 p.m. at 2000 M Street, NW., Washington, D.C. All other hand-delivered documents to be filed with the FEA National Office shall be transmitted to Room 3309, 12th and Pennsylvania Avenue, NW., Washington, D.C.

(d) Documents received after regular business hours are deemed to have been filed on the next regular business day. Regular business hours for the FEA National Office are 8 a.m. to 4:30 p.m.

§ 303.5 Computation of time.

(a) Days (1) Except as provided in paragraph (b) of this section, in computing any period of time prescribed or allowed by these regulations or by an order of the FEA, the day the act, event, or default from which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included unless it is a Saturday, Sunday, or Federal legal holiday, in which case it runs until the end of the next day that is neither a Saturday, Sunday, nor a Federal legal holiday.
(2) Saturdays, Sundays or intervening Federal legal holidays shall be excluded from the computation of time when the period of time allowed or prescribed is 7 days or less.

(b) Hours If the period of time prescribed in an order issued by the FEA is stated in hours rather than days, the period of time shall begin to run upon actual notice of such order, whether by verbal or written communication, to the person directly affected, and shall run without interruption, unless otherwise provided in the order, or unless the order is stayed, modified, suspended or rescinded. When a written order is transmitted by verbal communication, the written order shall be served as soon thereafter as is feasible.

(c) Additional time after service by mail. Whenever a person is required to make a filing, or to take any other action hereunder, or to initiate a proceeding under this part within a prescribed period of time after issuance to such person of an
order, notice, interpretation or other document and the order, notice, interpretation or other document is served by mail. 3 days shall be added to the prescribed period.

§ 303.6 Extension of time.

When a document is required to be filed within a prescribed time, an extension of time to file may be granted by the officer with which the document is required to be filed upon good cause shown.

§ 303.7 Service.

(a) All orders, notices, interpretations or other documents required to be served under this part shall be served personally or by registered or certified mail or by regular United States mail (only when service is effected by the FEA), except as otherwise provided.

(b) Service upon a person's duly authorized representative shall constitute service upon that person.

(c) Service by registered or certified mail, or, if by FEA, by regular mail is complete when the subpoena or other document is filed with the office with which the document is required to be served, or to any officer, director, or agent in charge of any office of such person, or by mailing them by registered or certified mail to such representative at his last known address. For any method whereby actual notice is given to such representative and the fees are made available prior to the return date. If any person is an entity with offices and operations in more than one jurisdiction, such person may designate one address to which any subpoena may be served by filing such designation with the General Counsel at the address specified in §303.12.

(e) The original subpoena bearing a certificate of service shall be filed with the FEA office with the responsibility for the proceeding in connection with which the subpoena was issued.

(f) A witness subpoenaed by the FEA shall be paid the same fees and mileage as would be paid to a witness in a proceeding in the district courts of the United States. The witness fees and mileage shall be paid by the person at whose instance the subpoena was issued. 

(g) Notwithstanding the provisions of paragraph (f) of this section, and upon request, the witness fees and mileage shall be paid by the FEA when it is shown that:

(1) The presence of the subpoenaed witness will materially advance the proceeding.

(2) The person at whose instance the subpoena was issued would suffer a serious hardship if required to pay the witness fees and mileage. The designated FEA official issuing the subpoena shall make the determination required by this paragraph.

(h) (1) Any person to whom a subpoena is directed may, prior to the time specified therein for compliance, but in no event more than 10 days after the date of service of the subpoena, apply to the designated FEA official who issued the subpoena, or if he is unavailable, to the Administrator of FEA, to quash or modify such subpoena. The application shall contain a brief statement of the reasons relied upon in support of the action sought therein.

(2) The Administrator of FEA or such other designated FEA official specified in Subpart N of this chapter has the authority to:

(i) Deny the application, (ii) quash or modify the subpoena, or (iii) condition the denial or granting of the application to quash or modify the subpoena upon the satisfaction of certain just and reasonable requirements. Such denial may be summary.

(i) If there is a refusal to obey a subpoena served upon any person under the provisions of this section, the FEA may request the Attorney General to seek the aid of the District Court of the United States for any district in which such person is found to compel such person, after notice, to appear and give testimony, or to appear and produce the subpoenaed documents before the agency, or both.

§ 303.9 General filing requirements.

(a) Purpose and scope. The provisions of this section shall apply to all documents required or permitted to be filed with the FEA.

(b) Signing. All applications, petitions, requests, appeals, complaints, comments, or any other documents that are required to be signed shall be signed by the person filing the document or a duly authorized representative. Any application, petition, request, or any other document filed by a duly authorized representative shall contain a statement by such person certifying that he is a duly authorized representative, unless an FEA form otherwise requires.

§ 303.8 Subpoenas; witness fees.

An application, petition, complaint, appeal or other request for action by the FEA shall state whether the information sought shall be available prior to the return date. If any person is an entity with offices and operations in more than one jurisdiction, such person 2 may designate one address to which any subpoena may be served by filing such designation with the General Counsel at the address specified in §303.12.

(e) The original subpoena bearing a certificate of service shall be filed with the FEA office with the responsibility for the proceeding in connection with which the subpoena was issued.

(f) A witness subpoenaed by the FEA shall be paid the same fees and mileage as would be paid to a witness in a proceeding in the district courts of the United States. The witness fees and mileage shall be paid by the person at whose instance the subpoena was issued. 

(g) Notwithstanding the provisions of paragraph (f) of this section, and upon request, the witness fees and mileage shall be paid by the FEA when it is shown that:

(1) The presence of the subpoenaed witness will materially advance the proceeding.

(2) The person at whose instance the subpoena was issued would suffer a serious hardship if required to pay the witness fees and mileage. The designated FEA official issuing the subpoena shall make the determination required by this paragraph.

(h) (1) Any person to whom a subpoena is directed may, prior to the time specified therein for compliance, but in no event more than 10 days after the date of service of the subpoena, apply to the designated FEA official who issued the subpoena, or if he is unavailable, to the Administrator of FEA, to quash or modify such subpoena. The application shall contain a brief statement of the reasons relied upon in support of the action sought therein.

(2) The Administrator of FEA or such other designated FEA official specified in Subpart N of this chapter has the authority to:

(i) Deny the application, (ii) quash or modify the subpoena, or (iii) condition the denial or granting of the application to quash or modify the subpoena upon the satisfaction of certain just and reasonable requirements. Such denial may be summary.

(i) If there is a refusal to obey a subpoena served upon any person under the provisions of this section, the FEA may request the Attorney General to seek the aid of the District Court of the United States for any district in which such person is found to compel such person, after notice, to appear and give testimony, or to appear and produce the subpoenaed documents before the agency, or both.
§ 303.10 Effective date of orders.

(a) Any order issued by the FEA under Part 303, 305 or 307 of this chapter, except a prohibition order (or modification thereof) or a construction order as stated in paragraph (b) of this section, is effective as against all persons having actual notice of the order upon issuance, in accordance with its terms, unless and until it is stayed, modified, suspended, or rescinded. Such order is deemed to be issued on the date, as specified in the order, on which it is signed by an authorized representative of FEA, unless the order provides otherwise.

(b) (1) A prohibition order or the modification of a prohibition order that is applicable for a period ending prior to or on June 30, 1975 to make it applicable after June 30, 1975 shall not become effective until after June 30, 1975. Such order becomes effective after June 30, 1975 only if such a prohibition order applicable for a period after June 30, 1975 or held prior to modification of a prohibition order applicable for a period after June 30, 1975 or held prior to modification of a prohibition order applicable for a period after June 30, 1975 shall not become effective after June 30, 1975 unless and until it is signed by an authorized representative of FEA.

(2) Construction order shall not become effective before certain action by FEA, in accordance with § 307.5 of this chapter, and service by FEA upon the affected powerplant of a "Notice of Effectiveness" in accordance with § 305.7 of this chapter. A construction order or Notice of Effectiveness is deemed to be issued on the date, as specified in the order or notice, on which it is signed by an authorized representative of FEA.

§ 303.11 Order of precedence.

If there is any conflict or inconsistency between the provisions of this part and any other provisions of Parts 305 or 307 of this chapter, the provisions of this part shall control with respect to procedures for the filing by any powerplant of a "Notice of Effectiveness," in accordance with § 305.9 of this chapter, and service by FEA upon the affected powerplant of a "Notice of Effectiveness" in accordance with § 305.7 of this chapter. A prohibition order or Notice of Effectiveness is deemed to be issued on the date, as specified in the order or notice, on which it is signed by an authorized representative of FEA.

§ 303.12 Addresses for filing documents with the FEA.

(a) (1) All applications, requests, petitions, appeals, reports, FEA forms, written communications and other documents to be submitted to or filed with the FEA National Office in accordance with § 303.7 of this chapter shall be addressed as follows: Office of the General Counsel, Code OFU, Attn: (Name of person to receive document, if known, and/or labeling as specified in § 303.9(c)), Washington, D.C. 20461.

(2) The FEA National Office has facilities for the receipt of transmissions via TWX and FAX. (The FAX is a 3M full duplex 4 or 6 minute (automatic) machine.)

FAX NUMBERS

(202) 254-6175
(301) 254-8161

TWX NUMBERS

(710) 823-9454
(710) 823-9459

(b) Documents for which a specific address number is not provided in accordance with paragraphs (c)–(e) of this section shall be addressed as follows: Federal Energy Administration, Code OFU, Attn: (Name of person to receive document, if known, and/or labeling as specified in § 303.8(c)), Washington, D.C. 20461.

(c) Documents to be filed with the Office of Exceptions and Appeals, as provided in this part or otherwise, shall be addressed as follows: Office of Exceptions and Appeals, Federal Energy Administration, Attn: (Name of person to receive document, if known, and/or labeling as specified in § 303.9(c)), Washington, D.C. 20461.

§ 303.13 Public docket room.

There shall be made available at the public docket room of FEA National Office, 12th and Pennsylvania Avenue, NW, Washington, D.C., for public inspection and copying:

(a) A copy of all persons who have applied for an exception, an exemption, or an appeal, and a digest of each application;

(b) Each decision and statement setting forth the relevant facts and legal basis of an order, with confidential information deleted, issued in response to an application for an exception or exemption or at the conclusion of an appeal;

(c) The written comments received from interested persons in connection with issuance of prohibition orders, or modification or rescission thereof, if applicable, or construction orders, with a verbatim transcript of the public hearing held prior to issuance of a prohibition order applicable for a period after June 30, 1975 or held prior to modification of a prohibition order for a period ending prior to or on June 30, 1975 to make it applicable for a period after June 30, 1975;

(d) The comments received during each rulemaking proceeding, with a verbatim transcript of the public hearing, if such a public hearing was held; and

(e) Any other information required by statute to be made available for public inspection and copying, and any information that the FEA determines should be made available to the public through display in the public docket room.

§ 303.14 Office of Private Grievances and Redress.

Petitions that seek special remedies, relief or other extraordinary assistance apart from or in addition to the procedures and other procedures described in this part, including those petitions based on an assertion that the FEA is not complying with the FEAA, ESCEA, FEA regulations, orders, rules, or otherwise, shall be filed with Subpart R of Part 206 of this chapter.

Subpart B—Prohibition Orders

§ 303.30 Purpose and scope.

(a) This subpart establishes the procedures for the filing of any powerplant...
or major fuel burning installation of an application for a prohibition order that is applicable for a period ending either prior to or on June 30, 1975, or for a period ending after June 30, 1975, which application shall be filed only by a powerplant or major fuel burning installation. (The procedure for filing an application for modification of a prohibition order that is applicable for a period ending prior to or on June 30, 1975, or for a period ending after June 30, 1975, which application shall be filed only by a powerplant or major fuel burning installation. (The procedure for filing an application under this subpart shall be as such both on the application and on the outside of the envelope in which the application is transmitted, and shall be in writing and shall accompany the filing of the application. The applicant shall comply with the general filing requirements stated in § 303.9 in addition to the requirements stated in this subpart.

(b) Application may be made in the case of a powerplant for an individual powerplant or for combinations thereof at a single site, and in the case of a major fuel burning installation, for an individual fossil-fuel-fired boiler, burner or other combustor of fuel, or for combinations thereof at a single site. The application should specify the powerplant (or powerplants) or combustor (or combustions of combustors) with respect to which application is being made.

(c) If the applicant wishes to claim confidential treatment for any information contained in the application or other documents submitted under this subpart, the procedures set out in § 303.9(f) shall apply.

§ 303.32 Where to file.

All applications for a prohibition order shall be filed with the FEA National Office at the address provided in § 303.12.

§ 303.33 When to file.

All applications for prohibition orders shall be filed by June 1, 1975.

§ 303.34 Notice.

(a) Prohibition orders that are applicable for a period ending prior to or on June 30, 1975. Prior to issuance of a prohibition order that is applicable for a period ending prior to or on June 30, 1975, either in response to an application or on its initiative, FEA shall publish notice of the intention to issue such order in the Federal Register and shall serve a copy of such notice on the powerplant or major fuel burning installation that would be affected by the proposed order. The notice shall describe the proposed action, statement content of the proposed prohibition order and provide a period of no less than 10 days from the date of its publication in which interested persons may file written data, views and arguments.

(b) Prohibition orders applicable after June 30, 1975. Prior to issuance of a prohibition order that is applicable after June 30, 1975, either in response to an application or on its initiative, FEA shall publish notice of the intention to issue such order in the Federal Register and shall serve a copy of such notice on the powerplant or major fuel burning installation that would be affected by the proposed order. The notice shall describe the proposed action, state the content of the proposed prohibition order and provide a period of no less than 10 days from the date of its publication in which interested persons may file written data, views or arguments, and shall set a date, time and place at which there shall be an opportunity for interested persons to make oral presentation of data, views and arguments in accordance with Subpart N of this part.

§ 303.35 Contents.

(a) The application shall contain a full and complete statement of all relevant facts pertinent to the aspects of the application and to the FEA action sought. Such facts shall include the names and addresses of all affected persons (if reasonably ascertainable) and a full discussion of the pertinent provisions and relevant facts contained in the documents submitted with the application. Copies of all relevant contracts, agreements, leases, instruments, and other documents shall be submitted with the application. In addition to such information, the application shall include the following information:

(1) Description of applicant, including but not limited to, location, electric power and/or energy output, fuels utilized and rate of use thereof, and, in the case of a powerplant, the identification of the electric power dispatching systems with which the powerplant is interconnected and the capability of such dispatching system to support the proposed action or the refurbishing of necessary individual equipment components as well as the time necessary to build an adequate coal inventory.

(2) Information regarding the applicant’s capability to burn coal as of June 22, 1974, and an identification and description of any plant equipment or facilities necessary to the burning of coal that the applicant would have had to acquire or refurbish to render the powerplant capable of burning coal on that date.

(3) Identify the type of coal (Btu/lb., percent sulfur, percent ash, percent volatile matter, and ash slugging/sintering characteristics) used as the applicant’s original specification coal; the source from which the applicant now obtains or will obtain such coal; and the means of transporting such coal to the applicant.

(4) Identify the maximum and minimum values for other types of coal (Btu/lb., percent sulfur, percent ash, percent volatile matter, ash slugging/sintering characteristics) compatible with applicant’s design tolerances: the source from which the applicant now obtains or will obtain such coal; and the means of transporting such coal to the applicant.

(5) Identify any anticipated acquisition or refurbishing of coal handling and firing equipment, such as boilers, unloaders, conveyors, burners, air heaters, feeders, ash handling, stack and control systems, etc. (only those equipment that are necessary to return coal burning capability to such powerplant. (“Reliability of service” and “impairment” are defined in § 305.3(b) (4) of this chapter.)

(6) An estimate of the anticipated effect that denial of the application would have on the applicant’s operation.
(12) Any other information that the applicant believes would be pertinent to FEA's evaluation of the application.

(13) A certification by the applicant's chief executive officer or his duly authorized representative of the accuracy of the information stated in the application.

(b) The applicant shall state whether he requests or intends to request that there be a conference regarding the application and, if not, whether the request or intention was received by FEA. If a request is made, it shall issue either a prohibition order or an order denying the application.

(1) The prohibitions stated in prohibition orders that are applicable for a period ending prior to or on June 30, 1975 shall not become effective until the date stated in the prohibition order by the Administrator of EPA pursuant to section 119(d) (1) of the Clean Air Act, as appropriate, and (ii) until FEA has served the affected powerplant or major fuel burning installation with a Notice of Effectiveness. Such order shall not become effective for any period certified by the Administrator of EPA pursuant to section 119(d) (3) (B) of the Clean Air Act.

(2) The prohibitions stated in prohibition orders that are applicable after June 30, 1975 shall become effective on the date stated in the prohibition order by the Administrator of EPA pursuant to section 119(d) (1) of the Clean Air Act, as appropriate, and (ii) until FEA has served the affected powerplant or major fuel burning installation with a Notice of Effectiveness. Such order shall not become effective until the date stated in the prohibition order by the Administrator of EPA pursuant to section 119(d) (3) (B) of the Clean Air Act.

(2) If the FEA determines that there is insufficient information upon which to base a decision and if upon request the applicant does not supply additional information within 30 days after the service of such notice, the FEA may dismiss the application without prejudice. If the failure to supply additional information is repeated or willful, the FEA may dismiss the application without prejudice.

(3) Applications for prohibition orders filed after June 1, 1975 shall be dismissed automatically.

(c) The prohibition order or the order denying an application for a prohibition order shall include a written statement of the pertinent facts, a statement of the legal basis upon which the order is issued, and the order is a prohibition order, a recitation of the conclusions regarding the findings to be made by FEA in accordance with §§305.3 (b) or 305.4 (b) of this chapter as appropriate, and a summary of the rationale for each. The order shall provide that it is not a final agency action and that if any person aggrieved thereby files an appeal such appeal must be filed with the FEA Office of Exceptions and Appeals in accordance with Subpart H of this part, except that an order dismissing the application for a prohibition order filed after June 1, 1975 shall state that it is a final order and that the order shall be subject to judicial review. A prohibition order shall provide that the prohibitions stated therein shall become effective on the date stated in the Notice of Effectiveness, which date shall not be earlier than the service of such notice, and that it will not be effective for any period certified by the Administrator of EPA pursuant to section 119(d) (3) (B) of the Clean Air Act. The date stated in the prohibition order shall, in either of the following cases:

(1) the date EPA determines in accordance with section 119(d) (1) (B) of the Clean Air Act, or (2) the termination of the period that FEA determines is required to acquire or refurbish equipment, purchase or construct a modification, burning, other than equipment or facilities necessary to comply with the Clean Air Act, whichever date is later. The prohibition order shall state that within 90 days after its issuance, the affected powerplant or major fuel burning installation must (3) make application to the FEA for a compliance date extension or (4) if such powerplant or installation is not eligible for a compliance date extension, it must provide such other information as EPA may by regulation require. The prohibition order may include a schedule of events that must take place before the affected powerplant or major fuel burning installation can be able to comply with the prohibitions stated in the prohibition order by the date stated in the Notice of Effectiveness. Any request not made at the conference shall be in accordance with such notice.

(3) Upon receipt of notification or certification by the Administrator of EPA, in accordance with the procedure described in subparagraphs (1) and (2) of this paragraph, the FEA may issue a Notice of Effectiveness. The date stated in the prohibition order by the Administrator of EPA under this subpart that will be applicable to it and (ii) until FEA has taken the actions described in §305.9 of this chapter and has served the affected powerplant or major fuel burning installation a Notice of Effectiveness. Such order shall not be effective during any period certified by the Administrator of EPA under section 119 (d) (3) (B) of the Clean Air Act.

(4) of the Clean Air Act. The date stated in the prohibition order by the Administrator of EPA under this subpart that will be applicable to it and (ii) until FEA has taken the actions described in §305.9 of this chapter and has served the affected powerplant or major fuel burning installation a Notice of Effectiveness. Such order shall not be effective during any period certified by the Administrator of EPA under section 119 (d) (3) (B) of the Clean Air Act.

(5) Upon receipt of notification or certification by the Administrator of EPA, in accordance with the procedure described in subparagraphs (1) and (2) of this paragraph, the FEA may issue a Notice of Effectiveness. The date stated in the prohibition order by the Administrator of EPA under this subpart that will be applicable to it and (ii) until FEA has taken the actions described in §305.9 of this chapter and has served the affected powerplant or major fuel burning installation a Notice of Effectiveness. Such order shall not be effective during any period certified by the Administrator of EPA under section 119 (d) (3) (B) of the Clean Air Act.

(6) The FEA shall serve a copy of the prohibition order, or of the order denying or dismissing the application for a prohibition order, upon the applicant and, if the action was initiated by FEA, upon the affected powerplant or major fuel burning installation, and any other person who participated in the proceeding by filing written comments or making oral presentation. Notice of issuance of a Notice of Effectiveness for a prohibition order shall be published in the Federal Register, and, in addition, such notice shall be served on the affected powerplant or major fuel burning installation. Any request not made at the conference shall be in accordance with such notice.

(c) The prohibition order or the order denying an application for a prohibition order shall include a written statement of the pertinent facts, a statement of the legal basis upon which the order is issued, and the order is a prohibition order, a recitation of the conclusions regarding the findings to be made by FEA in accordance with §§305.3 (b) or 305.4 (b) of this chapter as appropriate, and a summary of the rationale for each. The order shall provide that it is not a final agency action and that if any person aggrieved thereby files an appeal such appeal must be filed with the FEA Office of Exceptions and Appeals in accordance with Subpart H of this part, except that an order dismissing the application for a prohibition order filed after June 1, 1975 shall state that it is a final order and that the order shall be subject to judicial review. A prohibition order shall provide that the prohibitions stated therein shall become effective on the date stated in the Notice of Effectiveness, which date shall not be earlier than the service of such notice, and that it will not be effective for any period certified by the Administrator of EPA pursuant to section 119(d) (3) (B) of the Clean Air Act. The date stated in the prohibition order shall, in either of the following cases:

(1) the date EPA determines in accordance with section 119(d) (1) (B) of the Clean Air Act, or (2) the termination of the period that FEA determines is required to acquire or refurbish equipment, purchase or construct a modification, burning, other than equipment or facilities necessary to comply with the Clean Air Act, whichever date is later. The prohibition order shall state that within 90 days after its issuance, the affected powerplant or major fuel burning installation must (3) make application to the FEA for a compliance date extension or (4) if such powerplant or installation is not eligible for a compliance date extension, it must provide such other information as EPA may by regulation require. The prohibition order may include a schedule of events that must take place before the affected powerplant or major fuel burning installation can be able to comply with the prohibitions stated in the prohibition order by the date stated in the Notice of Effectiveness. Any request not made at the conference shall be in accordance with such notice.

(3) Upon receipt of notification or certification by the Administrator of EPA, in accordance with the procedure described in subparagraphs (1) and (2) of this paragraph, the FEA may issue a Notice of Effectiveness. The date stated in the prohibition order by the Administrator of EPA under this subpart that will be applicable to it and (ii) until FEA has taken the actions described in §305.9 of this chapter and has served the affected powerplant or major fuel burning installation a Notice of Effectiveness. Such order shall not be effective during any period certified by the Administrator of EPA under section 119 (d) (3) (B) of the Clean Air Act.

(4) of the Clean Air Act. The date stated in the prohibition order by the Administrator of EPA under this subpart that will be applicable to it and (ii) until FEA has taken the actions described in §305.9 of this chapter and has served the affected powerplant or major fuel burning installation a Notice of Effectiveness. Such order shall not be effective during any period certified by the Administrator of EPA under section 119 (d) (3) (B) of the Clean Air Act.

(5) Upon receipt of notification or certification by the Administrator of EPA, in accordance with the procedure described in subparagraphs (1) and (2) of this paragraph, the FEA may issue a Notice of Effectiveness. The date stated in the prohibition order by the Administrator of EPA under this subpart that will be applicable to it and (ii) until FEA has taken the actions described in §305.9 of this chapter and has served the affected powerplant or major fuel burning installation a Notice of Effectiveness. Such order shall not be effective during any period certified by the Administrator of EPA under section 119 (d) (3) (B) of the Clean Air Act.
Rows and regulations

appeal of such prohibition order shall be suspended until 30 days after an order has been filed in accordance with Subpart J or until 30 days from the date on which such powerplant or major fuel burning installation may treat that appeal as being denied in all respects.

d. That no application for a construction order shall be denied on the grounds that a determination is not made in accordance with administrative remedies until an appeal has been filed pursuant to Subpart H of this part and the appellate proceedings is completed by the issuance of an order denying or affirming the appeal, except that an order dismissing an application for a prohibition order that was filed after June 1, 1975 shall be a final order of which there may be judicial review.

Subpart C—Construction Orders

§ 303.40 Purpose and scope.

(a) This subpart establishes the procedures for the filing by a powerplant (other than a combustion gas turbine or combined cycle unit) in the early planning process of an application for a construction order.

(b) A proceeding for issuance of a construction order shall be commenced by FEA on its initiative or in response to an application. Sections 303.44, 303.46, 303.47, 303.48 shall be applicable to the proceeding regardless of the manner in which the proceeding is initiated. Other sections of this subpart apply only to proceedings commenced in response to an application.

§ 303.41 What to file.

(a) A powerplant filing under this subpart shall file an "Application for Construction Order" which should be clearly labeled as such both on the envelope in which the application is transmitted and signed by the person filing the application. The applicant shall comply with the general requirements stated in §303.9 in addition to the requirements stated in this subpart.

(b) Application may be made for an individual powerplant or for combinations of powerplants at a single site. The application should specify the powerplant or powerplants with respect to which the application is being made.

c. If the applicant wishes to claim confidential treatment for any information contained in the application or other documents submitted under this subpart, the procedures set out in §303.9(f) shall apply.

§ 303.42 Where to file.

All applications for construction orders shall be filed with the FEA National Office at the address provided in §303.15.

§ 303.43 When to file.

(a) All applications for construction orders must be filed by June 1, 1975. 

§ 303.44 Notice.

Prior to issuance of a construction order, either in response to an application or on its initiative, FEA shall publish notice of the intention to issue such order in the Federal Register and shall serve a copy of such notice on the powerplant that would be affected by the proposed order. The notice shall describe the proposed action, state the contents of the procedures to be followed, and provide a period of no less than 10 days from the date of publication in which interested persons may file written data, views and arguments.

§ 303.45 Contents.

(a) The application shall contain a full and complete statement of all relevant facts pertaining to the subject of the application and the FEA action sought. Such facts shall include the names and addresses of all affected persons (reasonably ascertainable) and a full discussion of the pertinent provisions and relevant facts contained in the documents submitted with the application. Copies of all relevant contracts, agreements, leases, instruments, and other documents shall be submitted with the application. In addition to such information, the application shall include the following information:

(1) Description of applicant's proposed powerplant, including, but not limited to, location, energy output, fuels to be utilized and rate of use thereof, the identification of the electric power dispatching system with which the powerplant will be interconnected, the reliability council that would have jurisdiction of the powerplant, projected monthly peak loads for the electric power dispatching system with which the powerplant will be interconnected, the non-interconnectable electrical capacity and energy resources of such system for the three years following the date the powerplant commences the sale or exchange of electric power, and the stage in the early planning process that the powerplant has reached at time of application.

(2) A description of the modifications to the design and construction of the powerplant, if any, required to render it capable of using coal as its primary energy source, if such capability currently is not planned.

(3) An analysis of the likelihood that use of coal would result in the impairment of reliability or adequacy of service, as such terms are defined in §307.3(c) of this chapter.

(4) Identify the type of coal (Btu/lb., percent sulfur, percent ash, percent volatile matter, and ash slagging/sintering characteristics) that is the powerplant's design specification coal; the source from which the applicant anticipates that it will be able to obtain such coal and its susceptibility to interruption and the method by which such coal would be transported to the powerplant.

(5) The identification and description of any contractual commitments for the design or construction of the powerplant and an analysis of the impact, if any, (taking into account the considerations stated in §307.3(d) of this chapter) of the requirement that the powerplant be designed and constructed to be capable of using coal as its primary energy source.

(6) An analysis of the capability of the powerplant to recover any increase in projected capital investment that might be required as a result of a construction order.

(7) The identification of any loss of revenue resulting from a delay, if any, in the commencement of the sale or exchange of electric power by the powerplant so that electric power will have to be purchased from another powerplant, resulting from a construction order.

(8) The identification of any relevant regulations or policies of any State or local agency with jurisdiction over the sale or exchange of electric power by powerplants.

(9) An estimate of the anticipated effect that denial of the application would have on the applicant's proposed operation.

(10) Any other information that the applicant believes would be pertinent to FEA's evaluation of the application.

(b) The applicant shall state whether he requests or intends to request that there be a conference regarding the application. Any request not made at the time the application is filed shall be made as soon thereafter as possible, to insure that the conference is held when it is most beneficial. The request and FEA's determination concerning it shall be made in accordance with Subpart N of this part, which determination is in FEA's discretion.

§ 303.46 FEA evaluation.

(a) Processing: (1) The FEA may initiate an investigation of any statement in an application or any other document submitted to it and may utilize in its evaluation any relevant facts obtained by such investigation. The FEA may accept, solicit or request submissions from third persons relevant to any application or other document provided that the applicant is afforded an opportunity to respond to all relevant third person submissions, except that the affected powerplant's opportunity to respond to written comments in response to a notice of intention to issue an order shall be in accordance with such notice. In evaluating an application or other documents, FEA may conduct its own investigation and consider any other source of information. The FEA on its initiative may convene a conference, if, in its discretion, it considers that such conference will assist its evaluation of the application.

(2) If the FEA determines that there is insufficient information upon which to base a decision and if upon request the necessary additional information is not submitted by the applicant, FEA may dismiss the application without prejudice. If the failure to supply additional information is repeated or willful, the FEA may dismiss the application with prejudice.

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§ 303.47 Decision and order.

(a) Upon consideration of an application for a construction order or other relevant information received or obtained during the proceeding, the FEA shall issue either a construction order or an order denying the application.

(b) Construction orders, whether issued in response to an application or on FEA’s initiative, shall not become effective until FEA has taken the actions described in § 307.7 of this chapter and has served the affected powerplant a Notice of Effectiveness.

(c) The construction order, or the order denying an application for a construction order, shall include a written statement of the pertinent facts, a statement of the legal basis upon which the order is issued, and when the order is a construction order, a recitation of the findings and conclusions regarding the findings to be made by FEA in accordance with § 307.3 and (c) of this chapter, as appropriate, and a summary of the rationale for each. The order shall provide that it is not a final agency action and that if anyone aggrieved thereby files an appeal, such appeal must be filed with the FEA Office of Exceptions and Appeals in accordance with Subpart H of this part.

(d) A request for an interpretation or any other specific action which includes, or could be construed to include, an application for an exception may be treated solely as a request for an interpretation or other action, and processed as such by FEA.

(e) The filing of an application for an exception shall not constitute grounds for non-compliance with the requirements of the regulation, ruling or generally applicable requirement based on an assertion of serious hardship, inequity or unfair distribution of burdens and for the consideration of such application by the FEA.

Subpart D—[Reserved]

Subpart E—Exception

§ 303.70 Purpose and scope.

(a) This subpart establishes the procedures for applying for an exception from a regulation, ruling or generally applicable requirement based on an assertion of serious hardship, inequity or unfair distribution of burdens and for the consideration of such application by the FEA.

(b) A request for an interpretation or any other specific action which includes, or could be construed to include, an application for an exception may be treated solely as a request for an interpretation or other action, and processed as such by FEA.

(c) The filing of an application for an exception shall not constitute grounds for non-compliance with the requirements of the regulation, ruling or generally applicable requirement based on an assertion of serious hardship, inequity or unfair distribution of burdens and for the consideration of such application by the FEA.

Subpart F—Effectiveness

§ 303.72 Where to file.

All applications for exception shall be filed with the Office of Exceptions and Appeals at the address provided in § 303.12.

§ 303.73 Notice.

(a) The applicant shall send by United States mail a copy of the application and any subsequent amendments or other documents relating to the application, or a copy from which confidential information has been deleted in accordance with § 303.8(f), to each person who is reasonably ascertainable by the applicant as a person who will be affected by the FEA action sought. The copy of the application shall be accompanied by a statement that the person may submit comments regarding the application to the FEA Office of Exceptions and Appeals within 10 days of service of such application.

The application filed with the FEA shall include certification to the FEA that the applicant has complied with the requirements of this subsection and shall include the names and addresses of each person to whom a copy of the application was sent.

(b) Notwithstanding the provisions of paragraph (a) of this section, if an applicant determines that compliance with paragraph (a) of this section would be impracticable, the applicant shall:

(1) Comply with the requirements of paragraph (a) of this section with regard to those persons whom it is reasonable and practicable to notify; and

(2) Include with the application a description of the persons or class or classes of persons to whom notice was not sent.

The FEA may require the applicant to provide additional or alternative notice, or may determine that the notice required by paragraph (a) of this section is not practicable, or may determine that the notice should be published in the Federal Register.

(c) The FEA shall serve notice on any other person readily identifiable by the FEA as one who will be aggrieved by the FEA action sought and may serve notice on any other person that written comments regarding the application will be accepted if filed within 10 days of service of such notice.

(d) Any person submitting written comments to the FEA with respect to an application filed under this subpart shall send a copy of the comments, or a copy from which confidential information has been deleted in accordance with § 303.8(f), to the applicant. The person shall certify to the FEA that he has complied with the requirements of this paragraph. The FEA may notify other persons participating in the proceeding of such comments and provide an opportunity for such persons to respond.

(e) At regular intervals, the FEA shall publish a list of all persons who have applied for an exception under this subpart, with a brief description of the factual situation and the relief requested.

§ 303.74 Contents.

(a) The application shall contain a full and complete statement of all relevant facts pertaining to the circumstances, act or transaction that is the subject of the application and to the FEA action sought. Such facts shall include...
the names and addresses of all affected persons (if reasonably ascertainable); a complete statement of the business or other transactions that are the subject of the application; a description of the acts or transactions that would be affected by the requested action; and a full discussion of the pertinent provisions and requirements contained in the documents submitted with the application.

Copies of all relevant contracts, agreements submitted with the application.

relevant facts contained in the document and that would be affected by the requesting action; and a full discussion of the pertinent provisions and requirements contained in the documents submitted with the application.

(a) Upon consideration of the application and other relevant information received or obtained during the proceeding, the FEA shall issue either granting or denying the application.

(b) The order shall include a written statement setting forth the pertinent facts and the legal basis upon which the order is issued. A copy of each order, with such modification as is necessary to assure the confidentiality of information protected from disclosure under 18 U.S.C. 1905 and 5 U.S.C. 552, will be placed in the public docket described in §303.13. If such copy contains information that has been claimed by an applicant or other person to be confidential, notice of the FEA's intention to place such copy in the docket room and an opportunity to respond shall be given to such person no less than five days prior to its placement in such room. The Office of Exceptions and Appeals shall publish periodically a digest of all orders issued.

§303.77 Timeliness.

(a) When the FEA has received all substantive information deemed necessary to process an application filed under this subpart, the FEA shall serve notice of that fact upon the applicant and all other persons who received notice of the proceeding pursuant to the provisions of §303.73; and if the FEA fails to take action on the application within 90 days of serving such notice, the applicant may treat the application as having been denied in all respects and may appeal therefrom as provided in this subpart.

(b) Notwithstanding the provisions of paragraph (a) of this section, if the FEA fails to take action on the application within 150 days from the filing of the application, the applicant may treat it as having been denied in all respects and may appeal therefrom as provided in this subpart.

§303.78 Appeal.

Any person aggrieved by an order issued by the FEA under this subpart may file an appeal with the FEA Office of Exceptions and Appeals in accordance with Subpart H of this part. The appeal must be filed within 30 days of service of the order from which the appeal is taken or within 30 days of the date on which the applicant can treat the application as being denied in all respects.

There has not been an exhaustion of administrative remedies until an appeal has been filed pursuant to Subpart H of this part and the appellate proceeding is completed by the issuance of an order granting or denying the appeal.

Subpart F—Exception

§303.80 Purpose and scope.

This subpart establishes the procedures for filing an application for exception and the consideration of such application. The appeal is not subject to the procedures of Subpart M of this part. If a rulemaking proceeding is convened, however, it shall be held in accordance with Subpart M of this part.

§303.81 Procedures.

(a) An application may be filed by amendment to the regulations. Although an application for an exemption is a request for a rulemaking, the application is not subject to the procedures of Subpart M of this part. If a rulemaking proceeding is convened, however, it shall be held in accordance with Subpart M of this part.

(b) The application shall be submitted separate and apart from any other application, appeal, petition or request submitted in accordance with this part. If an application for exception is included with any other application, appeal, petition or other request, the application for exemption will not be processed, nor will it be severed for separate consideration.

§303.82 What to file.

An application for exception shall be filed with the Office of Exceptions and Appeals at the address provided in §303.12.

§303.83 Where to file.

An application for exemption shall be filed with the Office of Exceptions and Appeals at the address provided in §303.12.

§303.84 Contents.

The application shall contain a full and complete statement of all relevant facts pertaining to the circumstances, acts or transactions that are the subject of the application and to the FEA action sought. The application shall identify the part or subparts thereof of this chapter from which the exemption is sought; describe the business or other reason that would justify such exemption; identify the persons or classes of persons affected; and describe the acts or transactions that would be aggrieved or affected by such exemption and describe the adverse impact; describe the benefit to the person making the application or others, that would result if the exemption were effected; and explain the reasons why the action sought by the application cannot be accomplished by any

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other proceeding provided in this part. Upon request, the applicant shall submit copies of relevant contracts, agreements, leases, instruments, and other documents that are representative of those that would be affected by the granting of the requested exemption.

§ 303.85 FEA evaluation.

(a) Processing. All applications for exemption shall be evaluated by FEA to determine if the institution of a rulemaking proceeding is warranted and if the FEA action sought by the applicant could more appropriately be considered in any other proceeding provided by this part. The FEA may initiate an investigation of any statement in an application or any other document submitted to it and may utilize in its evaluation any relevant facts obtained by such investigation. The FEA may solicit or accept submissions from third persons relevant to any application for exemption or other document provided that the person making the request is afforded an opportunity to respond to all relevant third person submissions other than written comments or oral presentations in response to a rulemaking. In evaluating an application or other document, the FEA may conduct its own investigation and consider any other source of information.

(b) Criteria. (1) Rulemaking proceedings for the purpose of considering an application for exemption will be instituted only if the FEA in its discretion determines that such a proceeding would be appropriate. Among the factors that the FEA will evaluate in making a determination with respect to a rulemaking are—

(i) The order shall include a written statement setting forth the pertinent facts and legal basis upon which the order is based. The order denying an application shall state that any person aggrieved thereby may file an appeal with the Office of Exceptions and Appeals in accordance with Subpart H of this part.

(ii) The order taking an appeal may be appropriate. Among the factors that the FEA will evaluate in making a determination as to the propriety of an appeal therefrom are—

(a) The request shall contain a full and complete statement of all relevant facts pertaining to the circumstances, acts or transactions that are the subject of the request and to the FEA action sought. Such facts shall include the names and addresses of all affected persons (if reasonably ascertainable) and a full discussion of the pertinent provisions and relevant facts contained in the documents submitted with the request.

(b) The act or transaction referred to in the request shall include a discussion of all relevant authorities, including, but not limited to, FEA and EPA rulings, regulations, interpretations and decisions on appeals and exceptions relied upon to support the particular interpretation sought therein.

§ 303.86 Decision and order.

(a) Upon consideration of the application and other relevant information received or obtained during the proceeding, the FEA shall issue an appropriate order. If the application is not denied, the order shall provide for publication of a notice of proposed rulemaking regarding the application in the FEDERAL REGISTER.

Subpart G—Interpretation

§ 303.90 Purpose and scope.

(a) This subpart establishes the procedures for the filing of a formal request for an interpretation and for the consideration of such request by the FEA. Interpretations shall be in writing and shall only be issued by the FEA General Counsel. Responses, which may include oral or written responses, to general inquiries or to other than formal written requests for interpretations filed with the General Counsel are not interpretations and merely provide general information.

(b) A request for interpretation that includes, or could be construed to include, an application for an exception or an exemption may be treated solely as a request for interpretation and processed as such.

§ 303.91 What to file.

(a) A person filing under this subpart shall file a “Request for Interpretation (ESECA)” which should be clearly labeled as such on the request and on the outside of the envelope in which the request is transmitted, and shall be in writing and signed by the person filing the request. The person filing the request shall comply with the general filing requirements stated in § 303.9 in addition to the requirements stated in this subpart.

(b) If the person filing the request wishes to claim confidential treatment for any information included in the request or other documents submitted under this subpart, the procedures set out in § 303.9(f) shall apply.

§ 303.92 Where to file.

A request for interpretation shall be filed with the General Counsel at the address provided in § 303.12.

§ 303.93 Contents.

(a) The request shall contain a full and complete statement of all relevant facts pertaining to the circumstances, acts or transactions that are the subject of the request and to the FEA action sought. Such facts shall include the names and addresses of all affected persons (if reasonably ascertainable) and a full discussion of the pertinent provisions and relevant facts contained in the documents submitted with the request.

(b) The request shall include a discussion of all relevant authorities, including, but not limited to, FEA and EPA rulings, regulations, interpretations and decisions on appeals and exceptions relied upon to support the particular interpretation sought therein.

§ 303.94 FEA evaluation.

(a) Processing. (1) The FEA may initiate an investigation of any statement in a request or any other document submitted to it and may utilize in its evaluation any relevant facts obtained by such investigation. The FEA may solicit or accept submissions from third persons relevant to any application for exemption or other document provided that the person making the request is afforded an opportunity to respond to all relevant third person submissions other than written comments or oral presentations in response to a rulemaking. In evaluating an application or other document, the FEA may conduct its own investigation and consider any other source of information.

(b) Criteria. (1) Rulemaking proceedings for the purpose of considering an application for exemption will be instituted only if the FEA in its discretion determines that such a proceeding would be appropriate. Among the factors that the FEA will evaluate in making a determination with respect to a rulemaking are—

(i) The order shall include a written statement setting forth the pertinent facts and legal basis upon which the order is based. The order denying an application shall state that any person aggrieved thereby may file an appeal with the Office of Exceptions and Appeals in accordance with Subpart H of this part.

(ii) The order taking an appeal may be appropriate. Among the factors that the FEA will evaluate in making a determination as to the propriety of an appeal therefrom are—

(a) The request shall contain a full and complete statement of all relevant facts pertaining to the circumstances, acts or transactions that are the subject of the request and to the FEA action sought. Such facts shall include the names and addresses of all affected persons (if reasonably ascertainable) and a full discussion of the pertinent provisions and relevant facts contained in the documents submitted with the request.

(b) The act or transaction referred to in the request shall include a discussion of all relevant authorities, including, but not limited to, FEA and EPA rulings, regulations, interpretations and decisions on appeals and exceptions relied upon to support the particular interpretation sought therein.
(2) The FEA shall take into consideration previously issued interpretations dealing with the same or related issue.

§ 303.95 Decision and effect.

(a) Upon consideration of the request for interpretation and other relevant information received or obtained during the proceeding, the General Counsel may issue a written interpretation.

(b) The interpretation shall contain a written statement of the information upon which reliance was placed, a statement of and conclusions regarding the application of rulings, regulations, and other provisions to the situation presented in the request.

(c) Only those persons to whom an interpretation is specifically addressed and other persons upon whom the FEA serves the interpretation and who are directly involved in the same transaction or act may rely upon it. No person entitled to rely upon an interpretation shall be subject to civil or criminal penalties stated in Subpart Q of this part for any act made in reliance upon the interpretation, notwithstanding that the interpretation shall thereafter be declared invalid by judicial or other competent authority to be invalid.

(d) FEA at any time may rescind or modify an interpretation on its initiative. Rescission or modification may be effected by notifying persons entitled to rely on the interpretation that it is rescinded or modified. This notification shall include a statement of the reasons for the rescission or modification and, in the case of a modification, a restatement of the interpretation as modified.

(e) An interpretation is modified by a subsequent amendment to the regulations or ruling to the extent that it is inconsistent with the amended regulation or ruling.

§ 303.96 Appeal.

Any person aggrieved by an interpretation issued by the FEA under this subpart may file an appeal with the FEA Office of Exceptions and Appeals in accordance with Subpart H of this part. The appeal must be filed within 30 days of service of the interpretation from which the appeal is taken. There has not been an exhaustion of administrative remedies unless an appeal has been filed pursuant to Subpart H and the appellate proceeding is completed by the issuance of an order granting or denying the appeal.

Subpart H—Appeal

§ 303.100 Purpose and scope.

(a) This subpart establishes the procedures for the filing of an administrative appeal of FEA actions taken under Subparts B, C, E, F, G, J, K, or P of this part and the consideration of such appeal.

(b) A person who has appeared before the FEA in connection with a matter arising under Subparts B, C, E, F, G, J, K, or P of this part has not exhausted his administrative remedies until an appeal has been filed under this subpart and an order granting or denying the appeal has been issued.

§ 303.101 Who may file.

Any person aggrieved by an order or interpretation issued by the FEA under Subpart H and the appellate proceeding is completed by the issuance of an order granting or denying the appeal may file an appeal.

§ 303.102 What to file.

(a) A person filing under this subpart shall file an "Appeal of Order (ESEA)" or an "Appeal of Interpretation (ESEA)" which shall be clearly labeled as such both on the appeal and on the outside of the envelope in which the appeal is transmitted, and shall be in writing and signed by the person filing the appeal. The appellant shall comply with the general filing requirements stated in § 303.9 (other than § 303.9(e), as provided in § 303.105(e)) in addition to the requirements stated in this subpart.

(b) If the appellant wishes to claim confidential treatment for any information or other documents submitted under this subpart, the procedures set out in § 303.9(f) shall apply.

§ 303.103 Where to file.

The appeal of an order or interpretation shall be filed with the Office of Exceptions and Appeals at the address provided in § 303.12.

§ 303.104 When to file.

The time within which an appeal must be filed shall be uniform for any action or construction order, the time before which an appeal must be filed, is stated in the appeals section of each subpart, unless a subpart describes a proceeding for which there is not an administrative appeal.

§ 303.105 Notice.

(a) The appellant shall send by United States mail a copy of the appeal and any other documents relating to the appeal, or a copy from which confidential information has been deleted in accordance with § 303.9(2), to each person who is directly involved in the proceeding, or who may be directly involved in the proceeding, or who may be an "Appealant to provide additional or alternative notice, or may determine that the notice required by paragraph (a) of this section is not impracticable, or may determine that notice should be published in the Federal Register. With respect to the appeal of a construction order, a prohibition order, or the modification or rescission of a prohibition order or construction order as a result of significantly changed circumstances that occurred during the interval between issuance of a prohibition or construction order and service to Notice of Effectiveness, FEA shall provide notice of the appeal of those orders by publication in the Federal Register. Such notice shall state that aggrieved persons shall have 10 days from publication of the notice to file written comments regarding the appeal.

(b) The FEA shall serve notice on any other person reasonably identifiable by the FEA as one who will be aggrieved by the action sought, including those persons to whom a copy of the appeal will be sent.

§ 303.106 Contents.

(a) The appeal shall contain a concise statement of the grounds upon which it is brought and a description of the relief sought. It shall include a discussion of all relevant authorities, including, but not limited to, FEA rulings, regulations, interpretations and decisions on appeals and exceptions relied upon to support the appeal.

(b) An appeal of a prohibition order, of an order modifying a prohibition order that is applicable for the period ending prior to or on June 30, 1975 to make it applicable after June 30, 1975, or of a construction order may not contain an assertion of significantly changed circumstances, as defined in this subpart, as modified in § 303.156(b).

(c) An assertion of significantly changed circumstances relating to such orders should be made pursuant to Subpart K of this part.

(d) If the appeal (other than the appeal of a prohibition order, of the modi-
ffication of a prohibition order applicable for a new enforcement period to end on June 30, 1975 to make it applicable after June 30, 1974, or of a construction order) includes a request for relief based on significantly changed circumstances, that affects both the order or interpretation and the date of the events, acts, or transactions that comprise the significantly changed circumstances, and the appellant shall state why, if the significantly changed circumstances is new or newly discovered facts, such facts were not or could not have been presented during the prior proceeding. For purposes of this subpart, the term "significant transformed circumstances" shall mean:

(i) The discovery of material facts that were not known or could not have been known at the time of the prior proceeding;

(ii) A substantial change in the facts or circumstances upon which an outstanding and continuing order or interpretation affecting the appellant was issued, which change has occurred during the interval between issuance of the order or interpretation and the date of the appeal and was caused by forces or circumstances beyond the control of the appellant.

(b) A copy of the order or interpretation that is the subject of the appeal shall be submitted with the appeal.

(c) The appellant shall state whether to the best of his knowledge the same or a related issue, act or transaction that is the subject of the appeal has been or presently is being considered or investigated by any FEA or EPA office, other Federal agency, department or instrumentality; or by a state or municipal agency or court; or by any law enforcement agency, including, but not limited to, a consideration or investigation in connection with an FEA proceeding described in this part, other than the proceeding from which the appeal is taken, or under Subpart A of 40 CFR Part 55 (which states the EPA regulations implementing section 3 of ESSEA). In addition, the appellant shall state whether contact has been made by the appellant or a person acting on his behalf with any person who is employed by the FEA and subsequent to a notice of the order or interpretation that is being appealed with regard to the issue, act or transaction that is the subject of the appeal; the name of the person contacted; whether the contact was verbal or in writing; the nature and substance of the contact; and the date or dates of the contact. An appellant shall file with this paragraph in lieu of § 303.9(e) the following:

(d) The appellant shall state whether he requests or intends to request that there be a conference or hearing regarding the appeal. Any request not made at the time the appeal is filed shall be made as soon thereafter as possible, to insure that the conference or hearing is held when it will be most beneficial. The request and the FEA's determination regarding compliance with Subpart N of this part, which determination is within FEA's discretion.

§ 303.107 FEA evaluation.

(a) Procedures. (1) The FEA may initiate an investigation of any statement in an appeal or any other document submitted to it and may utilize in its evaluation the information obtained by such investigation. The FEA may solicit or accept submissions from third persons relevant to any appeal or other document provided that the appellant is afforded an opportunity to respond to all relevant third person submissions. In evaluating an appeal or other document, the FEA may conduct its own investigation and consider any other source of information. The FEA may convene a conference or hearing if, in its discretion, it considers that such conference or hearing will advance its evaluation of the appeal.

(b) If the FEA determines that there is insufficient information upon which to base a decision and if, upon request, the necessary additional information is not submitted, the FEA may dismiss the appeal with prejudice. If the appellant fails to provide the notice required by § 303.105, the FEA may dismiss the appeal without prejudice.

(c) Failure to satisfy requirements: (1) If the appellant fails to satisfy the requirements of paragraph (b)(1) of this section, the FEA may issue an order summarily denying the appeal. The order shall state the grounds for the denial and a copy of the order shall be served upon the person who participated in the appellate proceeding.

(ii) The order denying the appeal shall become a final order of the FEA within 10 days of its service upon the appellant, unless within such 10-day period an amendment to the appeal that corrects the deficiencies identified in the order is filed with the Office of Exceptions and Appeals.

(iii) Within 10 days of the filing of such amendment, as provided in paragraph (b)(1) of this section, the FEA shall notify the appellant whether the amendment corrects the specified deficiencies. If the amendment does not correct the deficiencies, that notice shall be an order dismissing the appeal as amended. Such order shall be a final order of the FEA to which the appellant may seek judicial review.

(b) Criteria. (1) An appeal may be summarily denied if—

(i) It is not filed in a timely manner, unless good cause is shown; or

(ii) The appeal is in its face for failure to state, and to set forth in detail the facts and legal argument in support thereof, that the FEA action was erroneous in fact or in law, or that it was arbitrary or capricious;

(2) The FEA may deny any appeal if the appellant does not establish that—

(i) The appeal was filed by a person aggrieved by an FEA action;

(ii) The FEA action was erroneous in fact or in law; or

(iii) The FEA's action was arbitrary or capricious. The denial of an appeal shall be a final order of FEA of which the appellant may seek judicial review.

§ 303.108 Decision and order.

(a) Upon consideration of the appeal and any relevant information provided or obtained during the proceeding, the FEA shall enter an appropriate order, which may include the modification of the order or interpretation that is the subject of the appeal.

(b) The order shall include a written statement setting forth the pertinent facts and the legal basis of the order. The order shall state that it is a final order of FEA of which the appellant may seek judicial review.

(c) The FEA shall serve a copy of the order upon the appellant, any other person who participated in the appellate proceeding, the person whom the FEA determined to be aggrieved, and any other person reasonably identifiable by the FEA as one who is aggrieved by such order.

(d) A copy of each order, with such modification as is necessary to insure the confidentiality of information protected from disclosure under 18 U.S.C. 1965 and 5 U.S.C. 552, will be filed in the public docket room described in § 303.13. If such copy contains information that has been claimed by an appellant or other person to be confidential, notice of the FEA's intention to place a copy in the public docket room and an opportunity to respond shall be given to such person no less than five days prior to its placement in such room.

§ 303.109 Appeal of a remedial order.

The appeal of a remedial order shall be heard only by persons who receive notice of the stated in this subpart, except:

(a) The appeal must be filed within 10 days of the service of the remedial order; and

(b) If the appeal is of a remedial order that was issued subsequent to a notice of probable violation that relates to an order or interpretation previously issued by the FEA, with respect to which there was an exhaustion of administrative remedies, no issues will be considered on the current appeal that were raised in that prior proceeding.

(c) If an issue raised on an appeal of a remedial order is also being considered in connection with any other EPA proceeding, the FEA may consolidate such issues and consider them in the appellate proceeding for the remedial order.

§ 303.110 Timeliness.

(a) When the FEA has received all substantive information deemed necessary to process any appeal filed under this subpart, the FEA shall serve notice of such information on the appellant and all other persons who receive notice of the proceeding pursuant to the provisions of FEDERAL REGISTER, VOL. 46, NO. 91—FRIDAY, MAY 9, 1975.
in all respects and may seek judicial review thereof.

(b) Notwithstanding the provisions of paragraph (a) of this section, if the FEA fails to take action on the appeal within 120 days of the filing of the appeal, the appellant may treat it as having been denied in all respects and may seek judicial review thereof.

(c) If a powerplant or major fuel burning installation, as appropriate, applies for a modification or rescission of a prohibition order or a construction order in accordance with Subpart J of this part, any appeal of the prohibition order or construction order that is the subject of such application shall be suspended until 30 days after an order has been issued in Subpart J of this part or until 30 days from the date on which the powerplant or major fuel burning installation may treat that application for modification or rescission as being denied in all respects pursuant to Subpart J of this part. The 120-day period provided in paragraph (b) of this section shall be suspended during the period the appeal is stayed.

Subpart I—Stay

§ 303.120 Purpose and scope.

This subpart establishes the procedures for the application for and granting of a stay by the FEA. An application for a stay will only be considered—

(a) Incident to or pending an appeal from an order of the FEA;

(b) Incident to an application for an exception from the application of any FEA regulations, rulings, or generally applicable requirements pending judicial review thereof.

§ 303.121 What to file.

(a) A person filing under this subpart shall file an "Application for Stay (ESECA)" which should be clearly labeled as both on the application in which the application is transmitted and on the outside of the envelope in which the application is transmitted, and shall be in writing and signed by the person filing the application. The applicant shall comply with the general filing requirements stated in § 303.9 in addition to the requirements stated in this subpart.

(b) If the applicant wishes to claim confidential treatment for any information contained in the application or other documents submitted under this subpart, the procedures set out in § 303.9(f) shall apply.

§ 303.122 Where to file.

(a) An application for stay of an FEA order incident to an appeal from such order shall be filed with the Office of Exceptions and Appeals at the address provided in § 303.12.

(b) An application for stay of the application of any or all FEA regulations, rulings, or generally applicable requirements incident to an application for an exception therefrom shall be filed with the Office of Exceptions and Appeals at the address provided in § 303.12.

(c) An application for stay of an issued and effective prohibition order or a construction order shall be filed with the FEA National Office at the address provided in § 303.12.

(d) An application for stay of an FEA order or of the application of any FEA regulations, rulings or generally applicable requirements is denied; or an order is denied; or the FEA action is suspended under Subpart A of this part or until 30 days from the date of comments; and if the FEA fails to take action on the appeal within 90 days of serving the comments, the applicant may treat the appeal as having been denied in all respects and may seek judicial review thereof.

Subpart J—Stay

§ 303.123 Notice.

(a) When administratively feasible, the FEA shall notify each person reasonably identifiable by the FEA as one who would be affected by the FEA action sought that the applicant has filed for a stay and that the FEA will accept written comments on the application.

(b) Any person submitting written comments to the FEA with respect to an application filed under this subpart shall send a copy of the comments, or a copy from which confidential information has been deleted in accordance with § 303.9 of the application, to the Office of Exceptions and Appeals at the address specified in § 303.124(c).

(c) The applicant shall certify to the FEA that it has complied with the requirements of this paragraph. The FEA may make a decision on an application or any other document the FEA action sought. Such facts shall be filed with the FEA and EPA actions relevant to the proceedings.

§ 303.125 FEA evaluation.

(a) Processing. (1) The FEA may initiate an investigation of any statement in an application or any other document submitted to it for the purpose of evaluating any relevant facts obtained by such investigation. The FEA may solicit or accept submissions from third persons relevant to any application or any other document, the FEA may conduct its own investigation and consider any other source of information. The FEA on its initiative may convene a conference, if, in its discretion, it considers that such conference will advance its evaluation of the FEA National Office.

(2) The FEA shall process applications for stay as expeditiously as possible. When administratively feasible, the FEA shall grant or deny the application for stay within 10 business days after receipt of the application.

(3) The FEA shall process applications for stay as expeditiously as possible. When administratively feasible, the FEA shall grant or deny the application for stay within 10 business days after receipt of the application.

(4) Notwithstanding the provision for notice to third persons in § 303.123(a), the FEA may make a decision on an application for stay prior to the receipt of written comments.

(b) Criteria. The grounds for granting a stay are a showing that there is a reasonable likelihood that the stay will result in a more immediate special hardship, inequity or unfair distribution of burdens to the applicant than to the other persons affected by the proceeding.

(1) A showing that irreparable injury will result in the event that the stay is denied.

(2) A showing that denial of the stay will result in a more immediate special hardship, inequity or unfair distribution of burdens to the applicant than to the other persons affected by the proceeding.

(3) A showing that it would be desirable for public policy or other reasons to preserve the status quo ante pending a decision on the merits of the appeal, exception, modification or rescission; or

(4) A showing that it is impossible for the applicant to fulfill the requirements of the original order.

§ 303.126 Decision and order.

(a) Upon consideration of the application and all relevant information received or obtained during the proceeding, the FEA shall issue an order granting or denying the stay.

(b) The order shall include a written statement setting forth the relevant facts and the legal basis of the decision, and the terms and conditions of the stay.

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(c) The FEA shall serve a copy of the order upon the applicant, any other person who participated in the proceeding and upon any other person reasonably identifiable by FEA as one who is aggrieved by the order.

(d) The grant or denial of a stay is not an order of the FEA subject to administrative review.

(e) In its discretion and upon a determination that such is in accordance with the objectives of the regulations and the FEA or ESECA, the FEA may order a stay on its own initiative.

Subpart J—Modification or Rescission of Prohibition Orders and Construction Orders

§ 303.130 Purpose and scope.

(a) This subpart establishes the procedures for the filing by any powerplant or major fuel burning installation of an application for modification or rescission of a prohibition order or a construction order.

(b) A proceeding for modification or rescission of a prohibition order or a construction order may be commenced by the FEA in response to an application or upon its initiative. A proceeding commenced on FEA's initiative may be begun by FEA at any time after FEA has issued a prohibition order or construction order. Sections 303.134, 303.136, 303.137, and 303.138 shall be applicable to the proceeding regardless of the manner in which the proceeding was initiated. Other sections of this subpart apply only to a proceeding commenced in response to an application.

§ 303.131 What to file.

(a) A powerplant or major fuel burning installation filing under this subpart shall file an "Application for Modification (or Rescission) of Prohibition Order (or Construction Order)" which shall be clearly labeled as such, using the applicable terms, both on the application and on the outside of the envelope in which the application is transmitted, and shall be in writing and signed by the person filing the application. The application shall comply with the general filing requirements stated in § 303.9 in addition to the requirements stated in this subpart.

(b) If the applicant wishes to claim confidential treatment for any information contained in the application or other documents submitted under this subpart, the procedures stated in § 303.9(f) shall apply.

§ 303.132 Where to file.

An application for modification or rescission shall be filed with the FEA National Office at the address provided in § 303.12.

§ 303.133 When to file.

(a) Prohibition orders. (1) An application for modification of a prohibition order that is applicable for the period ending prior to or on June 30, 1975 to make it applicable after June 30, 1975 shall be filed by May 15, 1975.

(2) An application for modification or rescission of a prohibition order based on significantly changed circumstances, which circumstances occurred during the interval between issuance of the order and service of a Notice of Effectiveness, shall be filed within 30 days of such service.

(b) Construction orders. (1) An application for modification or rescission of a construction order based on significantly changed circumstances, which circumstances occurred during the interval between issuance of the order and service of a Notice of Effectiveness, shall be filed within 30 days of such service.

(2) An application for modification or rescission of a construction order based on significantly changed circumstances other than those stated in subparagraph (1) of this paragraph may be filed at any time after the Notice of Effectiveness is served.

§ 303.134 Notice.

(a) Prohibition order applicable for a period ending prior to or on June 30, 1975. (1) Prior to issuance of an order modifying or rescinding a prohibition order that is applicable for a period ending prior to or on June 30, 1975 (other than the modification described in subparagraph (2) of this paragraph), either in response to an application or on its initiative, FEA may publish notice of the intention to take any such action in the Federal Register and shall serve a copy of such notice on the powerplant or major fuel burning installation that would be affected by the proposed order. Any such notice shall describe the proposed action and provide a period of no less than 10 days from date of publication in which interested persons may file written data, views and arguments.

(2) Prior to issuance of an order modifying a prohibition order that is applicable for a period ending prior to or on June 30, 1975, either in response to an application or on its initiative, FEA shall publish notice of the intention to take such action in the Federal Register and shall serve a copy of such notice on the powerplant or major fuel burning installation that would be affected by the proposed order. Such notice shall describe the proposed action, state the content of the prohibition order as it is proposed to be modified and provide a period of no less than 10 days from the date of its publication in which interested persons may file written data, views or arguments, and shall set a date, time and place at which there shall be an opportunity for interested persons to make oral presentation of data, views and arguments in accordance with Subpart N of this part.

(b) Prohibition orders applicable after June 30, 1975. Prior to issuance of an order modifying or rescinding a prohibition order that is applicable after June 30, 1975, either in response to an application or on its initiative, FEA may publish notice of the intention to take such action in the Federal Register and shall serve a copy of such notice on the powerplant or major fuel burning installation that would be affected by the proposed order. Any such notice shall describe the proposed action and provide a period of no less than 10 days from date of publication in which interested persons may file written data, views or arguments.

(c) Construction orders. Prior to issuance of an order modifying or rescinding a construction order, either in response to an application or on its initiative, FEA may publish notice of the intention to take such action in the Federal Register and shall serve a copy of any such notice on the powerplant that would be affected by the proposed order. Any such notice shall describe the proposed action and provide a period of no less than 10 days from date of publication in which interested persons may file written data, views or arguments.

(d) If FEA on its initiative commences a proceeding for the modification or rescission of a prohibition order and does not publish in the Federal Register prior to the commencement of the proceeding, it shall give notice, either by service of a written notice or by verbal communication, which communication shall be promptly confirmed in writing, to each person notified to file a written response or give a verbal communication, that such procedure shall be promptly confirmed in writing.

§ 303.135 Contents.

(a)(1) An application (other than an application for modification of a prohibition order that is applicable for the period ending prior to June 30, 1975 to make it applicable after June 30, 1975) shall contain a full and complete statement of all relevant facts pertaining to the circumstances, acts or transactions that are the subject of the application and to the FEA action sought. Such facts shall include the names and addresses of all affected persons (if reasonably ascertainable); a description of the acts or transactions that would be affected by the requested action; and a full description of the pertinent provisions and relevant facts contained in any relevant documents. Copies of all contracts, agreements, leases, instruments, and other documents relevant to the application shall be submitted to the FEA upon its request. A copy of the prohibition order or construction order of which modification or rescission is sought shall be included with the application.

(2) The application referred to in subparagraph (1) of this paragraph shall fully describe the events, acts, or transactions that comprise the significantly changed circumstances as defined in § 303.131(a). The date upon which the application for modification or rescission of a prohibition order or construction order is based. The application shall state why, if
the significantly changed circumstance is new or newly discovered facts, such facts were not or could not have been presented during the prior proceeding.

(b) An application for modification of a prohibition order that is applicable for a period ending prior to or on June 30, 1975 to make it applicable after June 30, 1975 shall contain the information required to be submitted by § 303.35(a).

(c) The applicant shall state whether he requests or intends to request that there be a conference regarding an application (other than an application for modification of an order that is applicable for a period ending prior to or on June 30, 1975 to make it applicable after June 30, 1975). Any request not made at the time the application is filed shall be made as soon thereafter as possible, to insure that the conference is held when it will be most beneficial. The request and the FEA's determination regarding it shall be made in accordance with Subpart N of this part, which determination is in FEA's discretion.

§ 303.136 FEA evaluation.

(a) Processing.

(1) The FEA may initiate an investigation and enter upon an application or any other document submitted to it and may utilize in its evaluation any relevant facts obtained by such investigation. The FEA may solicit or accept submissions from persons relevant to any application for modification or rescission or other document. Provided, That the applicant is afforded an opportunity to respond to all relevant third person submissions, except that the affected powerplant or major fuel burning installation's opportunity to respond to written comments or oral presentations in response to a notice of intention to modify or rescind any portion of such order or service of a Notice of Effectiveness, or occurred during the interval after service of a Notice of Effectiveness and prior to the application for modification or rescission of a prohibition order, and was caused by forces or circumstances beyond the control of the applicant.

(2) The FEA may on its initiative convene a conference. If, in its discretion, it considers that such will enhance its evaluation of the application.

(2) If the FEA determines that there is insufficient information upon which to base a decision and if upon request the necessary additional information is not submitted, the FEA may dismiss the application without prejudice. If the failure to supply additional information is repeated or willful, the FEA may dismiss the application with prejudice.

(3) The FEA may take a decision with respect to modification of a prohibition order that is applicable for a period ending prior to or on June 30, 1975 to make it applicable after June 30, 1975, either in response to an application or on its initiative, shall depend on whether FEA can make the findings stated in § 305.3 (b) or § 305.4(b) of this chapter, as appropriate, and shall include, as applicable, a consideration of the factors stated in §§ 305.3(d) and 305.4 (c) and (d) of this chapter.

(4) The FEA may make a decision with respect to modification or rescission of a prohibition order or a construction order, other than the modification described in subparagraph (1) of this paragraph, either in response to an application on its initiative, shall be based on a determination that there are significantly changed circumstances. For purposes of this paragraph, the term "significantly changed circumstances" shall mean—

(i) The discovery of material facts that were not known or could not have been known at the time of the proceeding and action upon which the application is based—in particular, (A) those that would substantially affect the findings made by FEA in accordance with §§ 305.3(b), 305.4(b), or § 307.3(b) and (c) of this chapter, or the factors considered in determining the order, as described in §§ 305.4 (c) and (d), 307.3 (d) of this chapter; and (B) those developed pursuant to actions taken by FEA pursuant to § 305.9 and 307.1 of this chapter.

(ii) There has been a substantial change in the facts or circumstances upon which was based an outstanding and continuing prohibition order or, construction order, which change occurred during the interval between issuance of such order and service of a Notice of Effectiveness, or occurred during the interval after service of a Notice of Effectiveness and prior to the application for modification or rescission of a prohibition order, and was caused by forces or circumstances beyond the control of the applicant.

§ 303.137 Decision and order.

(1) If the appropriate order is a modification of a prohibition order that is applicable for a period ending prior to or on June 30, 1975, such order shall not become effective until (A) the Administrator of EPA certifies pursuant to section 119(d) (1) (B) of the Clean Air Act the earliest date that the affected powerplant or major fuel burning installation will be able to comply with all applicable requirements of such section and the Administrator of EPA certifies pursuant to the actions described in § 305.9 of this chapter and has served the affected powerplant or major fuel burning installation a Notice of Effectiveness. Upon receipt of notification or certification by the Administrator of EPA, in accordance with the procedures described in this paragraph, FEA may issue a Notice of Effectiveness.

(2) Prohibition orders as modified shall not be effective during any period certified by the Administrator of EPA under section 119(d) (3) (B) of the Clean Air Act.

(c) The FEA may on its initiative, shall be based on a determination that there are significantly changed circumstances. For purposes of this paragraph, the term "significantly changed circumstances" shall mean—

(i) The discovery of material facts that were not known or could not have been known at the time of the proceeding and action upon which the application is based—in particular, (A) those that would substantially affect the findings made by FEA in accordance with §§ 305.3(b), 305.4(b), or § 307.3(b) and (c) of this chapter, or the factors considered in determining the order, as described in §§ 305.4 (c) and (d), 307.3 (d) of this chapter; and (B) those developed pursuant to actions taken by FEA pursuant to § 305.9 and 307.1 of this chapter.

(ii) There has been a substantial change in the facts or circumstances upon which was based an outstanding and continuing prohibition order or, construction order, which change occurred during the interval between issuance of such order and service of a Notice of Effectiveness, or occurred during the interval after service of a Notice of Effectiveness and prior to the application for modification or rescission of a prohibition order, and was caused by forces or circumstances beyond the control of the applicant.

§ 303.137 Decision and order.

(a) Upon consideration of the application and other relevant information received or obtained during the proceeding, the FEA shall issue an appropriate order. Provided, That the applicant is afforded an opportunity to respond to all relevant third person submissions, except that the affected powerplant or major fuel burning installation's opportunity to respond to written comments or oral presentations in response to a notice of intention to modify or rescind any portion of such order or service of a Notice of Effectiveness, or occurred during the interval after service of a Notice of Effectiveness and prior to the application for modification or rescission of a prohibition order, and was caused by forces or circumstances beyond the control of the applicant.

(b) If the appropriate order is a modification of a prohibition order that is applicable for a period ending prior to or on June 30, 1975, such order shall not become effective until (A) the Administrator of EPA certifies pursuant to section 119(d) (1) (B) of the Clean Air Act the earliest date that the affected powerplant or major fuel burning installation will be able to comply with all applicable requirements of such section and the Administrator of EPA certifies pursuant to the actions described in § 305.9 of this chapter and has served the affected powerplant or major fuel burning installation a Notice of Effectiveness. Upon receipt of notification or certification by the Administrator of EPA, in accordance with the procedures described in this paragraph, FEA may issue a Notice of Effectiveness.
§ 303.138 Timeliness.
(a) Prohibition orders for a period ending after June 30, 1975. If the FEA fails to take action on an application for modification of a prohibitory order or a construction order for a period ending after June 30, 1975 within 90 days of filing, the applicant may treat the application as having been denied in all respects, and may appeal therefrom as provided in this subpart.

(b) Construction orders. If FEA fails to take action on an application for modification or rescission of a construction order within 150 days of filing, the applicant may treat the application as having been denied in all respects and may appeal therefrom as provided in this subpart.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, the applicant may treat the application as having been denied in all respects and may seek appeal therefrom as provided in this subpart if FEA fails to issue an order granting or denying the application within 150 days of the filing of such application.

(d) For purposes of this section, the term “action” includes service of a “Notice of Intent to Modify (or Rescind) Prohibition Order (or Construction Order)” on the applicant.

§ 303.139 Appeal.
(a) Any person aggrieved by an order issued by the FEA under this subpart may file an appeal with the FEA Office of Exceptions and Appeals in accordance with Subpart H of this part, except as provided in paragraph (c) of this section.

(b) If the appeal is from an order modifying a prohibition order that is applicable for a period ending prior to or on June 30, 1975, to make it applicable after June 30, 1975 shall be filed within 30 days of service of the order or within 30 days of the date on which the recipient can treat the application as being denied in all respects, except as provided in subparagraphs (2) and (3) of this paragraph.

(c) The appeal of an order modifying a prohibition order that is applicable for a period ending prior to or on June 30, 1975, to make it applicable after June 30, 1975 shall be filed within 10 days of service of such order.

(d) The appeal of an order modifying a prohibition order or construction order, where such order is the result of a proceeding initiated prior to issuance of a Notice of Effectiveness issued prior to service of a Notice of Effectiveness. The appeal of the order shall be taken within 30 days of service of such notice.

(e) There shall be no appeal of an order modifying a prohibition order or construction order, where such order is the result of a proceeding initiated prior to issuance of a Notice of Effectiveness issued prior to service of a Notice of Effectiveness. The appeal of such order shall be taken within 30 days of service of such notice.

(f) There has not been an exhaustion of administrative remedies until an appeal has been filed pursuant to Subpart H of this part and the appellate proceeding has been concluded.

Subpart K—Modification or Rescission of Orders (Other Than Prohibition Orders or Construction Orders) and Interpretations
§ 303.140 Purpose and scope.
(a) This subpart establishes the procedures for the filing of an application for modification or rescission of an FEA order (other than a prohibition order or construction order) or an interpretation. Modification or rescission is a summary proceeding that will be initiated only if the criteria described in § 303.145(b) are satisfied.

(b) A proceeding for modification or rescission of an order (other than a prohibition order or construction order) or an interpretation may be commenced by FEA in response to an application or on its initiative. Section 303.143(c)(2), 303.145(a)(1), 303.146(b) and (c), and 303.148 shall be applicable to the proceeding regardless of the manner in which the proceeding is initiated. Other provisions of this subpart apply only to a proceeding commenced in response to an application.
The application shall include a discussion of all relevant authorities, including, but not limited to, FEA or EPA rulings, regulations, interpretations and decisions on appeal and exception relied upon to support the action sought therein.

§ 303.145 FEA evaluation.

(a) Processing. (1) The FEA may initiate an investigation of any statement in an application or any other document submitted to it and may utilize in its evaluation any relevant facts obtained by such investigation. The FEA may solicit comments from third persons relevant to the application for modification or rescission or other document provided that the applicant is afforded an opportunity to respond to such comments, providing the applicant with an opportunity to support the action sought.

(b) The FEA shall issue an order granting or denying the application. The order shall state the grounds for the denial.

(ii) The denial of an application for modification or rescission filed under this subpart shall be a final order of the FEA of which the applicant may seek judicial review.

§ 303.146 Decision and order.

(a) Upon consideration of the application and other relevant information received or obtained during the proceeding, the FEA shall issue an order granting or denying the application.

(b) The order shall include a written statement setting forth the pertinent facts and the legal basis of the order. The order shall state that it is a final order of which the applicant may seek judicial review.

(c) The FEA shall serve a copy of the order upon the applicant, any other person who participated in the proceeding and upon any other person readily identifiable by the FEA as one who is aggrieved by such order.

§ 303.147 Timeliness.

If the FEA fails to take action on any application filed under this subpart within 90 days of filing, the applicant may treat the application as having been denied in all respects and may appeal therefrom as provided in this subpart.

§ 303.148 Appeal.

The denial of an application for modification or rescission filed under this subpart shall be a final order of the FEA of which the applicant may seek judicial review.

Subpart L—Rulings

§ 303.150 Purpose and scope.

This subpart establishes the criteria for the issuance of interpretative rulings by the General Counsel. All rulings shall be published in the Federal Register. Any person is entitled to rely upon such ruling to the extent provided in this subpart.

§ 303.151 Criteria for issuance.

(a) A ruling may be issued, in the discretion of the General Counsel, whenever there have been a substantial number of inquiries with regard to similar factual situations or a particular section of the regulations.

(b) The General Counsel may issue a ruling whenever it is determined that it

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§ 303.152 Modification or rescission.  
(a) A ruling may be modified or rescinded by:
   (1) Publication of the modification or rescission in the Federal Register; or
   (2) A rulemaking proceeding in accordance with Subpart M of this part.

(b) Unless and until a ruling is modified or rescinded as provided in paragraph (a) of this section, no person shall be subject to the sanctions or penalties stated in Subpart Q of this part for actions taken in reliance upon the ruling, notwithstanding that the ruling shall thereafter be declared by judicial or other competent authority to be invalid. Upon such declaration, no person shall be entitled to rely upon the ruling.

§ 303.153 Comments.  
A written comment on or objection to a published ruling may be filed at any time with the General Counsel at the address provided in § 303.12.

§ 303.154 Appeal.  
There is no administrative appeal of a ruling.

Subpart M—Rulemaking

§ 303.160 Purpose and scope.  
(a) This subpart establishes the procedures that govern a rulemaking proceeding. The initiation of a rulemaking proceeding is within the sole discretion of the FEA.

(b) Rulemaking by the FEA shall be in accordance with the Administrative Procedure Act (5 U.S.C. 551, et seq. (1970)) and the FEAA.

§ 303.161 What to file.  
(a) Comments in connection with a rulemaking. Any comments filed in connection with a rulemaking shall be filed in accordance with the instructions in the notice of proposed rulemaking published in the Federal Register. Such comments shall be in writing and signed by the person filing them.

(b) Petition for rulemaking. (1) Any person may at any time file a petition regarding any FEA regulation or amendment thereto or, by letter, request that a rulemaking proceeding be instituted. Such petition or request shall be signed by the person filing it.

(2) Upon due consideration of a petition for rulemaking, expressly designated as such, the FEA shall either: (i) Institute a rulemaking as proposed or as modified in its discretion; (ii) notify the petitioner in writing that it does not intend to institute a rulemaking as proposed or as modified and stating the reasons therefore; or (iii) notify the petitioner in writing that the matter is under continuing consideration and that no decision can be made at that time because of the inadequacy of available information, changing circumstances or other reasons as set forth in such notice.

§ 303.162 Where to file.  
All comments filed in connection with a rulemaking shall be submitted in accordance with the instructions in the notice of proposed rulemaking. Any other petition or request shall be filed with the General Counsel at the address provided in § 303.12.

Subpart N—Conferences, Hearings, and Public Hearings

§ 303.170 Purpose and scope.  
This subpart establishes the procedures for requesting and conducting an FEA conference, hearing, or public hearing. A rulemaking proceeding may be convened in the discretion of the FEA, consistent with the requirements of the FEAA and ESECA.

§ 303.171 Conferences.  
(a) The FEA in its discretion may direct that a conference be convened, on its initiative or upon request by a person, when it appears that such conference will materially advance the proceeding. The determination as to who may attend a conference convened under this subpart shall be in the discretion of the FEA, but a conference will usually not be open to the public.

(b) A conference may be requested in connection with any proceeding of the FEA by any person who might be aggrieved by that proceeding. The request may be made in writing or verbally, but must include a specific showing as to why such conference will materially advance the proceeding. The request shall be channeled to the office that is conducting the proceeding.

(c) A conference may only be convened after actual notice of the time, place, and nature of the conference is provided to the person who requested the conference.

(d) When a conference is convened in accordance with this section, each person may present views as to the issues involved. Documentary evidence may be presented at the hearing, but will usually be prepared in accordance with the regular course of the proceedings. A transcript of the hearing will not usually be prepared. However, the FEA in its discretion may have a verbatim transcript prepared.

(e) The official conducting the hearing may administer oaths and affirmations, rule on the presentation of information, and decide on the admissibility of procedural requests, determine the format of the hearing, and otherwise regulate the course of the hearing.

(f) Because a hearing is solely for the exchange of views incident to a proceeding, there will be no formal reports or findings unless the FEA in its discretion determines that such would be advisable.

§ 303.173 Public hearings.  
(a) A public hearing shall be convened prior to issuance of a prohibition order applicable after June 30, 1975 and prior to the modification of a prohibition order that is applicable after June 30, 1975.

(b) When a hearing is convened in its discretion, there will be no formal reports or findings unless the FEA in its discretion determines that such would be advisable.
that are likely to result from a specific prohibition or construction order, or group of such orders, when the FEA in its discretion determines that such public hearing would materially advance the consideration of the issue.

(d) A public hearing may only be convened after publication of a notice in the Federal Register, which shall state the time, place, and nature of the public hearing.

(e) Interested persons may file a request to participate in the public hearing in accordance with the instructions in the notice published in the Federal Register. The request shall be in writing and signed by the person making the request. It shall include a description of the person's interest in the issue or issues involved and of the anticipated content of the presentation. It shall also contain a statement explaining why the person would be an appropriate spokesperson for the particular view expressed.

(f) The FEA shall appoint a presiding officer to conduct the public hearing. An agenda shall be prepared that shall provide, to the extent practicable, for the presentation of all relevant views by competent spokespersons.

(g) A verbatim transcript shall be made of the hearing transcript, together with any written comments submitted in the course of the proceeding, shall be made available for public inspection and copying in the public dockets room described in §303.13.

(h) The information presented at the public hearing, together with the written comments submitted and other relevant information received during the course of a proceeding, shall provide the basis for the FEA decision.

Subpart O—Complaints

§ 303.180 Purpose and scope.

This subpart establishes the procedures for the filing and consideration of complaints relating to alleged violations of the regulations stated in Parts 303, 305, or 307 of this chapter.

§ 303.181 What to file.

A person filing under this subpart shall file a "Complaint (ESECA)" which should be clearly labeled as such both on the complaint and on the outside of the envelope in which the complaint is transmitted, and shall be in writing and signed by the person filing the complaint. The complainant shall comply with the general filing requirements stated in §303.9 in addition to the requirements stated in this subpart. Verbal complaints that otherwise satisfy the requirements of this subpart will be accepted, but written verification may be requested by the FEA.

§ 303.182 Where to file.

A complaint shall be filed with the FEA National Office at the address provided in §303.12.

§ 303.183 Contents.

The complaint shall contain a full and complete statement of all relevant facts pertaining to the act or transaction that is the subject of the complaint and to the FEA action sought. Such facts shall include the names and addresses of all persons involved (if reasonably ascertainable) and a description of the events that led to the complaint. It shall include a statement describing the regulatory, ruling, or interpretation that allegedly has been violated.

§ 303.184 FEA evaluation.

(a) Processing. The FEA may initiate an investigation of any statement in a complaint or any other document submitted to it and may utilize in its evaluation any relevant facts obtained by such investigation. The FEA may solicit or accept submissions relevant to a complaint or other document from third persons to the proceeding. In evaluating a complaint, the FEA may consider any other source of information. The FEA on its initiative may order a conference if, in its discretion, it considers such conference will advance its evaluation of the complaint.

(b) Confidentiality of information. Information received in the investigation of a complaint, including the identity of the complainant and any other person who provides information during the proceeding, shall be treated with the same degree of confidentiality to the extent it is covered by the investigatory file exception to public disclosure contained in 5 U.S.C. 552 unless, upon proper notice to the complainant and an opportunity to object to the furnishing of such information, the FEA determines that disclosure would be in the public interest.

§ 303.185 Decision.

After consideration of a written complaint, unless written verification of a verbal complaint was not requested, and of other relevant information received or obtained during the proceeding, the FEA may:

(a) Issue a notice of probable violation or remedial order for immediate compliance in accordance with the provisions of Subpart P of this part, which determination is within the FEA's discretion.

(b) Determine that no violation has occurred or that a notice of probable violation or a remedial order for immediate compliance would not be appropriate; or

(c) Take such other action as it deems appropriate.

Subpart P—Notice of Probable Violation and Remedial Order

§ 303.190 Purpose and scope.

(a) This subpart establishes the procedures for determining the nature and extent of violations of the FEA regulations stated in this Part 303, Parts 305 and 307 of this chapter and the procedures for issuance of a notice of probable violation, a remedial order, or a remedial order for immediate compliance.

(b) When any report required by the FEA or any audit or investigation discloses, or the FEA otherwise discovers, that there is reason to believe a violation of any provision of this Part 303, Part 305 or 307 of this chapter, or any order issued thereunder, has occurred, is occurring or is about to occur, the FEA may conduct an investigation to determine the nature and extent of the violation and may issue a remedial order therefor.

§ 303.191 Notice of probable violation.

(a) The FEA may begin a proceeding under this subpart by issuing a notice of probable violation if the FEA has reason to believe that a violation has occurred, is continuing, or is about to occur.

(b) Within 10 days of the service of a notice of probable violation, the person upon whom the notice is served may file a reply with the FEA office that issued the notice, or a public hearing may be conducted as provided in §303.12. The FEA may extend the 10-day period for good cause shown.

(c) The reply shall be in writing and signed by the person filing it. The reply shall contain a full and complete statement of all relevant facts pertaining to the act or transaction that is the subject of the notice of probable violation. Such facts shall be in addition to the facts of the business or other reasons that justify the act or transaction, if appropriate; a detailed description of the act or transaction; and a full discussion of the violation, including any facts reflected in any documents submitted with the reply. Copies of all relevant contracts, agreements, leases, instruments, and other documents shall be submitted with the reply. When the notice of probable violation pertains to only one step of a larger integrated transaction, the facts, circumstances, and other relevant information regarding the entire transaction shall be submitted.

(d) The reply shall include a discussion of all relevant authorities, including, but not limited to FEA and EPA rulings, regulations, interpretations, and decisions on appeal and exception relied upon to support the particular position taken.

(e) The reply should indicate whether the person requests or intends to request a conference regarding the notice. Any request not made at the time of the reply shall not be made as a matter of right thereafter as possible to insure that the conference is held when it will be most beneficial. A request for a conference must conform to the requirements of Subpart N of this part, which determination is within FEA's discretion.

(f) If a person has not filed a reply with the FEA within the 10-day period provided, and the FEA has not extended the 10-day period, the person shall be deemed to have conceded the accuracy of the factual allegations and legal conclusions stated in the notice of probable violation.

(g) If the FEA finds, after the 10-day period provided in §303.191(b), that no violation has occurred, is continuing, or is about to occur, or that for any reason the issuance of a remedial order would not be appropriate, it shall notify, in writing, the person to whom a notice of probable violation has been issued that the notice is rescinded.

§ 303.192 Remedial order.

(a) If the FEA finds, after the 10-day period provided in §303.191(b), that a
violation has occurred, is continuing, or is about to occur, the FEA may issue a remedial order. The order shall include a written statement setting forth the relevant facts and the legal basis of the remedial order.

The remedial order issued under this section shall be effective upon issuance, in accordance with its terms, until stayed, suspended, modified, or rescinded. A remedial order shall remain in effect notwithstanding the filing of an application to modify or rescind it under Subpart K of this part.

§ 303.193 Remedial order for immediate compliance.

(a) Notwithstanding the provisions of §§ 303.191 and 303.192, the FEA may issue a remedial order for immediate compliance, which shall be effective upon issuance and until rescinded or suspended, if it finds that:

(1) There is a strong probability that a violation has occurred, is continuing or is about to occur;

(2) Irreparable harm will occur unless the violation is remedied immediately; and

(3) The public interest requires the avoidance of such irreparable harm through immediate compliance and waiver of the procedures afforded under §§ 303.191 and 303.192.

(b) A remedial order for immediate compliance shall be served promptly by telex or telegram upon the person to whom it is directed to take appropriate action in accordance with Subpart Q of this part.

§ 303.194 Remedies.

A remedial order or a remedial order for immediate compliance may require the person to whom it is directed to take such action as the FEA determines is necessary to eliminate or to compensate for the effects of a violation.

§ 303.195 Appeal.

(a) No notice of probable violation issued pursuant to this subpart shall be deemed to be an action of which there may be an administrative appeal pursuant to Subpart H of this part.

(b) A remedial order or a remedial order for immediate compliance is issued under this subpart may file an appeal with the FEA Office of Exceptions and Appeals in accordance with Subpart H of this part. The appeal must be filed within 10 days of service of the order from which the appeal is taken.

§ 303.200 Investigations.

(a) General. The FEA may, in its discretion, initiate investigations relating to compliance by any person with any rule, regulation, or order promulgated by the FEA under the authority of sections 2 and 12 of ESEA, or any decree of court relating thereto, or any other agency action. The FEA encourages voluntary cooperation with its investigations. When the circumstances warrant, however, the FEA may issue subpoenas in accordance with and subject to § 303.8. The FEA may conduct investigative conferences and hearings in the course of any investigation or proceeding with respect to such investigation. When an investigation is terminated, the FEA may issue subpoenas in accordance with and subject to § 303.8.

(b) Investigators. Investigations will be conducted by representatives of the FEA who are duly designated and authorized for such purposes. Such representatives have the authority to administer oaths and receive affirmations in any matter under investigation by the FEA.

(c) Notification. Any person who is under investigation by the FEA in accordance with this section and who is requested to furnish information or documentation, shall be notified in writing of the general purpose for which such information or evidence is sought.

(d) Termination. When the facts disclosed by an investigation indicate that further action is unnecessary or unwarranted at that time, the investigative file will be closed without prejudice to further investigation by the FEA at any time the circumstances so warrant.

(e) Confidentiality. Information received in an investigation under this section, including the identity of the person investigated and any other person who provides information during the investigation, shall, unless otherwise determined by the FEA, remain confidential to the extent it is covered under the investigatory file exemption to public disclosure contained in 5 U.S.C. 522.

§ 303.201 Violations.

Any practice that circumvents or contravenes a rule or results in a circumvention or contravention of the requirements of any provision of this Part 303, Part 305, or 307 of this chapter or any order issued pursuant thereto is a violation of the FEA regulations stated in such parts and is unlawful.

§ 303.202 Sanctions.

(a) General. Any person who violates any provision of this Part 303, Part 305, or 307 of this chapter or any order issued pursuant thereto shall be subject to penalties and sanctions as provided herein.

(b) Administrative Fines. Any person who willfully violates any provision of this Part 303, Part 305, or 307 of this chapter or any order issued pursuant thereto shall be subject to a fine of not more than $2,500 for each violation. Actions for civil penalties are prosecuted by the Department of Justice upon referral by the FEA.

(c) Civil Penalties. (1) Any person who violates any provision of this Part 303, Part 305, or 307 of this chapter or any order issued pursuant thereto shall be subject to a civil penalty of not more than $2,500 for each violation. Actions for civil penalties are prosecuted by the Department of Justice upon referral by the FEA.

(2) When the FEA considers it to be appropriate or advisable, the FEA may compromise and settle, and collect civil penalties.

(d) Other Penalties. Willful concealment of material facts, or false or fictitious statements or representations, or willful use of any false writing or document containing false, fictitious or fraudulent statements pertaining to matters within the scope of the FISCA or the FEA, or any person shall subject such person to the criminal penalties provided in 18 U.S.C. 1001 (1970).

§ 303.203 Injunctions.

Whenever it appears to the FEA that any person has engaged, is engaging, or is about to engage in any act or practice constituting a violation of any regulation or order issued under this part 303, Part 305 or 307 of this chapter, FEA may request the Attorney General to bring a civil action in the appropriate district court of the United States to restrain such acts or practices and, upon a proper showing, a temporary restraining order or a preliminary or permanent injunction shall be granted without bond. The relief sought may include a mandatory injunction commanding any person to comply with any provision of such order or regulation, the violation of which is prohibited by section 12(a) of ESEA.

"FEA" means the Federal Energy Administration, including the Administrator of FEA or his delegate.

"Interested person" includes members of the public, as well as any person with an interest sought to be protected under ESECA.

"Major fuel burning installation" means an installation or unit other than a powerplant that has or is a fossil-fuel fired boiler, burner, or other combustor of fuel or any combination thereof at a single site, and includes any person who owns, leases, operates, or controls any such installation or unit.

"Natural gas" includes dry gas and casinghead gas.

"Person" means any association, firm, company, corporation, estate, individual, joint-venture, partnership, or sole proprietorship or any other entity however organized including charitable, educational, or other eleemosynary institution, Federal Government, including corporations, departments, Federal agencies, and other instrumentalities, and State and local governments, that includes any officer, director, owner, agent, or duly authorized representative thereof. The FEA may, in regulations and in any forms issued in this part, treat as a person:

(a) A parent and the consolidated and unconsolidated entities (if any) which it directly or indirectly controls,
(b) A parent and its consolidated entities,
(c) An unconsolidated entity, or
(d) Any part of a person.

"Petroleum product" means crude oil, residual fuel oil or any refined petroleum product, as that last term is defined in section 3(5) of the Emergency Petroleum Allocation Act of 1973.

"Powerplant" means a fossil-fuel fired steam electric generating unit that produces electric power for purposes of sale or exchange, and includes any person who owns, leases, operates or controls any such unit.

"Primary energy source" means, with respect to a powerplant or major fuel burning installation, the fuel that is or will be used for all purposes except for the minimum amounts required for startup, testing, flame stabilization and control; and except for such minimum amounts required to enable such powerplant or major fuel burning installation to comply with applicable primary standard conditions prescribed by EPA in accordance with 49 U.S.C. 604. Such minimum amounts of fuel may be used only when such primary standard conditions include the utilization of intermittent control systems and only during such temporary periods when use of such minimum amounts is absolutely necessary to meet the terms of the primary standard conditions relating to use of intermittent control systems.

"Prohibition order" means a directive issued by FEA pursuant to sections 2(a) and (b) of ESECA that prohibits a powerplant or major fuel burning installation from using natural gas or petroleum products as its primary energy source.

"Temporary Suspension" means a suspension issued to any person by the Administrator of EPA in accordance with section 4(a) of the Clean Air Act that results in the temporary discontinuance of any stationary source fuel or emission limitation as it applies to such person during any period beginning June 22, 1975, and ending on or before June 30, 1975.

Throughout this part the use of a word or term in the singular shall include the plural and the use of the male gender shall include the female gender.

§ 305.3 Powerplants.

(a) Any powerplant shall be prohibited from using natural gas or petroleum products as its primary energy source, by means of the issuance of a prohibition order to such powerplant, if the findings stated in paragraph (b) of this section are made by FEA. FEA may, at its discretion, make these findings for an individual powerplant or for combinations thereof at a single site.

(b) No powerplant shall be prohibited from using natural gas or petroleum products as its primary energy source unless FEA finds that:

(1) The powerplant on June 22, 1974 had the "capability and necessary plant equipment" to burn coal. For purposes of determining whether a powerplant had capability and necessary plant equipment, FEA will evaluate coal and ash handling facilities and appurtenances—internal and external; availability of land for the storage of coal; and other equipment such as a boiler, unloading conveyors, crushers, pulverizers, screens, burners, and special coal-burning instrumentation and controls. The absence of any one or combination of these facilities or equipment is not grounds, however, for concluding that the plant lacked the capability and the necessary plant equipment to burn coal.
The prohibition of the utilization of natural gas or petroleum products is "practicable and consistent with the purposes of ESECA." For purposes of this finding—

(i) The determination of the "practicability" of a prohibition shall include an analysis of the reasonableness of additional costs associated with burning coal, including, but not limited to, fuel costs, costs of equipment for coal burning, the costs of complying with the requirements of the Clean Air Act, and the costs of complying with other applicable environmental protection requirements; as well as the financial capabilities of the powerplant owner. The analysis concerning the costs, associated with the requirements of the Clean Air Act shall be based on the facts that are available to FEA prior to the time of issuance of the order.

(ii) The prohibition shall be considered to be "consistent with the purposes" of ESECA if it serves as a means to discourage the use of natural gas and petroleum products and to encourage increased or continued use of coal by powerplants in a manner that is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment.

(3) Coal and coal transportation facilities will be available during the period the prohibition is in effect. For purposes of this finding—

(i) The availability of coal shall be determined by evaluating the type of coal that the powerplant will be able to utilize, and the location of such coal; evaluating the practicability of coal production, including the possibility of new mines being opened, and anticipated demand; and evaluating State or local laws or policies limiting the extraction or utilization of coal.

(ii) The availability of coal transportation facilities shall be determined by evaluating the method by which coal is transported to the powerplant, including the availability of rolling stock and trucks, barges, pipelines and other relevant means of transportation.

(4) The prohibition will not "impair the reliability of service" in the area served by the powerplant. For purposes of this finding—

(i) Whether there will be an impairment of the "reliability of service" shall be determined by an analysis of the loads on the electric power dispatching system of which the powerplant is a part, the net dependable electrical capacity and energy resources of such system in relation to the powerplant's electric power and energy output as a result of a prohibition order, and an evaluation of the effects on such system of any scheduled outage the powerplant might experience in ceasing the burning of natural gas or petroleum products as its primary energy source, which increase in probability of loss is sufficient to result in a substantial hazard to commerce or the public health and safety.

(ii) "Impairment" means a significant increase in the probability of loss of load on the dispatching system of which the powerplant is a part that would result from the powerplant being prohibited from burning natural gas or petroleum products as its primary energy source, as a result of FEA action taken on its initiative or at the conclusion of a proceeding initiated by an application.

(D) Prior to issuance of a prohibition order and to a powerplant that is applicable for the period ending prior to or on June 30, 1975, FEA shall take into account the likelihood that such powerplant will be permitted to burn coal after June 30, 1975. FEA may consider, in determining "likeness," the potentiality that environmental or economic constraints would prevent the powerplant from burning coal after June 30, 1975.

§ 305.4 Major fuel burning installations.

(a) A major fuel burning installation may be prohibited from using natural gas or petroleum products as its primary energy source as a result of FEA action taken on its initiative or at the conclusion of a proceeding initiated by an application.

(b) No major fuel burning installation shall be prohibited from burning natural gas or petroleum products as its primary energy source unless FEA finds that:

(1) The major fuel burning installation has a design firing rate of 100 million Btu's per hour or greater and on June 22, 1974 had the capability and necessary plant equipment to burn coal. For purposes of determining whether a major fuel burning installation had capability and necessary plant equipment, FEA will evaluate coal and ash handling facilities at the installation to determine if the installation has and equips sufficient coal handling facilities, including, but not limited to, open and enclosed storage, equipment available for the storage of coal; and equipment such as a boiler, burner or other combuster of fuel, unloaders, conveyors, crushers, pulverizers, scales, burners, and special coal-burning instrumentation and controls. The absence of any one or combination of these facilities or equipment is not grounds, however, for concluding that the installation lacked the capability and the necessary plant equipment to burn coal.

(2) The prohibition of the utilization of natural gas and petroleum products is "practicable and consistent with the purposes of ESECA." For purposes of this finding—

(i) The determination of the "practicability" of a prohibition shall include an analysis of the reasonableness of additional costs associated with burning coal, including, but not limited to, fuel costs, costs of equipment for coal burning, the costs of complying with the requirements of the Clean Air Act, and the costs of complying with other applicable environmental protection requirements; as well as the financial capabilities of the owner of the major fuel burning installation. The analysis concerning the costs associated with the requirements of the Clean Air Act shall be based on the facts that are available to FEA prior to the time of issuance of the order. Such costs shall be considered to be "consistent with the purposes" of ESECA if it serves as a means to discourage the use of natural gas and petroleum products and to encourage the use of coal as its primary energy source by major fuel burning installations in a manner consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment.

(c) A prohibitions order that is applicable for the period ending prior to or on June 30, 1975, FEA may consider, in determining "likeness," the potentiality that environmental or economic constraints would prevent the powerplant from burning coal after June 30, 1975.

§ 305.5 Public participation.

(a) Prohibitions orders that are applicable for a period ending prior to or on June 30, 1975. No powerplant or major
fuel burning installation shall be issued an order that is applicable for a period ending prior to or on June 30, 1975 prohibiting that powerplant or installation from burning natural gas or petroleum products as its primary energy source unless prior to issuance of such order there has been published in the Federal Register a notice of FEA's intent to issue a prohibition order and an opportunity given to interested persons to make written presentation of data, views and arguments regarding such order.

(b) Prohibition orders applicable after June 30, 1975. No powerplant or major fuel burning installation shall be issued an order that is applicable after June 1975 (or of modification of an order to make it applicable after June 30, 1975) prohibiting that powerplant or installation from burning natural gas or petroleum products as its primary energy source unless prior to issuance of such order there has been published in the Federal Register a notice of FEA's intent to issue a prohibition order and an opportunity given to interested persons to make oral and written presentation of data, views and arguments regarding such order.

§ 305.6 Consultation with EPA.

Prior to issuance of a prohibition order to a powerplant or a major fuel burning installation that is applicable for a period ending prior to or on June 30, 1975, the FEA shall consult with the Administrator of EPA.

§ 305.7 Effective date of prohibition orders.

(a) Prohibition orders that are applicable for a period ending prior to or on June 30, 1975. The prohibitions stated in a prohibition order issued to a powerplant or major fuel burning installation that is applicable for a period ending prior to or on June 30, 1975 shall not become effective (1) until the date that the Administrator of EPA certifies, pursuant to section 119(d)(1)(A) of the Clean Air Act, that the powerplant or major fuel burning installation a Notice of Effectiveness, or (2) until FEA has taken the actions described in § 303.8 of this part and has served the affected powerplant or major fuel burning installation a Notice of Effectiveness, as provided in §§ 303.10(b) and 303.37(b) of this chapter. Such order (or modification thereof) will not be effective during any period certified by the Administrator of EPA under section 119(d)(3)(B) of such Act.

(b) Prohibition orders applicable after June 30, 1975. The prohibitions stated in a prohibition order that is applicable after June 30, 1975 (or in a modification of an order that is applicable for the period ending prior to or on June 30, 1975 to make it applicable after June 30, 1975) issued to a powerplant or major fuel burning installation shall not become effective prior to or on June 30, 1975.

§ 305.8 Modification, rescission and suspension of prohibition orders.

(a) FEA may modify or rescind any prohibition order, at any time up to and including December 31, 1975. A modification or rescission of a prohibition order may be the result of an FEA action taken on its own initiative or at the conclusion of proceedings initiated by an application to make an prohibition order applicable after June 30, 1975 (or in a modification thereof) will not be effective during any period certified by the Administrator of EPA by service of a notice of the suspension of a prohibition order.

(b) Notice of intention to modify or rescind any prohibition order (other than the modification of an order that is applicable for a period ending prior to or on June 30, 1975, to make it applicable after June 30, 1975, as provided in § 303.7(b) of this chapter) may be published in the Federal Register. The notice shall provide interested persons with an opportunity to make written presentation of data, views and arguments regarding such action.

(c) Upon notification by the Administrator of EPA, in accordance with section 119(d)(3)(B) of the Clean Air Act, FEA shall notify the powerplant or major fuel burning installation affected that the prohibition order applicable to it is suspended for the period certified by the Administrator of EPA by service of a notice of the suspension of a prohibition order.

§ 305.9 Consideration of environmental impact.

(a) Prior to any hearings held in connection with notices of intention to issue prohibitions or modifications thereof, FEA shall publish and circulate a final programmatic environmental impact statement in accordance with section 102(2) (C) of the National Environmental Policy Act of 1969 and prior to issuance of a Notice of Effectiveness. Interested persons may request a public hearing pursuant to § 303.173 of this chapter to comment on the contents of a draft environmental impact statement published pursuant to this paragraph.

(b) Any prohibition order that has been issued to a powerplant or major fuel burning installation for which FEA has prepared a site-specific environmental impact statement, pursuant to paragraph (a) of this section, may be modified or rescinded by FEA on its initiative, based upon the information contained in such statement, prior to issuance of a Notice of Effectiveness.

§ 305.10 Procedures.

(a) All applications for a prohibition order or modification or rescission thereof shall be filed with FEA in accordance with Subparts B and J, respectively, of Part 303 of this chapter.

(b) Procedures pertaining to issuance of prohibition orders, the modification or rescission thereof, and the appeal of such orders (including notice, public hearing, opportunity to comment, issuance of a prohibition order, process of evaluation, appeal) are stated in Subparts B, J and H respectively, of Part 303 of this chapter.
PART 307—NEW POWERPLANTS

3. Chapter II of 10 Code of Federal Regulations is amended to add Part 307, which reads as follows:

Sec.
307.1 Scope.
307.2 Definitions.
307.3 Use of coal as the primary energy source.
307.4 Public participation.
307.5 Effective date or construction orders.
307.6 Identification of powerplants in the early planning process.
307.7 Consideration of environmental impacts.
307.8 Procedures.

Authority: (Energy Supply and Environmental Coordination Act of 1974 (Pub. L. 93-275); EO 11790 (39 FR 23185).)

§ 307.1 Scope.

(a) Applicability. This part applies to certain powerplants (other than combustion gas turbine(s) or a combined cycle unit(s) that are in the early planning process.

(b) Purpose. This part, together with Part 303 of this chapter, establishes the methods and procedures by which FEA will exercise its powers under section 2 of ESECA to require a powerplant in the early planning process to be designed and constructed to be capable of using coal as its primary energy source.

§ 307.2 Definitions.

For purposes of this part—

"Action" means a construction order, or modification or rescission of such order, issued by FEA pursuant to section 2(c) of ESECA.


"Coal" includes coal derivatives.

"Combined cycle unit" means an electric power generation unit that consists of a combination of one or more combustion gas turbine units and one or more steam turbine units with the required energy input of the steam turbine(s) provided by and approximately matched to the energy in the exhaust gas from the combustion turbine unit(s). Use of small amounts of supplemental firing for the steam turbine does not preclude the unit from being a combined cycle unit.

"Combustion gas turbine" means an electric power generation unit that is a combination of a rotary engine driven by a gas under pressure that is created by the combustion of a fuel, usually natural gas or a petroleum product, with an electric power generator driven by such engine.

"Construction order" means a directive issued by FEA pursuant to section 2(c) of ESECA that requires a powerplant in the early planning process to be designed and constructed to be capable of using coal as its primary energy source.

"Early planning process" commences 10 years prior to the planned commencement of the sale or exchange of electric power by a powerplant and terminates with commencement of the driving of the foundation piling, or the equivalent foundation structural event, in accordance with approved final drawings for the main boiler of the powerplant.

"EPA" means the Environmental Protection Agency.


"FEA" means the Federal Energy Administration, including the Administrator thereof.

"Interested person" includes members of the public, as well as any person with an interest sought to be protected under ESECA.

"Natural gas" includes dry gas and casinghead gas.

"Person" means any association, firm, company, corporation, estate, individual, joint-venture, partnership, or sole proprietorship or any other entity however organized including charitable, educational, or other ecclesiastical institutions, and the Federal Government including the various departments, Federal agencies, and other instrumentalities, and State and local governments, and includes any officer, director, owner or duly authorized representative thereof. The FEA may, in regulations and in any forms issued in this part, treat as a person:

(a) A parent and the consolidated and unconsolidated affiliates, and includes any person which is directly or indirectly controls,

(b) A parent and its consolidated entities,

(c) An unconsolidated entity, or

(d) Any part of a person.

"Petroleum product" means crude oil, residual fuel oil, or any refined petroleum product, as that term is defined in section 3(b) of the Emergency Petroleum Allocation Act of 1973.

"Powerplant" means a fossil-fuel fired steam electric generating unit that produces electric power for purposes of sale or exchange, and includes any person who owns, leases, operates or controls any such unit.

"Primary energy source," means with respect to a powerplant, that fuel which for all purposes except the minimum amounts required for start-up, testing, flame stabilization and control.

"Proceeding" means the process and activity, and any part thereof, instituted by the FEA, either on its initiative or in response to an application submitted by a powerplant, that may lead to an action by FEA.

"Products" means the electric power and energy output, and an evaluation of the effects of a delay. If any, in the commencement of the sale or exchange of electric power that might result if FEA required the powerplant to be designed and constructed to be capable of using coal as its primary energy source.

"Reliability" means a significant increase in the probability of loss of load on the dispatching system of which the powerplant is a part, and the net dependable electrical capacity and energy resources of such system in relation to the powerplant's proposed electric power output and energy output.

"Sale or exchange" means any transfer of ownership, sale, lease, or barter of electric power, and includes any change of electric power, and anticipated the powerplant will be able to result in an impairment of the reliability or adequacy of service to be provided by the electric power dispatching system of which the powerplant would be a part, and the net dependable electrical capacity and energy resources of such system in relation to the powerplant's proposed electric power output and energy output.

"Supply" means the capability or adequacy of service to be provided by the electric power dispatching system of which the powerplant is a part, and the net dependable electrical capacity and energy resources of such system in relation to the powerplant's proposed electric power output and energy output.

"Supply reliability" means the capability or adequacy of service to be provided by the electric power dispatching system of which the powerplant is a part, and the net dependable electrical capacity and energy resources of such system in relation to the powerplant's proposed electric power output and energy output.

"Supply reliability" means the capability or adequacy of service to be provided by the electric power dispatching system of which the powerplant is a part, and the net dependable electrical capacity and energy resources of such system in relation to the powerplant's proposed electric power output and energy output.

§ 307.3 Use of coal as the primary energy source.

(a) Any powerplant in the early planning process (other than a combustion gas turbine or combined cycle unit) may be required by FEA to be designed and constructed to be capable of using coal as its primary energy source, by means of the issuance of a construction order to such powerplant, subject to the findings stated in paragraphs (b) and (c) of this section. FEA may, at its discretion, make these findings for an individual powerplant or for a combination of powerplants at its discretion, subject to a finding that a powerplant is designed and constructed to be capable of using coal as its primary energy source shall be satisfied if the powerplant is designed and constructed to use only coal as its primary energy source or to use two or more fuels interchangeably, one of which is coal, as its primary energy source.

(b) A powerplant will not be required to be designed and constructed to be capable of using coal as its primary energy source unless FEA finds that such powerplant is in the early planning process.

(c) No powerplant in the early planning process may be required to be designed and constructed to be capable of using coal as its primary energy source unless FEA finds that:

(1) The design or construction of a powerplant with the capability of using coal as its primary energy source is likely to result in an impairment of the reliability or adequacy of service to be provided by the electric power dispatching system of which the powerplant would be a part, and the net dependable electrical capacity and energy resources of such system in relation to the powerplant's proposed electric power output and energy output.

(2) An adequate and reliable supply of coal is not reasonably expected to be available. For purposes of this finding, the availability of an adequate and reliable supply of coal shall be determined by evaluating the type of coal that is anticipated the powerplant will be able to utilize and the location of such coal; evaluating the practicability of coal production, including the possibility that new mines will be opened before the powerplant commences the sale or exchange of electric power; and evaluating any State or local laws or policies limiting the extraction or the utilization of coal. The availability of coal transportation facilities shall be considered.

(d) In making the evaluation whether a powerplant in the early planning process should be required to be designed and constructed to be capable of using coal as its primary energy source.
as its primary energy source. FEA shall consider, among other factors—
(1) The existence and effects of any contractual commitment for the con-
struction of such powerplant;
(2) The capability of the powerplant to recover any sale increase in projected capital investment required as a result of a construction order (in evaluating ca-
pability, FEA will include in its analysis the owner of the powerplant); and
(3) The potential loss of revenue re-
sulting from a delay in the commence-
m ent of the sale or exchange of electric power, if any, resulting from a construction order.

§ 307.4 Public participation.
(a) No powerplant in the early plan-
ing process may be required to be des-
ignated and constructed to be capable of using coal as its primary energy source on the basis of FEA action taken on its ini-
tiative or at the conclusion of proceed-
ings initiated by an application.

§ 307.5 Effective date of construction orders.
A construction order issued to a power-
plant in the early planning process shall not be effective until FEA has taken the actions described in § 307.7 and has served such powerplant a Notice of Effe-
civeness, as provided in § 303.10(b) and 303.47(b) of this chapter.

§ 307.6 Identification of powerplants in the early planning process.
(a) The identification of powerplants in the early planning process shall be accomplished by requiring the filing of an

"Identification Report" with FEA, at the address provided in § 303.12 of this chap-
ter, and by a review of information other-
wise on file with or provided to the Fed-
eral government. FEA may require addi-
tional information from a powerplant subsequent to the filing of an "Identification Report" to determine if such power-
plant meets the criteria and other con-
siderations stated in this part pertain-
ing to issuance of a construction order.

(b) An "Identification Report" shall be filed by each powerplant (other than a combustion gas turbine or combined cycle unit,) that is in the early planning process.

(c) (1) The "Identification Report" shall contain the information required by FEA Form C-303-S-0.

§ 307.7 Consideration of environmental impacts.
(a) Prior to issuance of a construction order, FEA shall publish a programmatic environmental impact statement in ac-
cordance with section 102(2)(C) of the National Environmental Policy Act of 1969. Such statement shall include a dis-
cussion of the environmental impact of and alternatives to the ESECA coal util-
ization program and a description of the specific environmental impact not con-
sidered in the programmatic environ-
mental impact statement described in paragraph (a) of this section.

(b) A notice of intention to issue a construction order shall provide that inter-
ested persons shall be afforded an op-
portunity to make written presentation of data, views and arguments regarding such action.

§ 307.8 Procedures.
(a) All applications for a construction order shall be filed with the FEA in accord-
ance with Subparts C and J, respec-
tively, of Part 303 of this chapter.
(b) Procedures pertaining to issu-
ance of construction orders, the modifi-
cation or rescission thereof, and the appeal of such orders (e.g., notice, hear-
ings, content of order, process of evalua-
tion, appeal) are stated in Subparts C, J, and H respectively, of Part 303 of this chapter.
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 of the Energy Supply and Environmental Coordination Act of 1974 (ESECA) and in accordance with 10 CFR Parts 303 and 305, to the following powerplants:

<table>
<thead>
<tr>
<th>Docket No.</th>
<th>Owner</th>
<th>Powerplant No.</th>
<th>Generating station</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>OFU-002</td>
<td>Iowa Electric Light &amp; Power Co.</td>
<td>8</td>
<td>Sutherland</td>
<td>Marshalltown, Iowa.</td>
</tr>
<tr>
<td>OFU-003</td>
<td>do.</td>
<td>9</td>
<td>do.</td>
<td>Do.</td>
</tr>
<tr>
<td>OFU-004</td>
<td>do.</td>
<td>10</td>
<td>Des Moines</td>
<td>Des Moines, Iowa.</td>
</tr>
<tr>
<td>OFU-005</td>
<td>do.</td>
<td>11</td>
<td>do.</td>
<td>Do.</td>
</tr>
<tr>
<td>OFU-006</td>
<td>Iowa Power &amp; Light Co.</td>
<td>12</td>
<td>George Neal</td>
<td>Salt, Iowa.</td>
</tr>
<tr>
<td>OFU-007</td>
<td>do.</td>
<td>13</td>
<td>Maynard Surface</td>
<td>Waterloo, Iowa.</td>
</tr>
<tr>
<td>OFU-008</td>
<td>do.</td>
<td>14</td>
<td>Kaw River</td>
<td>Kansas City, Kans.</td>
</tr>
<tr>
<td>OFU-009</td>
<td>do.</td>
<td>15</td>
<td>do.</td>
<td>Do.</td>
</tr>
<tr>
<td>OFU-010</td>
<td>do.</td>
<td>16</td>
<td>Grand River</td>
<td>Kansas City, Mo.</td>
</tr>
<tr>
<td>OFU-011</td>
<td>do.</td>
<td>17</td>
<td>do.</td>
<td>Do.</td>
</tr>
<tr>
<td>OFU-012</td>
<td>do.</td>
<td>18</td>
<td>do.</td>
<td>Do.</td>
</tr>
<tr>
<td>OFU-013</td>
<td>do.</td>
<td>19</td>
<td>do.</td>
<td>Do.</td>
</tr>
<tr>
<td>OFU-014</td>
<td>do.</td>
<td>20</td>
<td>do.</td>
<td>Do.</td>
</tr>
<tr>
<td>OFU-015</td>
<td>do.</td>
<td>21</td>
<td>do.</td>
<td>Do.</td>
</tr>
<tr>
<td>OFU-016</td>
<td>do.</td>
<td>22</td>
<td>do.</td>
<td>Do.</td>
</tr>
<tr>
<td>OFU-017</td>
<td>do.</td>
<td>23</td>
<td>do.</td>
<td>Do.</td>
</tr>
<tr>
<td>OFU-018</td>
<td>do.</td>
<td>24</td>
<td>do.</td>
<td>Do.</td>
</tr>
<tr>
<td>OFU-019</td>
<td>do.</td>
<td>25</td>
<td>do.</td>
<td>Do.</td>
</tr>
<tr>
<td>OFU-020</td>
<td>do.</td>
<td>26</td>
<td>do.</td>
<td>Do.</td>
</tr>
<tr>
<td>OFU-021</td>
<td>do.</td>
<td>27</td>
<td>do.</td>
<td>Do.</td>
</tr>
<tr>
<td>OFU-022</td>
<td>Nebraska Public Power District</td>
<td>28</td>
<td>do.</td>
<td>Columbus, Nebr.</td>
</tr>
<tr>
<td>OFU-023</td>
<td>do.</td>
<td>29</td>
<td>do.</td>
<td>Do.</td>
</tr>
<tr>
<td>OFU-024</td>
<td>Springfield City Utilities</td>
<td>30</td>
<td>do.</td>
<td>Do.</td>
</tr>
</tbody>
</table>

FEA hereby also gives notice of the opportunity for oral and written presentations of data, views, and arguments on these proposed prohibition orders.

The proposed orders would prohibit the powerplants listed above from burning natural gas or petroleum products as their primary energy source.

Prior to issuance of a prohibition order to a powerplant, section 2 of ESECA requires that FEA make certain findings. FEA's initial conclusions with respect to, and rationale in support of, these findings are set out, with respect to each of the powerplants, at the conclusion of this notice. These findings and rationales may be amended as a result of comments received by FEA pursuant to this notice and other information available to FEA. The findings will be included, with any amendments, in a prohibition order when it is issued. The period of time which FEA has concluded will be necessary for each powerplant to prepare for the burning of coal, other than time necessary to comply with air pollution requirements, is also set out at the conclusion of this notice.

Upon conclusion of the proceedings described in this notice, FEA may determine to issue prohibition orders to some or all of the powerplants listed above. These prohibition orders will not become effective, however, (1) until 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 will be able on and after July 1, 1975, to burn coal and to comply with all applicable air pollution requirements described in the compliance date extension under section 119 or (b) if no notification is 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 requirements of section 119 of that Act; and (2) until FEA has considered the environmental impact of such order pursuant to 10 CFR 305.8 and has served the affected powerplant a Notice of Effectiveness, as provided in 10 CFR 303.10, that the date the prohibition order will be effective will be stated in the Notice of Effectiveness.

The Notice of Effectiveness will contain a compliance schedule to insure that the prohibition will be effective to comply with the prohibition on the burning of natural gas or petroleum products as a primary energy source on the date the order becomes effective.

Public hearings 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 rationale in support of the findings; (2) the identification of any site-specific environmental impacts resulting from the proposed prohibition orders that were not identified or described in the Environmental Impact Statement (FES 75-1, dated April 23, 1975) for the FEA program to implement section 2 of ESECA; (3) the proposed period set forth in this notice as the period necessary for the powerplant to prepare for the burning of coal as a primary energy source (other than the period needed to take steps required to satisfy the Clean Air Act); and (4) any other relevant aspects or impacts of the proposed prohibition order.

If oral presentation is to be made, it is requested that any detailed technical data, views, and arguments be made in written comments submitted in support of the oral presentation, and that the oral presentation itself be a summary of those more detailed comments.

A public hearing on the proposed prohibition orders will be held beginning at 9 a.m., c.d.t. on May 20, 1975, in Room Mezzanine, FEA Region VII, 112 East 12th Street, Kansas City, Missouri, to receive oral presentation of data, views and arguments from interested persons. 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 oral presentation. That request should be directed to Gene Wenzl, 7AJE, Box 2208, 112 East 12th Street, Kansas City, Missouri 64142, (816) 374-3117 and must be received before 4:30 p.m. c.d.t., May 15, 1975. The request may be hand-delivered to Gene Wenzl, 7AJE, Box 2208, 112 East 12th Street, Kansas City, Missouri between the hours of 8 a.m. and 4:30 p.m. c.d.t., Monday through Friday. 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 which has such an interest; and to give a concise summary of the substance of his or her oral presentation and a phone number where he or she may be contacted through May 19, 1975. Each person selected to be heard will be so notified by the FEA by 4:30 p.m. c.d.t., May 18, 1975, and must submit 5 copies of the statement to Gene Wenzl, 7AJE, Box 2208, 112 East 12th Street, Kansas City, Missouri, 64142, before 4:30 p.m., May 16, 1975.

The FEA reserves the right to limit the number of representatives of a particular group or class of persons to be heard at the hearing, to schedule their or other person's presentations, and to establish the procedures governing the conduct of the hearing. The length of time allocated to 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 hearing. It will not be a judicial or evidentiary-type hearing. During an oral presentation, questions may be asked only by those conducting the hearing, and there will be no cross-examination of persons making oral presentations. 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
NOTICES

were made and will be subject to time
limitations.

An interested person may submit questions to be asked of any person making an oral presentation at the hearing to FEA Region VII, Gene Wenzl, 7A11E, Box 2208, 112 East 12th Street, Kansas City, Missouri 64142, before 9 a.m. c.d.t., May 26, 1975. Any person who makes an oral statement or any other person who wishes to ask a question at the hearing may submit the questions, in writing, to the presiding officer. The FEA, or the presiding officer if the question is submitted at the hearing, will determine whether the question is relevant, and whether time limitations permit it to be presented for answer.

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

A transcript of the hearing will be made and the entire record of the hearing, including the transcript will be retained by the FEA and made available for inspection for the FEA Region VII, Library, third floor, 112 East 12th Street, Kansas City, Missouri, and FEA Administrator's Reception Area, Room 3400, 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. 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 the proposed prohibition order to Executive Communications, Federal Energy Administration, Box DD, Washington, D.C. 20441.

Comments should be identified on the outside of the envelope in which they are transmitted and on other documents submitted to FEA with the designation “Proposed Prohibition Order.” Fifteen copies should be submitted.

All written comments received by 4:30 p.m. c.d.t., May 25, 1975, all oral presentations and all other relevant information submitted to or otherwise available to FEA will be considered by FEA prior issuance of any prohibition order.

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.

Any questions regarding this notice should be directed to Gene Wenzl, FEA Region VII, 112 East 12th Street, Kansas City, Missouri 64142, (316) 374-5177.


ROBERT E. MONTGOMERY, JR.,
General Counsel,
Federal Energy Administration.

FINDINGS IN SUPPORT OF PROPOSED PROHIBITION ORDERS

FEA's initial conclusions with respect to, and the rationale in support of, the findings which ESCEA requires FEA to make before issuance of a prohibition order are set out below, with respect to each of the powerplants which are the subject of this notice. Also set out below, with respect to each powerplant, is the period of time which FEA believes will be necessary for the powerplant to prepare for burning of coal, other than time necessary to comply with air pollution requirements.

1. OFU-001, Ames Electric Utility, Powerplant 7, Generating Station—Ames, Ames, Iowa

(a) Findings and rationale for findings:

(i) Capability and necessary plant equipment to burn coal. Based on an analysis of the information submitted to or otherwise available to FEA, FEA hereby finds that on June 22, 1974, the Powerplant Number 7 at the Ames Generating Station had the capability and necessary plant equipment to burn coal. This finding is based on facts, interpretations and assumptions stated below:

(ii) On the basis of the Ames Electric Utility to acquire or modify such equipment and facilities in order to burn coal as a primary energy source, or to burn coal and another fossil fuel interchangeably as its primary energy source, notwithstanding the fact that on June 22, 1974, such powerplant may not have been burning coal as its primary energy source.

(b) Based on information filed with FEA by the City of Ames Electric Utility, no significant equipment or facilities would have to be acquired or substantially refurbished.

(ii) Burning of coal in lieu of natural gas or petroleum products is practicable and consistent with the purposes of ESCEA. Based on an analysis of the information submitted to or otherwise available to FEA, FEA hereby finds that the burning of coal by Powerplant Number 7 at the Ames Generating Station in lieu of petroleum products or natural gas is practicable and consistent with the purposes of ESCEA. This finding is based on the facts, interpretations and assumptions stated below.

(a) (1) Powerplant Number 7 at the Ames Generating Station has acquired or modified, or is currently acquiring or modifying the equipment and facilities necessary for the burning of coal as its primary energy source, and such actions are not being undertaken as a result of (or in contemplation of) the issuance of a prohibition order. These acquisitions or modifications include those necessary for compliance with the requirements of the Clean Air Act.

(ii) The costs associated with the acquisitions and modifications necessary for the burning of coal are identified in the Ames Electric Utility’s current and prospective budgetary plans.

(iii) FEA assumes that the decision by the Ames Electric Utility to acquire or modify such equipment and facilities in order to burn coal as a primary energy source was based on an analysis of the financial capability of the company to assume such costs (including any requirement to obtain a rate increase) as well as any costs relating to operation and maintenance and fuel costs, and therefore that the company has concluded that the burning of coal in lieu of petroleum products or natural gas is practicable.

On the basis of the Ames Electric Utility actions described above and other information available to FEA, FEA concludes that the burning of coal by such powerplant is practicable within the meaning of ESCEA and the regulations promulgated thereunder, and will continue to be practicable for the period that the order is in effect.

(b) Because the issuance of this prohibition order will discourage the use of natural gas or petroleum products and encourage the increased use of coal, FEA concludes that it is consistent with the purpose of ESCEA to provide a means to assist in meeting the essential needs of the United States for fuels. Further, on the basis of the environmental analyses conducted by FEA, the analyses of air quality impacts which EPA is required to conduct prior to effectiveness of a prohibition order, as well as the necessity for the powerplant to comply with the Clean Air Act and other applicable environmental protection requirements, FEA concludes that the burning of coal is consistent with the purpose of ESCEA to provide for a means to meet essential fuel needs in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment.

(ii) Coal and coal transportation facilities will be available during the period the prohibition order is in effect. Based on an analysis of the information submitted to or otherwise available to FEA, FEA hereby finds that coal and coal transportation facilities will be available to this powerplant during the period until December 31, 1978. The period until December 31, 1978 is the period during all or part of which the prohibition order to which these findings relate will be in effect. This finding is based upon the following facts, interpretations, and assumptions:

(a) (1) It is estimated that it will be practicable to produce coal nationally as follows:
(3) The estimated demand for coal from these supply regions resulting from increased demand resulting from FEA actions under authority of section 2 of ESECA is as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Demand (million tons)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1975</td>
<td>212</td>
</tr>
<tr>
<td>1976</td>
<td>224</td>
</tr>
<tr>
<td>1977</td>
<td>240</td>
</tr>
<tr>
<td>1978</td>
<td>250</td>
</tr>
</tbody>
</table>

(4) Coal of the specific type required for use by this powerplant has been identified in the reserves of the Midwest, Gulf, and Northern Great Plains coal supply regions.

(5) It is estimated that it will be practicable to produce coal from the Midwest, Gulf, and Northern Great Plains coal supply regions as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Production (million tons)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1975</td>
<td>662</td>
</tr>
<tr>
<td>1976</td>
<td>670</td>
</tr>
<tr>
<td>1977</td>
<td>707</td>
</tr>
<tr>
<td>1978</td>
<td>765</td>
</tr>
</tbody>
</table>

(6) The regional and national production estimates stated in items (1) and (5) assume a surge capacity, or ability to increase production over normal levels, of approximately 4 percent. In response to an industry survey in late 1974, the coal industry indicated adequate surge capacity of up to 8 percent. A study by the Bureau of Mines, Department of the Interior, indicates a surge capacity of approximately up to 6 percent. By comparison, the increased national demand for coal resulting from the prohibition order to which this finding relates and other FEA actions under section 2 of ESECA, is less than one tenth of a percent in 1975, increasing to a maximum of 2.3 percent in 1978 of estimated national demand stated in item (2). A market survey of traditional coal suppliers to FEA Region 7 consumers suggests a cumulative evidence of ample production capability to support increased demand for coal from this region resulting from the prohibition order to which this finding relates and other FEA actions under section 2 of ESECA.

(7) The FEA is unaware of any State or local laws or policies limiting the extraction of this coal which would affect these production estimates.

The powerplant Number 7's primary energy source will not result in any scheduled outage or reduction in electric power output, and, therefore, such prohibition will not result in an impairment of the reliability of service, with the meaning of ESECA and the regulations promulgated pursuant thereto, by such powerplant.

(a) Findings and rationale for findings:

(i) Capability and necessary plant equipment to burn coal. Based on an analysis of the information submitted to or otherwise available to FEA, FEA hereby finds that on June 22, 1974, Powerplant Numbers 1, 2, and 3 at the Sutherland Generating Station each had the capability and necessary plant equipment to burn coal. This finding is based on facts, interpretations and assumptions stated below:

(a) Powerplant Numbers 1, 2, and 3 at the Sutherland Generating Station had in place, on June 22, 1974, a boiler that was capable of burning coal, in that such boiler had been designed and constructed, or had been modified to enable it to burn coal as its primary energy source, or to burn coal and another fossil fuel interchangeably as its primary energy source, notwithstanding the fact that on June 22, 1974, such powerplant may not have been burning coal as its primary energy source.

(b) Based on information filed with FEA on April 11, 1975 by the Iowa Electric Light and Power Company, no equipment or facilities necessary for the burning of coal had in place, on June 22, 1974, which had been acquired or substantially refurbished.

(II) Burning of coal in lieu of natural gas or petroleum products is practicable and consistent with the purposes of ESECA. Based on a study of the information submitted to or otherwise available to FEA, FEA hereby finds that the burning of coal by Powerplant Numbers 1, 2, and 3 at the Sutherland Generating Station in lieu of petroleum products or natural gas is practicable and consistent with the purposes of ESECA. This finding is based on the facts, interpretations and assumptions stated below:

(a) Powerplant Number 7 is part of the Iowa Power and Light Company dispatching system, which is within the geographic area encompassed by the Mid-Continent Area Reliability Coordination Agreement.

(b) Powerplant Number 7 at the Ames Generating Station currently is burning coal as its primary energy source on a regular basis. Natural gas has been used on an ad hoc basis.

(c) Prohibition of the use of natural gas or petroleum products as the Powerplant's primary energy source would result in any scheduled outage or reduction in electric power output, and, therefore, such prohibition will not result in an impairment of the reliability of service, with the meaning of ESECA and the regulations promulgated pursuant thereto, by such powerplant.

(b) Time necessary to prepare for the burning of coal (other than time necessary to comply with air pollution requirements):

The powerplant is currently capable of burning coal as its primary energy source.
NOTICES

(2) The costs associated with the acquisitions and modifications necessary for the burning of coal are identified in the Iowa Electric Light and Power Company's current and prospective budgetary plans.

(3) FEA assumes that the decision by the Iowa Electric Light and Power Company to acquire or modify such equipment and facilities in order to burn coal as a primary energy source was based on an analysis of the financial capability of the company to assume such costs (including any requirement to obtain a rate increase) as well as any costs relating to operation and maintenance and fuel costs, and therefore that the company has concluded that the burning of coal in lieu of petroleum products or natural gas is practicable.

(ii) On the basis of the Iowa Electric Light and Power Company actions described above and other information available to FEA, FEA concludes that the burning of coal by such powerplant is practicable within the time limitations promulgated thereunder, and will continue to be practicable for the period that the order is in effect.

(iv) Because the issuance of this prohibition order will discourage the use of natural gas or petroleum products and encourage the increased use of coal, FEA concludes that it is consistent with the purpose of ESECA to provide a means to assist in meeting the essential needs of the United States for fuels. Further, on the basis of the environmental analyses conducted by FEA, the analyses of air quality promulgated under ESECA are required to conduct prior to effectiveness of a prohibition order, as well as the necessity for the powerplant to comply with the Clean Air Act and other applicable environmental protection requirements, FEA concludes that the prohibition order is consistent with the purpose of ESECA to provide for a method to meet essential needs of the powerplant with existing national commitments to protect and improve the environment.

(iii) Coal and coal transportation facilities will be available during the period of the prohibition order. Based on an analysis of the information submitted to or otherwise available to FEA, FEA hereby finds that coal and coal transportation facilities will be available to the powerplant during the period until December 31, 1978. The period until December 31, 1978 is the period during all or part of which the prohibition order to which these findings relate will be in effect. This finding is based upon the following facts, interpretations, and assumptions:

(a) It is estimated that it will be practicable to produce coal nationally as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Production (million tons)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1975</td>
<td>602</td>
</tr>
<tr>
<td>1976</td>
<td>701</td>
</tr>
<tr>
<td>1977</td>
<td>875</td>
</tr>
<tr>
<td>1978</td>
<td></td>
</tr>
</tbody>
</table>

(b) The estimated national demand, excluding any increased demand resulting from FEA action under the authority of section 2 of ESECA, is as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Demand (million tons)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1975</td>
<td></td>
</tr>
<tr>
<td>1976</td>
<td></td>
</tr>
<tr>
<td>1977</td>
<td></td>
</tr>
<tr>
<td>1978</td>
<td></td>
</tr>
</tbody>
</table>

(c) The estimated national demand for coal resulting from the prohibition order to which this finding relates, and from FEA actions under authority of section 2 of ESECA, will be as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Demand (million tons)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1975</td>
<td></td>
</tr>
<tr>
<td>1976</td>
<td></td>
</tr>
<tr>
<td>1977</td>
<td></td>
</tr>
<tr>
<td>1978</td>
<td></td>
</tr>
</tbody>
</table>

(d) The regional and national production estimates stated in items (1) and (5) assume a surge capacity, or ability to increase production over normal levels, of approximately 4 percent. In response to an industry survey in late 1974, the coal industry indicated a surge capacity of up to 8 percent. A study by the Bureau of Mines/Department of the Interior, indicates a surge capacity of approximately up to 6 percent. By comparison, the increased national demand for coal resulting from the prohibition order to which this finding relates and other FEA actions under section 2 of ESECA, is less than one tenth of a percent in 1975, increasing to a maximum of 2.3 percent in 1978 of estimated national demand stated in item (2). A market survey of traditional coal suppliers to FEA Region 7 consumers suggests substantial evidence of ample production capability to support increased demand for coal from this region resulting from the prohibition order to which this finding relates and other FEA actions under section 2 of ESECA.

(7) The FEA is unaware of any State or local laws or policies limiting the extraction of this coal which would affect these production estimates.

(8) The estimated demand for coal from these supply regions, excluding any increased demand resulting from FEA actions under the authority of section 2 of ESECA, is as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Demand (million tons)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1975</td>
<td></td>
</tr>
<tr>
<td>1976</td>
<td></td>
</tr>
<tr>
<td>1977</td>
<td></td>
</tr>
<tr>
<td>1978</td>
<td></td>
</tr>
</tbody>
</table>

(9) The estimated additional demand for coal from these supply regions resulting from the prohibition order to which this finding relates and from other FEA orders under section 2 of ESECA, will be as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Demand (million tons)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1975</td>
<td></td>
</tr>
<tr>
<td>1976</td>
<td></td>
</tr>
<tr>
<td>1977</td>
<td></td>
</tr>
<tr>
<td>1978</td>
<td></td>
</tr>
</tbody>
</table>

(10) On the basis of the above information, FEA has concluded that the estimated production of coal of the specific type required for use by this powerplant exceeds the estimated demand for such coal by amounts adequate to support a conclusion that such coal will be available to the powerplant during the period until December 31, 1978.

(b) (1) Adequate rail facilities exist between these coal supply regions and the powerplant to transport the coal that will be provided by such powerplant pursuant to this order.

(b) (2) There is a spur line which will be able to deliver this coal from the main rail line to the powerplant.

(b) (3) Sufficient rolling stock will be available to the Denver and Rio Grande, Burlington Northern and Chicago and Northwestern for transporting this coal during the period until December 31, 1978.

(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 or otherwise available to FEA, and after consultation with the Federal Power Commission, FEA hereby finds that the prohibition of the Powerplants Numbers 1, 2, and 3 at the Sutherland Generating Station from burning natural gas or petroleum products as its primary energy source will not impair the reliability of service in the area served by such powerplant. This finding is based on the facts, assumptions and interpretations stated below:

(a) Powerplants Numbers 1, 2, and 3 at the Sutherland Generating Station are part of the Iowa Electric Light and Power Company as interconnected with the Mid-America Power Pool dispatching system, which is within the geographic area encompassed by the Mid-Continent Area Reliability Coordination Agreement (MARCA).

(b) Powerplants Numbers 1, 2, and 3 currently are each burning coal as its primary energy source on a regular basis. Natural gas has been used on an as-needed basis.

(c) Prohibition of the use of natural gas or petroleum products as the Powerplants Numbers 1, 2, and 3's primary
energy source will not result in any scheduled outage or reduction in electric power output, and, therefore, such prohibition will not result in an impairment of the reliability of service, within the meaning of ESECA and the regulations promulgated pursuant thereto, by such powerplants.

(b) Time necessary to prepare for the burning of coal, (other than time necessary to comply with air pollution requirements):

The powerplants are currently capable of burning coal as the primary energy source.

3. OFU-005,006, IOWA POWER AND LIGHT COMPANY, POWERPLANTS 10, 11, GENERATING STATION—DESMOINES, DES MOINES, IOWA

(a) Findings and rationale for findings:

(i) Capability and necessary plant equipment to burn coal. Based on an analysis of the information submitted to or otherwise available to FEA, FEA hereby finds that on June 30, 1974, Powerplant Numbers 10 and 11 at the Des Moines Generating Station had each had the capability and necessary plant equipment to burn coal. This finding is based on facts, interpretations and assumptions stated below:

(a) Powerplants numbers 10 and 11 at the Des Moines Generating Station had in place, on June 22, 1974, a boiler that was capable of burning coal, in that such boiler had been designed and constructed, or had been modified to enable it to burn coal as its primary energy source, or to burn coal and another fossil fuel interchangeably as its primary energy source, notwithstanding the fact that on June 22, 1974, such powerplant may not have been burning coal as its primary energy source.

(b) Based on information filed with FEA on March 17, 1975 by the Iowa Power and Light Company, no equipment or facilities will have to be acquired or substantially refurbished.

(ii) Burning of coal in lieu of natural gas or petroleum products is practicable and consistent with the purposes of ESECA. Based on an analysis of the information submitted to or otherwise available to FEA, FEA hereby finds that the burning of coal by powerplants numbers 10 and 11 at the Des Moines Generating Station in lieu of petroleum products or natural gas is practicable and consistent with the purposes of ESECA. This finding is based on the facts, interpretations and assumptions stated below:

(a) Powerplants numbers 10 and 11 at the Des Moines Generating Station had acquired or modified, or are currently acquiring or modifying the equipment and facilities necessary for the burning of coal as their primary energy source, and such actions are not being undertaken as a result of (or in contemplation of) the issuance of a prohibition order. These acquisitions or modifications include those necessary for compliance with the requirements of the Clean Air Act.

(2) The costs associated with the acquisitions and modifications necessary for the burning of coal are identified in the Iowa Power and Light Company’s current and prospective budgetary plans.

(3) FEA assumes that the decisions by the Iowa Power and Light Company to acquire or modify such equipment and facilities in order to burn coal as a primary energy source was based on an analysis of the marketability of Iowa Power and Light Company’s ability to assume such costs (including any requirement to obtain a rate increase) as well as any costs relating to operation and maintenance of fuel supplies that the utility believes that the company has concluded that the burning of coal in lieu of petroleum products or natural gas is practicable.

(i) On the basis of the Iowa Power and Light Company’s actions described above and other information available to FEA, FEA concludes that the burning of coal by such powerplant is practicable within the meaning of ESECA and the regulations promulgated thereunder, and will continue to be practicable for the period that the order is in effect.

(b) Because the issuance of this prohibition order will discourage the use of natural gas or petroleum products and encourage the increased use of coal, FEA concludes that it is consistent with the purpose of ESECA to provide a means to assist in meeting the essential needs of the United States for fuels. Further, on the basis of the environmental analyses conducted by FEA, the analyses of air quality impacts which EPA is required to conduct prior to effectiveness of a prohibition order, as well as the necessity for the powerplant to comply with the Clean Air Act and other applicable environmental protection requirements, FEA concludes that the prohibition order is consistent with the purpose of ESECA to provide a means to meet essential fuel needs in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment.

(c) Coal and coal transportation facilities will be available during the period the prohibition order is in effect. Based on an analysis of the information submitted to or otherwise available to FEA, FEA hereby finds that the burning of coal by powerplants numbers 10 and 11 at the Des Moines Generating Station will have to be modified to enable it to burn coal as its primary energy source, or to burn coal and another fossil fuel interchangeably as its primary energy source.

(3) The estimated additional national demand for coal resulting from the prohibition order to which this finding relates, and from FEA actions under authority of section 2 of ESECA, will be as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Production (million tons)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1975</td>
<td>7.2</td>
</tr>
<tr>
<td>1976</td>
<td>7.2</td>
</tr>
<tr>
<td>1977</td>
<td>7.2</td>
</tr>
<tr>
<td>1978</td>
<td>7.2</td>
</tr>
</tbody>
</table>

(4) Coal of the specific type required for use by these powerplants has been identified in the reserves of the Midwest, Gulf, and Northern Great Plains coal supply regions.

(5) It is estimated that it will be practicable to produce coal from the Midwest, Gulf, and Northern Great Plains coal supply regions as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Demand (million tons)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1975</td>
<td>7.2</td>
</tr>
<tr>
<td>1976</td>
<td>7.2</td>
</tr>
<tr>
<td>1977</td>
<td>7.2</td>
</tr>
<tr>
<td>1978</td>
<td>7.2</td>
</tr>
</tbody>
</table>

(6) The regional and national production estimates stated in items (1) and (5) assume a surge capacity, or ability to increase production over normal levels, of approximately 4 percent. In response to an industry survey in late 1974, the coal industry indicated a surge capacity of up to 8 percent. A study by the Bureau of Mines, Department of the Interior, indicates a surge capacity of approximately up to 6 percent. By comparison, the increased national demand for coal resulting from the prohibition order to which this finding relates and other FEA actions under section 2 of ESECA, is less than one tenth of a percent in 1975, increasing to a maximum of 2.3 percent in 1978 of estimated national demand stated in item (2). A market survey of traditional coal suppliers to FEA indicates that consumers suggest substantial evidence of ample production capability to support increased demand for coal from this region resulting from the prohibition order in which this finding relates and other FEA actions under section 2 of ESECA.

(7) The FEA is unaware of any State or local laws or policies limiting the extraction of this coal which would affect these production estimates.

(8) The estimated demand for coal from these supply regions excluding any increased demand resulting from FEA actions under the authority of section 2 of ESECA is as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Production (million tons)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1975</td>
<td>648</td>
</tr>
<tr>
<td>1976</td>
<td>644</td>
</tr>
<tr>
<td>1977</td>
<td>686</td>
</tr>
<tr>
<td>1978</td>
<td>716</td>
</tr>
</tbody>
</table>

FEDERAL REGISTER, VOL. 40, NO. 91—FRIDAY, MAY 9, 1975
(9) The estimated additional demand for coal from these supply regions resulting from the prohibition order to which this finding relates and from other FEA orders under section 2 of ESECA, will be as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Demand (million tons)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1975</td>
<td>3</td>
</tr>
<tr>
<td>1976</td>
<td>1</td>
</tr>
<tr>
<td>1977</td>
<td>8.5</td>
</tr>
<tr>
<td>1978</td>
<td>4.0</td>
</tr>
</tbody>
</table>

(10) On the basis of the above information, FEA has concluded that the estimated production of coal of the specific type required for use by this powerplant exceeds the estimated demand for coal by amounts adequate to support a conclusion that such coal will be available to the powerplant during the period until December 31, 1978.

(b1) Adequate rail facilities exist between these coal supply regions and the powerplant to transport the coal that will be used by such powerplant pursuant to this order.

(b2) There is a spur line which will be able to deliver this coal from the main rail line to the powerplant.

(b3) Sufficient rolling stock will be available to the Burlington Northern for transporting this coal during the period until December 31, 1978.

(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 or otherwise available to FEA, FEA hereby finds that on June 22, 1974, Powerplant number 1 at the George Neal Generating Station had in place, on June 22, 1974, a boiler that was capable of burning coal, in that such boiler had been designed and constructed, or had been modified to enable it to burn coal as its primary energy source, or to burn coal and another fossil fuel interchangeably as its primary energy source, notwithstanding the fact that on June 22, 1974, such powerplant may not have been burning coal as its primary energy source.

(b) Based on information filed with FEA on March 14, 1975 by the Iowa Public Service Company, no equipment or facilities would have to be acquired or substantially refurbished.

(1) Burning of coal in lieu of natural gas or petroleum products is practicable and consistent with the purposes of ESECA. Based on an analysis of the information submitted to or otherwise available to FEA, FEA hereby finds that the burning of coal by Powerplant number 1 at the George Neal Generating Station in lieu of petroleum products or natural gas is practicable and consistent with the purposes of ESECA. This finding is based on the facts, assumptions and interpretations stated below:

(a) Powerplants numbers 10 and 11 at the Des Moines Generating Station from burning natural gas or petroleum products as its primary energy source will not impair the reliability of service in the area served by such powerplants. This finding is based on the facts, assumptions and interpretations stated below:

(i) Prohibition of the use of natural gas or petroleum products as the Powerplants numbers 10 and 11 at the Des Moines Generating Station's primary energy source will not result in any scheduled outage or reduction in electric power output, and, therefore, such prohibition will not result in an impairment of the reliability of service, within the meaning of ESECA and the regulations promulgated pursuant thereto, by such powerplant.

(b) Time necessary to prepare for the burning of coal, (other than time necessary to comply with air pollution requirements):

The powerplants are currently capable of burning coal as the primary energy source.

4. OFU-007, IOWA PUBLIC SERVICE COMPANY, POWERPLANT 1, GENERATING STATION—GEORGE NEAL, SALIX, IOWA

(a) Findings and rationale for findings: (i) Capability and necessary plant equipment to burn coal. Based on an analysis of the information submitted to or otherwise available to FEA, FEA hereby finds that on June 22, 1974, Powerplant number 1 at the George Neal Generating Station had the capability and necessary plant equipment to burn coal. This finding is based on facts, interpretations and assumptions stated below:

(a) Powerplant number 1 at the George Neal Generating Station had in place, on June 22, 1974, a boiler that was capable of burning coal, in that such boiler had been designed and constructed, or had been modified to enable it to burn coal as its primary energy source, or to burn coal and another fossil fuel interchangeably as its primary energy source.

(b) Based on information filed with FEA on March 14, 1975 by the Iowa Public Service Company, no equipment or facilities would have to be acquired or substantially refurbished.

(ii) Burning of coal in lieu of natural gas or petroleum products is practicable and consistent with the purposes of ESECA. Based on an analysis of the information submitted to or otherwise available to FEA, FEA hereby finds that burning of coal by Powerplant number 1 at the George Neal Generating Station is consistent with the purposes of ESECA and the regulations promulgated thereunder, and will continue to be practicable for the period that the order is in effect.

(b) Because the issuance of this prohibition order will discourage the use of natural gas or petroleum products and encourage the increased use of coal, FEA concludes that it is consistent with the purposes of ESECA to provide a means to assure meeting the essential needs of the United States for fuels. Further, on the basis of the environmental analyses conducted by FEA, the analyses of air quality impacts which EPA is required to conduct prior to effectiveness of a prohibition order, as well as the necessity for the powerplant to comply with the Clean Air Act and other applicable environmental protection requirements, FEA concludes that the prohibition order is consistent with the purpose of ESECA to provide for a means to meet essential fuel needs in a manner which is consistent, to the fullest extent practical, with existing national commitments to protect and improve the environment.

(ii) Coal and coal transportation facilities will be available during the period the production order is in effect. Based on an analysis of the information submitted to or otherwise available to FEA, FEA hereby finds that coal and coal transportation facilities will be available to this powerplant during the period the production order is in effect. The period until December 31, 1978 is the period during all or part of which the prohibition order to which these findings relate will be in effect. This finding is based on the following facts, interpretations, and assumptions:

(a1) It is estimated that it will be practicable to produce coal nationally as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Production (million tons)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1975</td>
<td>362</td>
</tr>
<tr>
<td>1976</td>
<td>979</td>
</tr>
<tr>
<td>1977</td>
<td>107</td>
</tr>
<tr>
<td>1978</td>
<td>735</td>
</tr>
</tbody>
</table>

(2) The estimated national demand excluding any increased demand resulting from FEA action under the authority of section 2 of ESECA is as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Demand (million tons)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1975</td>
<td>640</td>
</tr>
<tr>
<td>1976</td>
<td>688</td>
</tr>
<tr>
<td>1977</td>
<td>716</td>
</tr>
</tbody>
</table>
(3) The estimated additional national demand for coal resulting from the prohibition order to which this finding relates, and from FEA actions under authority of section 2 of ESECA, will be as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Demand (million tons)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1975</td>
<td>0.7</td>
</tr>
<tr>
<td>1976</td>
<td>4.0</td>
</tr>
<tr>
<td>1977</td>
<td>15.6</td>
</tr>
<tr>
<td>1978</td>
<td>21.0</td>
</tr>
</tbody>
</table>

(4) Coal of the specific type required for use by this powerplant has been identified in the reserves of the Midwest, Gulf, and Northern Great Plains coal supply regions.

(5) It is estimated that it will be practicable to produce coal from the Midwest, Gulf, and Northern Great Plains coal supply regions as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Production (million tons)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1975</td>
<td>210</td>
</tr>
<tr>
<td>1976</td>
<td>240</td>
</tr>
<tr>
<td>1977</td>
<td>260</td>
</tr>
<tr>
<td>1978</td>
<td>297</td>
</tr>
</tbody>
</table>

(6) The regional and national production estimates stated in items (1) and (5) assume a surge capacity, or ability to increase production over normal levels, of approximately 4 percent. In response to an industry survey in late 1974, the coal industry indicated a surge capacity of up to 8 percent. A study by the Bureau of Mines, Department of the Interior, indicates a surge capacity of approximately up to 6 percent. By comparison, the increased national demand for coal resulting from the prohibition order to which this finding relates and other FEA actions under section 2 of ESECA, is less than one-tenth of a percent in 1975, increasing to a maximum of 2.3 percent in 1978 of estimated national demand stated in item (2). A market survey of traditional coal suppliers to FEA Region 7 consumers suggests substantial evidence of ample production capacity to support increased demand for coal resulting from this region resulting from the prohibition order to which this finding relates and other FEA actions under section 2 of ESECA.

(7) The FEA is unaware of any State or local laws or policies limiting the extraction of this coal which would affect these production estimates.

The estimated demand for coal from these supply regions excluding any increased demand resulting from FEA actions under the authority of section 2 of ESECA is as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Demand (million tons)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1975</td>
<td>212</td>
</tr>
<tr>
<td>1976</td>
<td>244</td>
</tr>
<tr>
<td>1977</td>
<td>257</td>
</tr>
<tr>
<td>1978</td>
<td>255</td>
</tr>
</tbody>
</table>

(9) The estimated additional demand for coal from these supply regions resulting from the prohibition order to which this finding relates and from other FEA orders under section 2 of ESECA, will be as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Demand (million tons)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1975</td>
<td>0.3</td>
</tr>
<tr>
<td>1976</td>
<td>1.6</td>
</tr>
<tr>
<td>1977</td>
<td>3.8</td>
</tr>
<tr>
<td>1978</td>
<td>4.0</td>
</tr>
</tbody>
</table>

(10) On the basis of the above information, FEA has concluded that the estimated production of coal of the specific type required for use by this powerplant exceeds the estimated demand for such coal by amounts adequate to support a conclusion that such coal will be available to the powerplant during the period until December 31, 1978.

(a) Adequate rail facilities exist between these coal supply regions and the powerplant, such that coal current that will be used by such powerplant pursuant to this order.

(b) There is a spur line which will be able to deliver this coal from the main rail line to the powerplant.

(c) Sufficient rolling stock will be available to the Union Pacific and Chicago and Northwestern for transporting this coal during the period until December 31, 1978.

(d) The operation 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 or otherwise available to FEA, and after consultation with the Federal Power Commission, FEA hereby finds that the operation of the Powerplant number 1 at the George Neal Generating Station from burning natural gas or petroleum products as its primary energy source will not impair the reliability of service in the area served by such powerplant. This finding is based on the facts, assumptions and interpretations stated below:

(a) Powerplant number 1 at the George Neal Generating Station is part of the Iowa Public Service Company and is interconnected with the Mid-America Power Pool dispatching system, which is within the geographic area encompassed by the Mid-Continent Area Reliability Coordination Agreement.

(b) Powerplant number 1 at the George Neal Generating Station currently is burning coal as its primary energy source on a regular basis. Natural gas has been used on an as-available basis.

(c) Prohibition of the use of natural gas or petroleum products as the Powerplant number 1 at the George Neal Generating Station's primary energy source will not result in any scheduled outage or reduction in electric power output, and, therefore, such prohibition will not result in an impairment of the reliability of service, within the meaning of ESECA and the regulations promulgated pursuant thereto, by such powerplant.

(d) Time necessary to prepare for the burning of coal (other than time necessary to comply with air pollution requirements): The powerplants are currently capable of burning coal as the primary energy source.

(a) Findings and rationale for findings:

(1) Capability and necessary plant equipment to burn coal, Based on an analysis of the information submitted to or otherwise available to FEA, FEA hereby finds that on June 22, 1974, Powerplant Number 14 at Maynard Generating Station had the capability and facilities necessary for this order. This finding is based on facts, interpretations and assumptions stated below:

(a) Powerplant Number 14 at Maynard Generating Station had in place, equipment or facilities which would have to be acquired or substantially refurbished.

(b) Based on information filed with FEA on March 14, 1975 by the Iowa Public Service Company, no equipment or facilities would have to be acquired or substantially refurbished.

(ii) Burning of coal in lieu of natural gas or petroleum products is practicable and consistent with the purposes of ESECA. This finding is based on facts, interpretations and assumptions stated below.

(a) Powerplant Number 14 has acquired or modified or is currently acquiring or modifying the equipment and facilities necessary for the burning of coal as its primary energy source, and such actions are not being undertaken as a result of (or in contemplation of) the issuance of a prohibition order. These acquisitions or modifications include those necessary for compliance with the requirements of the Clean Air Act.

(b) The costs associated with the acquisitions and modifications necessary for the burning of coal are identified in the Iowa Public Service Company's current and prospective budgetary plans.

(3) FEA assumes that the decision by the Iowa Public Service Company to acquire or modify such equipment and facilities in order to burn coal as a primary energy source was based on an analysis of the financial capability of the company to assume such costs (including any requirement to obtain a rate increase) as well as any costs relating to operation and maintenance and fuel
costs, and therefore that the company has concluded that the burning of coal in lieu of petroleum products or natural gas is practicable.

(1) On the basis of the Iowa Public Service Company actions described above and other information available to FEA, FEA concludes that the burning of coal by such powerplant is practicable within the meaning of ESECA and the regulations promulgated thereunder, and will continue to be practicable for the period that the order is in effect.

(2) Because the issuance of this prohibition order will discourage the use of natural gas or petroleum products and encourage the increased use of coal, FEA concludes that it is consistent with the purpose of ESECA to provide a means to assist in meeting the essential needs of the United States for fuels. Further, on the basis of the environmental analyses conducted by FEA, the analyses of air quality impacts which EPA is required to conduct prior to effectiveness of a prohibition order, as well as the necessity for the powerplant to comply with the Clean Air Act and other applicable environmental protection requirements, FEA concludes that the prohibition order is consistent with the purpose of ESECA to provide for a means to meet essential fuel needs 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 during the period the prohibition order is in effect. Based on an analysis of the information submitted to or otherwise available to FEA, FEA hereby finds that coal and coal transportation facilities will be available to this powerplant during the period until December 31, 1978. The period during which the prohibition order to which these findings relate will be in effect. This finding is based upon the following facts, assumptions, and interpretations:

(a) It is estimated that it will be practicable to produce coal nationally as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Production (million tons)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1975</td>
<td>662</td>
</tr>
<tr>
<td>1976</td>
<td>670</td>
</tr>
<tr>
<td>1977</td>
<td>707</td>
</tr>
<tr>
<td>1978</td>
<td>735</td>
</tr>
</tbody>
</table>

(b) The estimated national demand excluding any increased demand resulting from FEA action under the authority of section 2 of ESECA is as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Demand (million tons)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1975</td>
<td>640</td>
</tr>
<tr>
<td>1976</td>
<td>666</td>
</tr>
<tr>
<td>1977</td>
<td>688</td>
</tr>
<tr>
<td>1978</td>
<td>718</td>
</tr>
</tbody>
</table>

(c) The estimated additional national demand for coal resulting from the prohibition order to which this finding relates, and from FEA actions under authority of section 2 of ESECA, will be as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Demand (million tons)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1975</td>
<td>0.3</td>
</tr>
<tr>
<td>1976</td>
<td>1.6</td>
</tr>
<tr>
<td>1977</td>
<td>3.5</td>
</tr>
<tr>
<td>1978</td>
<td>4.0</td>
</tr>
</tbody>
</table>

(d) On the basis of the above information, FEA has concluded that the estimated production of coal of the specific type required for use by this powerplant exceeds the estimated demand for such coal by amounts adequate to support a conclusion that such coal will be available to the powerplant during the period until December 31, 1978.

(2) Adequate rail facilities exist between these coal supply regions and the powerplant to transport the coal that will be used by such powerplant pursuant to this order.

(3) Sufficient rolling stock will be available to the Union Pacific, Illinois Central Gulf and Waterloo for transporting this coal during the period until December 31, 1978.

(iv) The prohibition of the burning of natural gas or petroleum products as its primary energy source will not impair the reliability of service to customers connected with the Maynard Generating Station. Based on an analysis of the information submitted to or otherwise available to FEA, and after consultation with the Federal Power Commission, FEA hereby finds that the Powerplant Number 14 at the Maynard Generating Station from burning natural gas or petroleum products as its primary energy source will not impair the reliability of service in the powerplant. This finding is based upon the facts, assumptions, and interpretations stated below:

(a) Powerplant Number 14 at the Maynard Generating Station is part of the Iowa Public Service Company as interconnected with the Mid-Ameri­ca Power Pool dispatching system, which is within the geographic area encompassed by the Mid-Continent Area Reliability Coordination Agreement.

(b) Powerplant Number 14 at the Maynard Generating Station currently is burning coal as its primary energy source. Additional coal has been used on an as-available basis.

(c) Prohibition of the use of natural gas or petroleum products as the Powerplant Number 14 at the Maynard Generating Station's primary energy source will not result in any scheduled outage or reduction in electric power output, and therefore, such prohibition will not result in an impairment of the reliability of service, within the meaning of ESECA and the regulations promulgated pursuant thereto, by such powerplant.

(b) Time necessary to prepare for the burning of coal (not time necessary to comply with air pollution requirements).

The powerplant is currently capable of burning coal as its primary energy source, subject to air pollution requirements.

6. OPU-009, 010, 011, KANSAS CITY BOARD OF PUBLIC UTILITIES, POWERPLANTS 1, 2, 3, GENERATING STATION-KAW RIVER, KANSAS CITY, KANSAS.

Findings and rationale for findings:
(1) Capability and necessary plant equipment to burn coal. Based on an analysis of the information submitted to or otherwise available to FEA, FEA hereby finds that on June 22, 1974, Powerplant Numbers 1, 2, and 3 at the Kaw River Generating Station had the capability and necessary plant equipment to burn coal. This finding is based on facts, interpretations and assumptions stated below:

(a) Powerplant Numbers 1, 2, and 3 at the Kaw River Generating Station each had in place on June 22, 1974 a boiler that was capable of burning coal, in that such boiler had been designed and constructed, or had been modified to enable it to burn coal as its primary energy source, or to burn coal and another fossil fuel interchangeably as its primary energy source, notwithstanding the fact that on June 22, 1974, such powerplant may not have been burning coal as its primary energy source.

(b) Based on information filed with FEA by the Kansas City Board of Public Utilities, the following significant equipment or facilities would have to be acquired or substantially refurbished:

1. Coal and ash handling equipment;
2. Coal unloading facilities.

FEA assumes that on June 22, 1974, Units 1, 2 and 3 at the Kaw River Powerplant had all other significant equipment and facilities associated with the burning of coal.

(c) Within the meaning of ESECA and the regulations promulgated pursuant thereto, the equipment and facilities listed in paragraph (b) do not individually or in combination constitute a lack of capability and necessary plant equipment to burn coal, as of June 22, 1974.

(ii) Burning of coal in lieu of natural gas or petroleum products is practicable and consistent with the purposes of ESECA. Based on an analysis of the information submitted to or otherwise available to FEA, FEA hereby finds that the burning of coal by Powerplants Numbers 1, 2, and 3 at the Kaw River Generating Station in lieu of petroleum products or natural gas is practicable and consistent with the purposes of ESECA. This finding is based on the facts, interpretations and assumptions stated below:

(a) Powerplants Numbers 1, 2, and 3 at the Kaw River Generating Station have acquired or modified or are currently acquiring or modifying the equipment and facilities necessary for the burning of coal as its primary energy source, and such actions are not being undertaken as a result of (or in contemplation of) the issuance of a prohibition order. These acquisitions or modifications include those necessary for compliance with the requirements of the Clean Air Act.

(2) The costs associated with the acquisitions and modifications necessary for the burning of coal are identified in the Kansas City Board of Public Utilities’ current and prospective budgetary plans.

(3) FEA assumes that the decision by the Kansas City Board of Public Utilities to acquire or modify such equipment and facilities in order to burn coal as a primary energy source was based on an analysis of the financial capability of the company to assume such costs (including any requirement to obtain a rate increase) as well as any costs relating to operation and maintenance and fuel costs, and therefore, that the company has concluded that the burning of coal in lieu of petroleum products or natural gas is practicable.

(ii) On the basis of the Kansas City Board of Public Utilities actions described above, and other information available to FEA, FEA concludes that the burning of coal by the company is practicable within the meaning of ESECA and the regulations promulgated thereunder, and will continue to be practicable for the period that the order is in effect.

(b) Because the issuance of this prohibition order will discourage the use of natural gas or petroleum products and encourage the increased use of coal, FEA concludes that it is consistent with the purpose of ESECA to provide a means to assist in meeting the essential needs of the United States for fuels. Further, on the basis of the environmental analyses conducted by FEA, the analyses of air quality impacts which EPA is required to conduct prior to effectiveness of a prohibition order, as well as the necessity for the powerplant to comply with the Clean Air Act and other applicable environmental protection requirements, FEA concludes that the prohibition order is consistent with the purpose of ESECA to provide for a means to meet essential fuel needs 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 during the period the prohibition order is in effect. Based on an analysis of the information submitted to or otherwise available to FEA, FEA hereby finds that coal and coal transportation facilities will be available to these powerplants during the period until December 31, 1978. The period until December 31, 1978, is the period during all or part of which the prohibition order to which this finding relates will be in effect. This finding is based upon the following facts, interpretations, and assumptions:

(a) It is estimated that it will be practicable to produce coal nationally as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Production (Million tons)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1975</td>
<td>682</td>
</tr>
<tr>
<td>1976</td>
<td>670</td>
</tr>
<tr>
<td>1977</td>
<td>707</td>
</tr>
<tr>
<td>1978</td>
<td>735</td>
</tr>
</tbody>
</table>

(2) The estimated national demand excluding any increased demand resulting from FEA action under the authority of section 2 of ESECA is as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Demand (Million tons)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1975</td>
<td>0.7</td>
</tr>
<tr>
<td>1976</td>
<td>4.0</td>
</tr>
<tr>
<td>1977</td>
<td>13.9</td>
</tr>
<tr>
<td>1978</td>
<td>18.2</td>
</tr>
</tbody>
</table>

(4) Coal of the specific type required for use by these powerplants has been identified in the reserves of the Midwest, Gulf, and Northern Great Plains coal supply regions.

(5) It is estimated that it will be practicable to produce coal from the Midwest, Gulf, and Northern Great Plains coal supply regions as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Production (Million tons)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1975</td>
<td>919</td>
</tr>
<tr>
<td>1976</td>
<td>284</td>
</tr>
<tr>
<td>1977</td>
<td>280</td>
</tr>
<tr>
<td>1978</td>
<td>287</td>
</tr>
</tbody>
</table>

(6) The regional and national production estimates stated in items (1) and (5) assume a surge capacity, or ability to increase production over normal levels, of approximately 4 percent. In response to an industry survey in late 1974, the coal industry indicated a surge capacity of up to 8 percent. A study by the Bureau of Mines, Department of the Interior, indicates a surge capacity of approximately up to 6 percent. By comparison, the increased national demand for coal resulting from the prohibition order and which this finding relates to and other FEA actions under section 2 of ESECA, is less than one tenth of a percent in 1975, increasing to a maximum of 2.3 percent in 1978 of estimated national demand stated in item (2).

A market survey of traditional coal suppliers to FEA Region 7 consumers suggests substantial evidence of ample production capability to support increased demand for coal from this region resulting from the prohibition order to which this finding relates and other FEA actions under section 2 of ESECA.

(7) The FEA is unaware of any State or local laws or policies limiting the extraction of this coal which would affect these production estimates.

(8) The estimated demand for coal from these supply regions excluding any increased demand resulting from FEA
actions under the authority of section 2 of ESECA is as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Demand (million tons)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1975</td>
<td>0.3</td>
</tr>
<tr>
<td>1976</td>
<td>1.0</td>
</tr>
<tr>
<td>1977</td>
<td>3.6</td>
</tr>
<tr>
<td>1978</td>
<td>4.0</td>
</tr>
</tbody>
</table>

(10) On the basis of the above information, FEA has concluded that the estimated production of coal of the specific type required for use by this powerplant exceeds the estimated demand for coal by amounts adequate to support a conclusion that such coal will be available to the powerplant during the period until December 3, 1978.

(11) Adequate rail facilities exist between these coal supply regions and the powerplant to transport the coal that will be used by such powerplant pursuant to this order.

(2) There is a spur line which will be able to deliver this coal from the main rail line to the powerplant.

(3) Sufficient rolling stock will be available to the St. Louis-San Francisco, Kansas City Southern, Missouri-Kansas-Texas and Missouri Pacific for transporting this coal during the period until December 31, 1978.

(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 powerplants. Based on an analysis of the information submitted to or otherwise available to FEA, and after consultation with the Federal Power Commission, FEA hereby finds that on June 22, 1974, Powerplants 1 and 2 at the No. 3 Quindaro Generating Station each had the capability and necessary plant equipment to burn coal. This finding is based on facts, interpretations and assumptions stated below:

(a) Powerplants 1 and 2 at the No. 3 Quindaro Generating Station had in place, on June 22, 1974, a boiler that was capable of burning coal, in that such boiler had been designed and constructed, or had been modified to enable it to burn coal as its primary energy source, or to burn coal and another fossil fuel as its primary energy source, notwithstanding the fact that on June 22, 1974, such powerplants may not have been burning coal as its primary energy source.

(b) Based on information filed with FEA on March 20, 1975 by the Kansas City Board of Public Utilities, the following significant equipment or facilities would have to be acquired or substantially refurbished:

1. Coal and ash handling equipment.
2. Coal unloading facilities.

FEA assumes that on June 22, 1974, powerplants 1 and 2 at the No. 3 Quindaro Generating Station, had all other significant equipment or facilities associated with the burning of coal. FEA assumes that the burning of coal is practicable within the meaning of ESECA and the regulations promulgated pursuant thereto, the equipment and facilities listed in paragraph (b) do not individually or in combination constitute a lack of capability of the powerplant to comply with the Clean Air Act and other applicable environmental protection requirements, FEA concludes that the prohibition order is consistent with the purposes of ESECA, based on an analysis of the information submitted to or otherwise available to FEA.

(b) (i) Powerplants 1 and 2 at the No. 3 Quindaro Generating Station, in lieu of petroleum products or natural gas, have the capability of burning coal as its primary energy source, and such actions are not being undertaken as a result of (or in contemplation of) the issuance of a prohibition order. These acquisitions or modifications include those necessary for compliance with the requirements of the Clean Air Act.
Plains coal supply regions as follows:

Midwest, Gulf, and Northern Great Plains coal supply regions will be available during the period the prohibition order is in effect. Based on an analysis of the information submitted to or otherwise available to FEA, FEA hereby finds that coal and coal transportation facilities will be available to these powerplants during the period until December 31, 1978. The period until December 31, 1978 is the period during all or part of which the prohibition order to which these findings relate will be in effect. This finding is based upon the following facts, interpretations, and assumptions:

a(1) It is estimated that it will be practicable to produce coal nationally as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Production (million tons)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1975</td>
<td>660</td>
</tr>
<tr>
<td>1976</td>
<td>670</td>
</tr>
<tr>
<td>1977</td>
<td>700</td>
</tr>
<tr>
<td>1978</td>
<td>730</td>
</tr>
</tbody>
</table>

(2) The estimated national demand excluding any increased demand resulting from FEA action under the authority of section 2 of ESECA is as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Demand (million tons)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1975</td>
<td>440</td>
</tr>
<tr>
<td>1976</td>
<td>464</td>
</tr>
<tr>
<td>1977</td>
<td>488</td>
</tr>
<tr>
<td>1978</td>
<td>718</td>
</tr>
</tbody>
</table>

(3) The estimated additional national demand for coal resulting from the prohibition order to which this finding relates, and from FEA action under authority of section 2 of ESECA, will be as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Demand (million tons)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1975</td>
<td>400</td>
</tr>
<tr>
<td>1976</td>
<td>644</td>
</tr>
<tr>
<td>1977</td>
<td>688</td>
</tr>
<tr>
<td>1978</td>
<td>716</td>
</tr>
</tbody>
</table>

(4) Coal of the specific type required for use by these powerplants has been identified in the reserves of the Midwest, Gulf, and Northern Great Plains coal supply regions.

(5) It is estimated that it will be practicable to produce coal from the Midwest, Gulf, and Northern Great Plains coal supply regions as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Production (million tons)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1975</td>
<td>321</td>
</tr>
<tr>
<td>1976</td>
<td>294</td>
</tr>
<tr>
<td>1977</td>
<td>290</td>
</tr>
<tr>
<td>1978</td>
<td>207</td>
</tr>
</tbody>
</table>

(6) The regional and national production estimates stated in item (1) and (5) assume a surge capacity, or ability to increase production over normal levels, of approximately 4 percent. In response to an industry survey in late 1974, the coal industry indicated a surge capacity of up to 8 percent. A study by the Bureau of Mines, Department of the Interior, indicates a surge capacity of approximately up to 10 percent. By comparison, the increased national demand for coal resulting from the prohibition order to which this finding relates and other FEA actions under section 2 of ESECA, is less than one tenth of a percent in 1975, increasing to a maximum of 25 percent in 1978 of estimated national demand stated in item (2). A market survey of traditional coal suppliers to FEA Region 7 consumers suggests substantial evidence of ample production capability to support increased demand for coal from this region resulting from the prohibition order to which this finding relates and other FEA actions under section 2 of ESECA.

(7) The FEA is unaware of any State or local laws or policies limiting the extraction of this coal which would affect these production estimates.

(8) The estimated demand for coal from these supply regions excluding any increased demand resulting from FEA actions under the authority of section 2 of ESECA is as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Demand (million tons)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1975</td>
<td>212</td>
</tr>
<tr>
<td>1976</td>
<td>254</td>
</tr>
<tr>
<td>1977</td>
<td>240</td>
</tr>
<tr>
<td>1978</td>
<td>265</td>
</tr>
</tbody>
</table>

(9) The estimated additional demand for coal from these supply regions resulting from the prohibition order to which this finding relates and from other FEA orders under section 2 of ESECA, will be as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Demand (million tons)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1975</td>
<td>0.7</td>
</tr>
<tr>
<td>1976</td>
<td>4.0</td>
</tr>
<tr>
<td>1977</td>
<td>1.6</td>
</tr>
<tr>
<td>1978</td>
<td>3.6</td>
</tr>
</tbody>
</table>

(10) On the basis of the above information, FEA has concluded that the estimated production of coal of the specific type required for use by this powerplant exceeds the estimated demand for such coal by amounts adequate to support a conclusion that such coal will be available to the powerplant during the period until December 31, 1978.

b(1) Adequate rail facilities exist between these coaly supply regions and the powerplant to transport the coal that will be used by such powerplant pursuant to this order.

(2) There is a spur line which will be able to deliver this coal from the main rail line to the powerplant.

(3) Sufficient rolling stock will be available to the Union Pacific and Missouri Pacific for transporting this coal during the period until December 31, 1978.

(4) 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 or otherwise available to FEA, and after consultation with the Federal Power Commission, FEA hereby finds that the prohibition of the Powerplants Numbers 1 and 2 at the Quindaro Generating Station from burning natural gas or petroleum products as its primary energy source will not impair the reliability of service in the area served by such powerplant. This finding is based on the facts, assumptions and interpretations stated below:

(a) Powerplants Numbers 1 and 2 at the Quindaro Generating Station currently are each burning coal as its primary energy source on a regular basis. Natural gas has been used on an as-available basis.

(b) Prohibition of the use of natural gas or petroleum products as its primary energy source will not result in any scheduled outage or reduction in electric power output, and therefore, such prohibition will not result in an impairment of the reliability of service, within the meaning of ESECA and the regulations promulgated pursuant thereto, by such powerplant.

(c) Time necessary to prepare for the burning of coal (other than time necessary to comply with air pollution requirements) in order to provide for adequate coal and ash handling, an estimated 15 months will be necessary.

8. OPU-014, 015, 016, KANSAS CITY POWER AND LIGHT COMPANY, POWERPLANTS 3, 4, 5, GENERATING STATION—HAWTHORNE, KANSAS CITY, MISSOURI—

(a) Findings and rationale for findings:

(1) Capability and necessary plant equipment to burn coal. Based on an analysis of the information submitted to or otherwise available to FEA, FEA hereby finds that on June 22, 1974, Powerplant Numbers 3, 4, and 5 at the Hawthorne Generating Station each has the capability and necessary plant equipment to burn coal. This finding is based on facts, interpretations and assumptions stated below:

(i) Powerplant Numbers 3, 4, and 5 at the Hawthorne Generating Station had in place, on June 22, 1974, a boiler that was capable of burning coal, in that such boiler had been designed and constructed, or had been modified to enable it to burn coal as its primary energy source, or to burn coal and another fossil fuel interchangeably as its primary energy source, notwithstanding the fact that on June 22, 1974, such powerplant may not have been burning coal as its primary energy source.

(ii) Based on a letter filed with FEA on March 19, 1975, by the Kansas City Power and Light Company, "no additional plant facilities are required to burn coal exclusively as its primary energy source for Hawthorne Units 3, 4, and 5."
 devices necessary for the burning of coal are identified in the reserves of the Midwest, Gulf, and Northern Great Plains coal supply regions.

(5) It is estimated that it will be practicable to produce coal from the Midwest, Gulf, and Northern Great Plains coal supply regions as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Production (million tons)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1976</td>
<td>219</td>
</tr>
<tr>
<td>1977</td>
<td>234</td>
</tr>
<tr>
<td>1978</td>
<td>267</td>
</tr>
</tbody>
</table>

(6) The regional and national production estimates stated in items (1) and (5) assume a surge capacity, or ability to increase production over normal levels, of approximately 4 percent. In response to an industry survey in late 1974, the coal industry indicated a surge capacity of up to 8 percent. A study by the Bureau of Mines, Department of the Interior, indicates a surge capacity of approximately up to 8 percent. By comparison, the increased national demand for coal resulting from the prohibition order to which this finding relates and other FEA actions under section 2 of ESECA, is less than one tenth of a percent in 1975, increasing to a maximum of 3.3 percent in 1978.

(7) The FEA is unaware of any State or local laws or policies limiting the extraction of this coal which would affect these production estimates.

(8) The estimated demand for coal from these supply regions excluding any increased demand resulting from an order under the authority of section 2 of ESECA is as follows:

<table>
<thead>
<tr>
<th>Demand (million tons)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1975</td>
</tr>
<tr>
<td>782</td>
</tr>
<tr>
<td>1976</td>
</tr>
<tr>
<td>808</td>
</tr>
<tr>
<td>1977</td>
</tr>
<tr>
<td>795</td>
</tr>
<tr>
<td>1978</td>
</tr>
<tr>
<td>767</td>
</tr>
</tbody>
</table>

(9) The estimated additional demand for coal from these supply regions resulting from the prohibition order to which this finding relates and other FEA orders under section 2 of ESECA, will be as follows:

<table>
<thead>
<tr>
<th>Demand (million tons)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1975</td>
</tr>
<tr>
<td>212</td>
</tr>
<tr>
<td>1976</td>
</tr>
<tr>
<td>224</td>
</tr>
<tr>
<td>1977</td>
</tr>
<tr>
<td>240</td>
</tr>
<tr>
<td>1978</td>
</tr>
<tr>
<td>255</td>
</tr>
</tbody>
</table>

(10) On the basis of the above information, FEA concludes that the estimated production of coal of the specific type required for use by such powerplant exceeds the estimated demand for such coal by amounts adequate to support a conclusion that such coal will be available to the powerplant during the period until December 31, 1978.

(b) Adequate rail facilities exist between these coal supply regions and the powerplant to transport the coal that will be harvested by such powerplant pursuant to this order.

There is a spur line which will be able to deliver this coal from the main rail line to the powerplant.

(3) Sufficient rolling stock will be available to the Union Pacific, Kansas City Southern and St. Louis-San Francisco for transporting this coal during the period until December 31, 1978.

(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 or otherwise available to FEA, and after consultation with the Federal Power Commission, FEA hereby finds that the prohibition of the Hawthorne Units #3, and #4 from burning natural gas or
petroleum products as its primary energy source will not impair the reliability of service in the area served by such powerplant. This finding is based on the facts, assumptions and interpretations stated below:

(a) Interconnections and Power Dispatching. (1) The Hawthorne Units are within the geographical area of the Southwest Power Pool (SWPP) regional electric reliability council.

(2) It is interconnected with and coordinated with the Missouri-Kansas (Mo-Kan) power pool.

(3) Dispatching of electric power is controlled by Kansas City Power and Light Company.

(4) "Dispatching system" as used later in this finding means Kansas City Power and Light Company.

(b) Forecast Peak Loads. (1) Forecast of peak loads for the dispatching system during the year in which the Hawthorne Units are expected to be implementing the herein prohibition order is as follows:

<table>
<thead>
<tr>
<th>Powerplant designation</th>
<th>Fuel Type of outage</th>
<th>Capacity change</th>
<th>Status and effective date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Northeast</td>
<td>Oil</td>
<td>Addition</td>
<td>116 MWe-summer</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Montrose 2</td>
<td>Coal</td>
<td>do</td>
<td>178 MWe</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Hawthorne 4</td>
<td>Coal/gas</td>
<td>do</td>
<td>412 MWe</td>
</tr>
</tbody>
</table>

(2) The peak loads forecast have been compared with peak loads in previous similar periods and the compound load growth rate for these forecasts is 6 percent, which is considered reasonable.

(c) Capacity. (1) The present net dependable capacity of all powerplants of the dispatching system that now are engaged in the sale or exchange of electric power is 2396 MWe.

(2) Additions, retirements, and powerplant reratings during the period in which Hawthorne Units will be implementing the herein prohibition order, as listed below, will cause the following changes in net dependable capacity of such dispatching system:

<table>
<thead>
<tr>
<th>Powerplant designation</th>
<th>Fuel Type of outage</th>
<th>Capacity change</th>
<th>Status and effective date</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

(d) Scheduled Outages. Planned maintenance of other powerplants rated 100 MWe or higher and nuclear plant refueling during the period the powerplant load will be implementing the herein prohibition order within the dispatching system are as listed below:

<table>
<thead>
<tr>
<th>Powerplant designation</th>
<th>Fuel Capacity</th>
<th>Type of outage</th>
<th>Period of outage</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Summer</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Fall</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Winter</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Spring</td>
<td></td>
</tr>
</tbody>
</table>

(e) Net Dependable Capacity. The forecast net dependable capacity of the dispatching system during the period (shown as quarter years) in which the powerplant is expected to be implementing the herein prohibition order and the next quarter following is:

<table>
<thead>
<tr>
<th>Capacity</th>
<th>Megawatts</th>
</tr>
</thead>
<tbody>
<tr>
<td>Summer 1975</td>
<td>2,396</td>
</tr>
<tr>
<td>Fall 1975</td>
<td>2,396</td>
</tr>
<tr>
<td>Winter 1975-76</td>
<td>1,767</td>
</tr>
<tr>
<td>Spring 1975</td>
<td>2,396</td>
</tr>
</tbody>
</table>

(g) Derating. The powerplants were originally designed to obtain full rating on either coal or gas. Kansas City Power and Light Company are now having a study made to ascertain what, if anything, needs to be done to upgrade coal firing equipment so that no derating occurs.

(2) After deducting the net capacity of units scheduled for maintenance or refueling during these same load periods and including imports and exports scheduled, the expected minimum reserve margins are:

<table>
<thead>
<tr>
<th>Season</th>
<th>Margin</th>
</tr>
</thead>
<tbody>
<tr>
<td>Summer</td>
<td>194.0</td>
</tr>
<tr>
<td>Fall</td>
<td>180.0</td>
</tr>
<tr>
<td>Winter</td>
<td>178.0</td>
</tr>
<tr>
<td>Spring</td>
<td>178.0</td>
</tr>
</tbody>
</table>

FEDERAL REGISTER, VOL. 40, NO. 91—FRIDAY, MAY 9, 1975
4. A new bottom ash disposal system for boiler numbers 3 and 4;
5. The coal handling facilities.

PEA assumes that on June 22, 1974, Powerplants 3, 4 and 5 at the Lawrence facility had all other significant equipment and facilities associated with the burning of coal.

(c) Within the meaning of ESECA and the regulations promulgated pursuant thereto, the equipment and facilities listed in paragraph (b) do not individually or in combination constitute a lack of capability and necessary plant equipment to burn coal as of June 22, 1974.

(ii) Burning of coal in lieu of natural gas or petroleum products is practicable and consistent with the purposes of ESECA. Based on an analysis of the information submitted to or otherwise available to PEA, PEA hereby finds that the burning of coal by Powerplants numbers 3, 4, and 5 at the Lawrence Generating Station in lieu of petroleum products or natural gas is practicable and consistent with the purposes of ESECA. This finding is based on the following facts, interpretations, and assumptions:

(a) (1) Lawrence Generating Station has acquired or modified, or is currently acquiring or modifying the equipment and facilities necessary for the burning of coal as their primary energy source and such actions are not being undertaken as a result of (or in contemplation of) the issuance of a prohibition order. These acquisitions and modifications include those necessary for compliance with the requirements of the Clean Air Act.

The costs associated with the acquisitions and modifications necessary for the burning of coal are identified in the Kansas Power and Light Company's current and prospective budgetary plans.

(3) (1) PEA assumes that the decision by the Kansas Power and Light Company to acquire or modify such equipment and facilities in order to burn coal as a primary energy source was based on the financial capability of the company to assume such costs (including any requirement to obtain a rate increase) as well as any costs relating to operation and maintenance and fuel costs. PEA therefore concludes that the company has concluded that the burning of coal in lieu of petroleum products or natural gas is practicable.

(i) On the basis of the Kansas Power and Light Company actions described above, and the information available to PEA, PEA concludes that the burning of coal by such powerplant is practicable within the meaning of ESECA and the regulations promulgated thereunder, and will continue to be practicable for the period that the order is in effect.

(ii) Because the issuance of this prohibition order will discourage the use of natural gas or petroleum products and encourage the increased use of coal, PEA concludes that it is consistent with the purpose of ESECA to provide a means to assist in meeting the essential needs of the United States for fuels. Further, on the basis of the environmental analyses conducted by PEA, the anticipated air quality impacts which PEA is required to conduct prior to effectiveness of a prohibition order, as well as the necessity for the powerplant to comply with the Clean Air Act and other applicable environmental protection requirements, PEA concludes that the prohibition order is consistent with the purpose of ESECA to provide for a means to meet essential fuel needs 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 during the period the prohibition order is in effect. Based on an analysis of the information submitted to or otherwise available to PEA, PEA hereby finds that coal and coal transportation facilities will be available to these powerplants during the period until December 31, 1978. The period until December 31, 1978 is the period during all or part of which the prohibition order to which these findings relate will be in effect. This finding is based on the following facts, interpretations, and assumptions:

(a) (1) It is estimated that it will be practicable to produce coal nationally as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Production (million tons)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1975</td>
<td>602</td>
</tr>
<tr>
<td>1976</td>
<td>679</td>
</tr>
<tr>
<td>1977</td>
<td>707</td>
</tr>
<tr>
<td>1978</td>
<td>738</td>
</tr>
</tbody>
</table>

The estimated national demand excluding any increased demand resulting from FEA orders under section 2 of ESECA is as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Demand (million tons)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1975</td>
<td>640</td>
</tr>
<tr>
<td>1976</td>
<td>694</td>
</tr>
<tr>
<td>1977</td>
<td>688</td>
</tr>
<tr>
<td>1978</td>
<td>718</td>
</tr>
</tbody>
</table>

(3) The estimated additional national demand for coal resulting from the prohibition order to which this finding relates and from FEA actions under the authority of section 2 of ESECA is as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Demand (million tons)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1975</td>
<td>0.3</td>
</tr>
<tr>
<td>1976</td>
<td>4.0</td>
</tr>
<tr>
<td>1977</td>
<td>13.6</td>
</tr>
<tr>
<td>1978</td>
<td>16.2</td>
</tr>
</tbody>
</table>

(4) Coal of the specific type required for use by these powerplants has been identified in the reserves of the Midwest, Gulf, and Northern Great Plains coal supply regions.

(5) It is estimated that it will be practicable to produce coal from the Midwest, Gulf, and Northern Great Plains coal supply regions as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Production (million tons)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1975</td>
<td>219</td>
</tr>
<tr>
<td>1976</td>
<td>224</td>
</tr>
<tr>
<td>1977</td>
<td>250</td>
</tr>
<tr>
<td>1978</td>
<td>367</td>
</tr>
</tbody>
</table>

(6) The regional and national production estimates stated in items (1) and (5) assume a surge capacity, or ability to increase production over normal levels, of approximately 4 percent. In response to an industry survey in late 1974, the coal industry indicated a surge capacity of up to 8 percent. A study by the Bureau of Mines, Department of the Interior, indicates a surge capacity of approximately up to 6 percent. By comparison, the increased national demand for coal resulting from the prohibition order to which this finding relates and other FEA actions under section 2 of ESECA, is less than one tenth of a percent in 1975, increasing to a maximum of 2.3 percent in 1978 of estimated national demand stated in item (2). A market survey of traditional coal suppliers to FEA Region 7 consumers suggests substantial evidence of ample production capability to support increased demand for coal from this region resulting from the prohibition order to which this finding relates and other FEA actions under section 2 of ESECA.

(7) The FEA is unaware of any State or local laws or policies limiting the extraction of this coal which would affect the production estimates.

(8) The estimated demand for coal from these supply regions excluding any increased demand resulting from FEA actions under the authority of section 2 of ESECA, will be as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Demand (million tons)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1975</td>
<td>212</td>
</tr>
<tr>
<td>1976</td>
<td>224</td>
</tr>
<tr>
<td>1977</td>
<td>240</td>
</tr>
<tr>
<td>1978</td>
<td>255</td>
</tr>
</tbody>
</table>

(9) The estimated additional demand for coal from these supply regions resulting from the prohibition order to which this finding relates and from FEA actions under section 2 of ESECA, will be as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Demand (million tons)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1975</td>
<td>0.3</td>
</tr>
<tr>
<td>1976</td>
<td>1.5</td>
</tr>
<tr>
<td>1977</td>
<td>3.5</td>
</tr>
<tr>
<td>1978</td>
<td>4.0</td>
</tr>
</tbody>
</table>

(10) On the basis of the above information, FEA has concluded that the estimated production of coal of the specific type required for use by this powerplant exceeds the estimated demand for such coal by amounts adequate to support a conclusion that such coal will be available to the powerplant during the period until December 31, 1978.

(b) Adequate rail facilities exist between these coal supply regions and the powerplant to transport the coal that will be used by such powerplant pursuant to this order.

(2) There is a spur line which will be able to deliver this coal from the main rail line to the powerplant.

(3) Sufficient rail capacity will be available to the Union Pacific and Atchison, Topeka, & Santa Fe for transporting this coal during the period until December 31, 1978.
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 information submitted to or otherwise available to FEA, FEA hereby finds that on June 22, 1974, such powerplant may not have been burning coal as its primary energy source.

FEA assumes that on June 22, 1974, Plant numbers 9 and 10 at the Tecumseh Generating Station had all other significant equipment and facilities associated with the burning of coal.

Prohibition of the burning of coal in June 1974 was based on an analysis of the information submitted to or otherwise available to FEA, FEA hereby finds that the burning of coal by powerplants #9 and 10 at the Tecumseh Generating Station in lieu of petroleum products or natural gas is practicable and consistent with the purposes of ESEA. Based on an analysis of the information submitted to or otherwise available to FEA, FEA hereby finds that the burning of coal by powerplants #9 and 10 at the Tecumseh Generating Station in lieu of petroleum products or natural gas is practicable and consistent with the purposes of ESEA. This finding is based on the facts, interpretations, and assumptions stated below:

(a) The Powerplants #9 and 10 at the Tecumseh Generating Station had acquired or modified, or are currently acquiring or modifying the equipment and facilities necessary for the burning of coal as their primary energy source, and such actions are not being undertaken as a result of (or in contemplation of) the issuance of a prohibition order. These acquisitions or modifications include those necessary for compliance with the requirements of the Clean Air Act.

(b) The costs associated with the acquisitions and modifications necessary for the burning of coal are identified in the Kansas Power and Light Company's current and prospective budgetary plans.

(1) FEA assumes that the decision by the Kansas Power and Light Company to acquire or modify such equipment and facilities in order to burn coal as a primary energy source was based on an analysis of the financial capability of such powerplant to assume such costs (including any requirement to obtain a rate increase) as well as any costs relating to operation and maintenance and fuel costs, and therefore that the company has concluded that the burning of coal in lieu of petroleum products or natural gas is practicable.

(ii) FEA hereby finds that on June 22, 1974, such powerplant may not have been burning coal as its primary energy source.

(b) Based on information filed with FEA on April 16, 1975 by the Kansas Power and Light Company, the following facilities were not in place or otherwise available to FEA, and therefore that the burning of coal by powerplants #9 and 10 at the Tecumseh Generating Station in lieu of petroleum products or natural gas is not practicable, to the fullest extent practicable, with existing national commitments to protect and improve the environment.

(iii) Coal and coal transportation facilities will be available during the period the prohibition order is in effect. Based on an analysis of information submitted to or otherwise available to FEA, FEA hereby finds that the burning of coal by powerplants #9 and 10 at the Tecumseh Generating Station in lieu of petroleum products or natural gas is practicable and consistent with the purposes of ESEA. FEA concludes that the burning of coal by powerplants #9 and 10 at the Tecumseh Generating Station in lieu of petroleum products or natural gas is practicable and consistent with the purposes of ESEA. This finding is based on the facts, interpretations, and assumptions stated below:

(a) It is estimated that it will be practicable to produce coal nationally as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Production (million tons)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1975</td>
<td>602</td>
</tr>
<tr>
<td>1976</td>
<td>679</td>
</tr>
<tr>
<td>1977</td>
<td>707</td>
</tr>
<tr>
<td>1978</td>
<td>735</td>
</tr>
</tbody>
</table>

(2) The estimated national demand excluding any increased demand resulting from FEA action under the authority of section 2 of ESEA is as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Demand (million tons)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1975</td>
<td>640</td>
</tr>
<tr>
<td>1976</td>
<td>694</td>
</tr>
<tr>
<td>1977</td>
<td>716</td>
</tr>
<tr>
<td>1978</td>
<td>716</td>
</tr>
</tbody>
</table>

(3) The estimated additional national demand for coal resulting from the prohibition order to which this finding relates, and from FEA actions under au...
proximately up to 6 percent. By com-

for use by these powerplants has been

for coal resulting from the prohibition

parison, the increased national demand

to increase production over normal levels,

is within the geographic area encom-

energy source, notwithstanding the fact

sary to comply with air pollution require-

sary to comply with air pollution require-

sary

sary

sary

sary

sary

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mated production of coal of the specific

will be used by such powerplant pur-

powerplant to transport the coal that

conclusion that such coal will be avail-

able to deliver this coal from the main

rail line to the powerplant.

sufficient rolling stock will be available
to the Union Pacific and Atchi-

son, Topeka, & Santa Fe for transport-
ing this coal during the period until De-

ember 31, 1978.

The prohibition of the burning of

atural 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 sub-

mitted to or otherwise available to FEA,

and after consultation with the Federal

Power Commission, FEA hereby finds,

that the prohibition of the Powerplants

numbers 9 and 10 at the Tecumseh

Generating Station from burning natural

gas or petroleum products as its primary

energy source will not impair the reliabil-

ity of service in the area served by

such powerplants. This finding is based

on the facts, assumptions and interpre-

tions stated below:

(a) Powerplant Numbers 1 and 2 at

the Sheldon Generating Station had in

place, on June 22, 1974, a boiler that was

capable of burning coal, in that such

boiler had been designed and con-

structed, or had been modified to enable

it to burn coal as its primary energy

source, or to burn coal and another fos-

sil fuel interchangeably as its primary

energy source. It is therefore, in the esti-

tation of the information submitted to

or otherwise available to FEA, FEA

hereby finds that on June 22, 1974, such powerplant

may not have been burning coal as its primary energy

source.

(b) Based on information filed with

FEA on April 9, 1975 by the Nebraska

Public Power District, the following sig-

nificant equipment or facilities would have to be acquired or substantially

refurbished:

1. Coal Hammermills;
2. Coal Shuteff Off Gates;
3. Coal Sampling System;
4. Dust Collection System;
5. Control and Relay Panels;
6. Reclaim Feeders;
7. Reclaim Grinders;
8. Magnetic Separator;
9. Belt Scales;
10. Motor Starters;
11. Motor Control Centers;
12. Dust Suppression System;
13. Conveyors;
14. Miscellaneous Steel;
15. Circuit Breakers;
16. Instrumentation.

FEA assumes that on June 22, 1974, Units 1 and 2 at the Sheldon Powerplant

had all other significant equipment and facilities associated with the burning of

coal.

(c) Within the meaning of ESECA and the regulations promulgated pursuant

thereto, the equipment and facilities listed in paragraph (b) do not individ-

ually or in combination constitute a lack of capability and necessary plant equip-

ment to burn coal as of June 22, 1974.

(d) Findings and rationale for find-

ings: (1) Capability and necessary plant equip-

ment to burn coal. Based on an analysis of the information submitted to or other-

wise available to FEA, FEA hereby finds that on June 22, 1974, Powerplant Numbers 1 and 2 at the Shel-

don Generating Station each had the capability and necessary plant equipment
to burn coal. This finding is based on facts, interpretations and assumptions

stated below:

(a) Powerplant Numbers 1 and 2 at

the Sheldon Generating Station had in

place, on June 22, 1974, a boiler that was
capable of burning coal, in that such

boiler had been designed and con-

structed, or had been modified to enable

it to burn coal as its primary energy

source, or to burn coal and another fos-

sil fuel interchangeably as its primary

energy source. FEA hereby finds, on

the facts, assumptions and interpre-
tions stated below:

(i) The FEA is unaware of any State

or local laws or policies limiting the

extraction of this coal which would affect

these production estimates.

(ii) The estimated demand for coal

from these supply regions excluding any

increased demand resulting from FEA

actions under the authority of section 2

of ESECA is as follows:

Year: Demand (million tons)
1975 1.7
1976 2.4
1977 4.8
1978 2.5

(9) The estimated additional demand

for coal from these supply regions result-

ing from the prohibition order to which

this finding relates and from other

FEA actions under section 2 of ESECA,

will be as follows:

Year: Demand (million tons)
1975 0.7
1976 4.0
1977 6.6
1978 5.9
10. On the basis of the above in-

formation, FEA has concluded that the es-

timated production of coal of the specific

type required for use by this powerplant

exceeds the estimated demand for such

coal by amounts adequate to support a

conclusion that such coal will be avail-
able to the powerplant during the period

until December 31, 1978.

b(1) Adequate rail facilities exist be-

tween these coal supply regions and the

powerplant to transport the coal that

will be used by such powerplant pur-

suant to this order.

(b) There is a spur line which will be

able to date this coal from the main

rail line to the powerplant.

(3) Sufficient rolling stock will be

available to the Union Pacific and Atchi-

son, Topeka, & Santa Fe for transport-
ing this coal during the period until De-

ember 31, 1978.

(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 sub-

mitted to or otherwise available to FEA,

and after consultation with the Federal

Power Commission, FEA hereby finds,

that the prohibition of the Powerplants

numbers 9 and 10 at the Tecumseh

Generating Station from burning natural

gas or petroleum products as its primary

energy source will not impair the reliabil-

ity of service in the area served by

such powerplants. This finding is based

on the facts, assumptions and interpre-
tions stated below:

(a) Powerplant numbers 9 and 10 at

the Tecumseh Generating Station are

part of the Kansas Power and Light and

interconnected with the Missouri-Kan-

sas Power Pool irrigation system, which

is within the geographic area encom-

passed by the Southwestern Power Pool Re-

gional Electric Reliability Council.

(b) Powerplants numbers 9 and 10 at

the Tecumseh Generating Station cur-

ently are each burning coal as its pri-

mary energy source on a regular basis.

Natural gas has been used on an as-

available basis.

(c) Prohibition of the use of natural

gas or petroleum products as the power-

plants numbers 9 and 10 at the Tecumseh

Generating Station's primary energy

source will not result in any scheduled

gauge on outage or a reduction in electric

output, and therefore, such prohibition will

not result in an impairment of the relia-

bility of service, within the meaning of

ESECA and the regulations promulgated

pursuant thereto, by such powerplant.

(d) Time necessary to prepare for the

burning of coal (other than time neces-
sary to comply with air pollution require-

ments)
20507

NOTICES

FEDERAL REGISTER, VOL. 40, NO. 91—FRIDAY, MAY 9, 1975

the burning of coal by Powerplant Numbers 1 and 2 at the Sheldon Generating Station from burning natural gas is practicable and consistent with the purposes of ESECA. The finding is based on the facts, interpretations and assumptions stated below. Powerplant Numbers 1 and 2 at Sheldon Generating Station had acquired or modified, or are each currently acquiring or modifying, the equipment and facilities necessary for the burning of coal as its primary energy source, and such actions are not being undertaken as a result of (or in contemplation of) the issuance of a prohibitory order. These acquisitions or modifications include those necessary for compliance with the requirements of the Clean Air Act.

(2) The costs associated with the acquisitions and modifications necessary for the burning of coal are identified in the Nebraska Public Power District's current and prospective budgetary plans.

(3) (1) The Powerplants Numbers 1 and 2 at the Sheldon Generating Station are under construction and modifications are in process of being undertaken to enable the burning of coal as a primary energy source, and to ensure full compliance with the requirements of the Clean Air Act.

(b) Because the issuance of this prohibition order will discourage the use of natural gas or petroleum products and encourage the increased use of coal, PEA concludes that it is consistent with the purposes of ESECA to provide a means to assist in meeting the essential needs of the United States for fuels. Further, on the basis of the environmental analyses conducted by PEA, the analyses of air quality impacts which EPA is required to conduct prior to effectiveness of a prohibition order, as well as the necessity for the powerplant to comply with the Clean Air Act and other applicable environmental protection requirements, PEA concludes that the prohibition order is consistent with the purpose of ESECA to provide for a means to meet essential fuel needs 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 during the period that the prohibition order is in effect. Based on an analysis of the information submitted to or otherwise available to PEA, PEA hereby finds that coal and corresponding transportation facilities will be available to these powerplants during the period until December 31, 1978. The period until December 31, 1978 is the period during all or part of which the prohibition order to which these findings relate will be in effect. This finding is based upon the following facts, interpretations, and assumptions:

(a) (1) It is estimated that it will be practicable to produce coal nationally as follows:

<table>
<thead>
<tr>
<th></th>
<th>Production (million tons)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Year</td>
<td></td>
</tr>
<tr>
<td>1975</td>
<td>562</td>
</tr>
<tr>
<td>1976</td>
<td>629</td>
</tr>
<tr>
<td>1977</td>
<td>707</td>
</tr>
<tr>
<td>1978</td>
<td>755</td>
</tr>
</tbody>
</table>

(2) The estimated national demand excluding any increased demand resulting from PEA action under the authority of section 2 of ESECA is as follows:

<table>
<thead>
<tr>
<th></th>
<th>Demand (million tons)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Year</td>
<td></td>
</tr>
<tr>
<td>1975</td>
<td>514</td>
</tr>
<tr>
<td>1976</td>
<td>574</td>
</tr>
<tr>
<td>1977</td>
<td>668</td>
</tr>
<tr>
<td>1978</td>
<td>716</td>
</tr>
</tbody>
</table>

(3) The estimated additional national demand for coal resulting from the prohibition order to which this finding relates, and from PEA actions under authority of section 2 of ESECA, will be as follows:

<table>
<thead>
<tr>
<th></th>
<th>Demand (million tons)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Year</td>
<td></td>
</tr>
<tr>
<td>1975</td>
<td>0.7</td>
</tr>
<tr>
<td>1976</td>
<td>4.0</td>
</tr>
<tr>
<td>1977</td>
<td>18.5</td>
</tr>
<tr>
<td>1978</td>
<td>15.2</td>
</tr>
</tbody>
</table>

(4) Coal of the specific type required for use by these powerplants has been identified in the reserves of the Midwest, Gulf, and Northern Great Plains coal supply regions.

(5) It is estimated that it will be practicable to produce coal from the Midwest, Gulf, and Northern Great Plains coal supply regions as follows:

<table>
<thead>
<tr>
<th></th>
<th>Production (million tons)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Year</td>
<td></td>
</tr>
<tr>
<td>1975</td>
<td>514</td>
</tr>
<tr>
<td>1976</td>
<td>574</td>
</tr>
<tr>
<td>1977</td>
<td>668</td>
</tr>
<tr>
<td>1978</td>
<td>716</td>
</tr>
</tbody>
</table>

(6) The regional and national production estimates stated in Items (1) and (5) assume a surge capacity, or ability to increase production over normal levels, of approximately 4 percent. In response to an industry survey in late 1974, the coal industry indicated a surge capacity of up to 8 percent. A study by the Bureau of Mines, Department of the Interior, indicates a surge capacity of approximately up to 6 percent. By comparison, the increased national demand for coal resulting from the prohibition order to which this finding relates and other FEA orders under section 2 of ESECA, is less than one tenth of a percent in 1975, increasing to a maximum of 2.3 percent in 1978 of estimated national production. The statement in Item (3) (a) is true because an analysis of the information submitted to or otherwise available to PEA, and conclusion of the FEA Region 7 consumers suggests substantial evidence of ample production capability to support increased demand for coal from this region resulting from the prohibition order to which this finding relates and other FEA actions under section 2 of ESECA.

(7) The FEA is unaware of any State or local laws or policies limiting the extraction of this coal which would affect these production estimates.

(8) The estimated demand for coal from these supply regions resulting from PEA actions under the authority of section 2 of ESECA is as follows:

<table>
<thead>
<tr>
<th></th>
<th>Demand (million tons)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Year</td>
<td></td>
</tr>
<tr>
<td>1975</td>
<td>0.3</td>
</tr>
<tr>
<td>1976</td>
<td>1.6</td>
</tr>
<tr>
<td>1977</td>
<td>4.0</td>
</tr>
</tbody>
</table>

(9) The estimated additional demand for coal from these supply regions resulting from FEA orders under section 2 of ESECA, will be as follows:

<table>
<thead>
<tr>
<th></th>
<th>Demand (million tons)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Year</td>
<td></td>
</tr>
<tr>
<td>1975</td>
<td>0.7</td>
</tr>
<tr>
<td>1976</td>
<td>4.0</td>
</tr>
<tr>
<td>1977</td>
<td>18.5</td>
</tr>
<tr>
<td>1978</td>
<td>15.2</td>
</tr>
</tbody>
</table>

(10) On the basis of the above information, FEA has concluded that the estimated production of coal of the specific type required for use by this powerplant exceeds the estimated demand for such coal by amounts adequate to support a conclusion that such coal will be available to the powerplant during the period until December 31, 1978.

(b) Adequate rail facilities exist between these coal supply regions and the powerplant to transport the coal that will be used by such powerplant pursuant to this order.

(2) There is a spur line which will be able to deliver this coal from the main rail line to the powerplant.

(3) Sufficient rolling stock will be available to the St. Louis-San Francisco and Chicago, Rock Island & Pacific for transporting this coal during the period until December 31, 1978.

(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 areas served by the affected powerplant. Based on an analysis of the information submitted to or otherwise available to FEA, and consultation with the Federal Power Commission, FEA hereby finds, that the prohibition of the Powerplant Numbers 1 and 2 at the Sheldon Generating Station from burning natural gas or petroleum products as its primary energy source will not impair the reliability of service in the area served by such powerplant. This finding is based
on the facts, assumptions and interpretations stated below:

(a) Powerplant Numbers 1 and 2 at the Sheldon Generating Station are part of the Nebraska Public Power District as interconnected with the Mid-America Power Pool dispatching system, which is within the geographic area encompassed by the Mid-Continent Area Reliability Coordination Agreement (MARCA).

(b) Powerplant Numbers 1 and 2 at the Sheldon Generating Station currently are each burning coal as its primary energy source on a regular basis. Natural gas has been used on an as-available basis.

(c) Prohibition of the use of natural gas or petroleum products as the Powerplant Numbers 1 and 2 at the Sheldon Generating Station's primary energy source will not result in any scheduled outage or reduction in electric power output, and, therefore, such prohibition will not affect in any way the reliability of service, within the meaning of ESCEA and the regulations promulgated pursuant thereto, by such powerplants.

(d) Time necessary to prepare for the burning of coal, (other than time necessary to comply with air pollution requirements).

The powerplants are currently capable of burning coal as the primary energy source.

12. OFU-024, 025. SPRINGFIELD CITY UTILITIES, POWERPLANTS 3, 4, GENERATING STATION—JAMES RIVER, SPRINGFIELD, MISSOURI

(a) Findings and rationale for findings:

(i) Capability and necessary plant equipment to burn coal has been established on an analysis of the information submitted to or otherwise available to FEA, FEA hereby finds that on June 22, 1974, Powerplant Numbers 3 and 4 at the James River Generating Station had the capability and necessary plant equipment to burn coal. This finding is based on facts, interpretations and assumptions stated below:

(ii) The equipment and facilities listed in paragraph (a) do not individually or in combination constitute a lack of capability and necessary plant equipment to burn coal as of June 22, 1974.

(iii) The burning of coal by Powerplants #3 and 4 at the James River Generating Station, in lieu of petroleum products or natural gas, is practicable and consistent with the purposes of ESCEA. This finding is based on facts, interpretations and assumptions stated below:

(iv) Costs of acquisition or refurbishing equipment are allocated as follows:

(A) $20,000,000 to comply with air pollution control requirements of the Clean Air Act.

(B) $2,033,000 to make those technical plant and equipment adjustments associated with the burning of coal, as well as to comply with environmental requirements other than those imposed by the Clean Air Act.

(c) (1) The price of natural gas available to the powerplant is approximately 65¢ to 75¢ per million Btus. The price of coal of the type used by Powerplants #3 and 4 at the James River Generating Station is approximately 85¢ to 95¢ per million Btus. The burning of coal by powerplants #3 and 4 at the James River Generating Station will result in an increase of 10¢ to 40¢ per million Btus or $500,000 to $2,000,000 per year.

(d) 7. Ash handling equipment;

8. Ash pond enlargement;

9. One set of boiler make-up water treating equipment.

FEA assumes that on June 22, 1974, powerplants 3 and 4 of the James River generating station had all other significant equipment and facilities associated with the burning of coal.

(c) Within the meaning of ESCEA and the regulations promulgated pursuant thereto, the equipment and facilities listed in paragraph (a) do not individually or in combination constitute a lack of capability and necessary plant equipment to burn coal as of June 22, 1974.

(ii) Powerplants #3 and 4 at the James River Generating Station are estimated to be approximately $4,033,000. This estimate is based on facts, interpretations and information filed with the FEA by the generating station concerning items of equipment and facilities that would have to be acquired or refurbished and the cost of such acquisition or refurbishment.

(i) Costs of acquisition or refurbishing equipment are allocated as follows:

(A) $20,000,000 to comply with air pollution control requirements of the Clean Air Act.

(B) $2,033,000 to make those technical plant and equipment adjustments associated with the burning of coal, as well as to comply with environmental requirements other than those imposed by the Clean Air Act.

(b) Because the issuance of this prohibition order will discourage the use of natural gas or petroleum products and encourage the increased use of coal, FEA concludes that it is consistent with the purpose of ESCEA to provide a means to assist in meeting the essential needs of the United States for fuels. Further, on the basis of the environmental analyses contained in the Final Environmental Impact Statement, the issuance of this prohibition order will result in the purchases and uses of coal which will result in no significant additional environmental impacts.

(i) Prohibition of the use of natural gas or petroleum products is practicable and consistent with the purposes of ESCEA. This finding is based on facts, interpretations and assumptions stated below:

(1) (i) Revenue requirements. (a) The investment costs that result from the acquisition and (or) refurbishment of 85¢ to 95¢ per million Btus. The burning of coal by powerplants #3 and 4 at the James River Generating Station are estimated to be approximately $4,033,000. This estimate is based on facts, interpretations and information filed with the FEA by the generating station concerning items of equipment and facilities that would have to be acquired or refurbished and the cost of such acquisition or refurbishment.

(B) $2,033,000 to make those technical plant and equipment adjustments associated with the burning of coal, as well as to comply with environmental requirements other than those imposed by the Clean Air Act.

(b) The change in operating costs other than fuel costs that result from the burning of coal are estimated to be approximately $0 per year.

(c) (1) The price of natural gas available to the powerplant is approximately 65¢ to 75¢ per million Btus. The price of coal of the type used by Powerplants #3 and 4 at the James River Generating Station is approximately 85¢ to 95¢ per million Btus. The burning of coal by powerplants #3 and 4 at the James River Generating Station will result in an increase of 10¢ to 40¢ per million Btus or $500,000 to $2,000,000 per year.

(ii) The Missouri Public Utility Commission (MUPUC) has determined that increased fuel costs in the rate base through a fuel adjustment clause and, if there is a decrease in the cost of fuel as a result of burning coal, there will be a decrease in such rate base.

(iii) A decrease in the total annual incremental increase in revenue requirements resulting from costs associated with burning coal as opposed to oil is $4,033,000.

(d) Financial capabilities. (a) Based on the facts, interpretations and assumptions stated below, FEA concludes that it is consistent with the purpose of ESCEA to provide a means to assist in meeting the essential needs of the United States for fuels. Further, on the basis of the environmental analyses contained in the Final Environmental Impact Statement, the issuance of this prohibition order will result in the purchases and uses of coal which will result in no significant additional environmental impacts.

(b) Because the issuance of this prohibition order will discourage the use of natural gas or petroleum products and encourage the increased use of coal, FEA concludes that it is consistent with the purpose of ESCEA to provide a means to assist in meeting the essential needs of the United States for fuels. Further, on the basis of the environmental analyses contained in the Final Environmental Impact Statement, the issuance of this prohibition order will result in the purchases and uses of coal which will result in no significant additional environmental impacts.

(i) Prohibition of the use of natural gas or petroleum products is practicable and consistent with the purposes of ESCEA. This finding is based on facts, interpretations and assumptions stated below:

(1) (i) Revenue requirements. (a) The investment costs that result from the acquisition and (or) refurbishment of 85¢ to 95¢ per million Btus. The burning of coal by powerplants #3 and 4 at the James River Generating Station are estimated to be approximately $4,033,000. This estimate is based on facts, interpretations and information filed with the FEA by the generating station concerning items of equipment and facilities that would have to be acquired or refurbished and the cost of such acquisition or refurbishment.

(B) $2,033,000 to make those technical plant and equipment adjustments associated with the burning of coal, as well as to comply with environmental requirements other than those imposed by the Clean Air Act.

(b) The change in operating costs other than fuel costs that result from the burning of coal are estimated to be approximately $0 per year.

(c) (1) The price of natural gas available to the powerplant is approximately 65¢ to 75¢ per million Btus. The price of coal of the type used by Powerplants #3 and 4 at the James River Generating Station is approximately 85¢ to 95¢ per million Btus. The burning of coal by powerplants #3 and 4 at the James River Generating Station will result in an increase of 10¢ to 40¢ per million Btus or $500,000 to $2,000,000 per year.

(ii) The Missouri Public Utility Commission (MUPUC) has determined that increased fuel costs in the rate base through a fuel adjustment clause and, if there is a decrease in the cost of fuel as a result of burning coal, there will be a decrease in such rate base.

(iii) A decrease in the total annual incremental increase in revenue requirements resulting from costs associated with burning coal as opposed to oil is $4,033,000.
a. (1) It is estimated that it will be practicable to produce coal nationally as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Production (million tons)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1976</td>
<td>662</td>
</tr>
<tr>
<td>1977</td>
<td>670</td>
</tr>
<tr>
<td>1978</td>
<td>735</td>
</tr>
</tbody>
</table>

(2) The estimated national demand excluding any increased demand resulting from FEA action under the authority of section 2 of ESECA is as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Demand (million tons)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1976</td>
<td>640</td>
</tr>
<tr>
<td>1977</td>
<td>654</td>
</tr>
<tr>
<td>1978</td>
<td>716</td>
</tr>
</tbody>
</table>

(3) The estimated additional national demand for coal resulting from the prohibition order to which this finding relates, and from FEA actions under authority of section 2 of ESECA, will be as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Demand (million tons)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1976</td>
<td>7</td>
</tr>
<tr>
<td>1977</td>
<td>13.6</td>
</tr>
<tr>
<td>1978</td>
<td>16.2</td>
</tr>
</tbody>
</table>

(4) Coal of the specific type required for use by these powerplants has been identified in the reserves of the Midwest, Gulf, and Northern Great Plains coal supply regions.

(5) It is estimated that it will be practicable to produce coal from the Midwest, Gulf, and Northern Great Plains coal supply regions as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Production (million tons)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1975</td>
<td>219</td>
</tr>
<tr>
<td>1976</td>
<td>234</td>
</tr>
<tr>
<td>1977</td>
<td>250</td>
</tr>
<tr>
<td>1978</td>
<td>267</td>
</tr>
</tbody>
</table>

(6) The regional and national production estimates stated in items (1) and (5) assume a surge capacity, or ability to increase production over normal levels, of approximately 4 percent. In response to an industry survey in late 1974, the coal industry indicated a surge capacity of up to 8 percent. A study by the Bureau of Mines, Department of the Interior, indicates a surge capacity of approximately up to 6 percent. By comparison, the increased national demand for coal resulting from the prohibition order to which this finding relates and other FEA actions under section 2 of ESECA, is less than one tenth of a percent in 1975, increasing to a maximum of 2.3 percent in 1978 of estimated national demand stated in item (2). A market survey of traditional coal suppliers to FEA Region 7 consumers suggests substantial evidence of ample production capability to support increased demand for coal from this region resulting from the prohibition order to which this finding relates and other FEA actions under section 2 of ESECA.

(7) The FEA is unaware of any State or local laws or policies limiting the extractions of this coal which would affect these production estimates.

(8) The estimated demand for coal from these supply regions excluding any increased demand resulting from FEA actions under authority of section 2 of ESECA is as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Demand (million tons)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1975</td>
<td>7</td>
</tr>
<tr>
<td>1976</td>
<td>13.6</td>
</tr>
<tr>
<td>1977</td>
<td>16.2</td>
</tr>
<tr>
<td>1978</td>
<td>22.4</td>
</tr>
</tbody>
</table>

(9) The estimated additional demand for coal from these supply regions resulting from the prohibition order to which this finding relates and from other FEA orders under section 2 of ESECA, will be as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Demand (million tons)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1975</td>
<td>0.3</td>
</tr>
<tr>
<td>1976</td>
<td>1.6</td>
</tr>
<tr>
<td>1977</td>
<td>3.5</td>
</tr>
<tr>
<td>1978</td>
<td>4.0</td>
</tr>
</tbody>
</table>

(10) On the basis of the above information, FEA has concluded that the estimated production of coal of the specific type required for use by this powerplant exceeds the estimated demand for such coal by amounts adequate to support a conclusion that such coal will be available to the powerplant during the period until December 31, 1978.

b. (1) Adequate rail facilities exist between these coal supply regions and the powerplant to transport the coal that will be used by such powerplant pursuant to this order.

(2) There is a spur line which will be available to the St. Louis-San Francisco for transporting this coal during the period until December 31, 1978.

(3) Sufficient rolling stock will be available to the St. Louis-San Francisco powerplant for transporting this coal during the period until December 31, 1978.

(4) The prohibition of the burning of natural gas or petroleum products as its primary energy source will impair the reliability of service in the area served by the affected powerplant. Based on an analysis of the information submitted to or otherwise available to FEA, and after consultation with the Federal Power Commission, FEA hereby finds that the prohibition of the Powerplants Numbers 3 and 4 of the James River Generating Station from burning natural gas or petroleum products as its primary energy source will not impair the reliability of service in the area served by such powerplant. This finding is based on the facts, assumptions and interpretations stated below:

(a) Powerplants Numbers 3 and 4 of the James River Generating Station are part of the Springfield City Utilities as interconnected with the Southwest Power Administration dispatching system.

(b) Powerplants Numbers 3 and 4 of the James River Generating Station currently are each burning coal as its primary energy source on a regular basis. Natural gas has been used on an as-available basis.

(c) Prohibition of the use of natural gas or petroleum products as the Powerplants Numbers 3 and 4 of the James River Generating Station's primary energy source will not result in any scheduled outage or reduction in electric power output, and, therefore, such prohibition will not result in an impairment of the reliability of service, within the meaning of ESECA and the regulations promulgated pursuant thereto, by such powerplant.

(b) Time necessary to prepare for the burning of coal (other than time necessary to comply with air pollution requirements):

It is estimated that 24 months is necessary to acquire and install pulverizing, coal and ash handling, and water treating equipment.
CHAPTER II—SOCIAL AND REHABILITATION SERVICE (ASSISTANCE PROGRAMS) REGULATIONS OF HEALTH, EDUCATION, AND WELFARE

PART 249—SERVICES AND PAYMENT IN MEDICAL ASSISTANCE PROGRAMS

Contracts for Providing or Paying for Services

Notice of proposed regulations was published on June 5, 1974 (39 FR 20042), which set forth requirements applicable to contracts between State agencies administering the medical assistance programs under title XIX, Social Security Act, and organizations which provide or pay for services under the program. The proposal revised and updated the existing regulations to provide for the first time in detail the requirements under title XVIII of the Social Security Act for Medicaid agencies, community service agencies, and health maintenance organizations. The proposed regulations also defined terms, incorporated provisions from the health maintenance organization legislation, and delineated services in the minimum services definition. The proposal also inserted after "premium" in references to health maintenance organizations, professional groups, and others. Major changes made as a result of comments are summarized as follows:

1. The definition of "Contractor" has been expanded to include "or other medical provider reimbursed on a prepaid capitation basis for medical services to enrolled recipients" (§ 249.82(b)(1)). This same phrase has been added to the paragraph headings of § 249.82(c) (5) and (6), which set forth specific requirements relating to such providers. These additions clarify that the general and specific requirements provided in the regulation (§ 249.82(c) (1), (5) and (6)) are applicable to all such organizations performing services under contract with the single State agency. Organizations which are paid on an ordinary fee-for-service basis are subject to the same rules as any other Medicaid provider.

2. In response to comment from the health insurance industry, the word "prepaid" has been inserted into the title of "health insuring organization" and the words "or subscription charge" have been inserted after "premium" in references to payment to a health insuring organization. Also, the definition has been legally clarified by including the essential element of "underwriting risk" in the definition itself (§ 249.82(b)(2)).

3. Several respondents questioned failure to include all title XIX mandated services in the minimum services to be provided by an HMO. Omission of laboratory and x-ray services was inadvertent, and this has now been added. Of the other mandated services, some may be impractical to capitate (e.g. chronic long-term care), while for others (e.g. family planning, and early and periodic screening, diagnosis and treatment), the State may have HMOs make other arrangements more feasible under the circumstances. To mandate that these services be included under capitation in an HMO might prove unnecessarily duplicative.

4. The word "hospital" has been removed from "outpatient hospital services" in the HMO definition, and a clarifying parenthetic clause added to eliminate any possible misconception that ambulatory services must be provided in a hospital-based facility (§ 249.82(b)(9)). This provision is consistent with the reference to outpatient services in the HMO definition in the regulations under the HMO Act, Pub. L. 93-222 (42 CFR § 110.101(b)(2)).

5. The HMO definition has been revised to provide for individual physicians who provide health care under contract with the HMO, rather than as employees of or partners in the HMO (§ 249.10(b)(9)(i)(A)).

6. In response to a suggestion regarding the provisions in the proposed regulations on underwriting risk and reimbursement, these provisions have been expanded to make them more specific (§ 249.82(c)(2)(iv), (v) and (vi)).

7. Several comments questioned the open enrollment requirement for HMOs. The annual minimum thirty-day open enrollment period has been eliminated. The requirement that the HMO must accept individuals in the order in which they apply for enrollment up to the limits of its capacity has been retained. Under the new rule, individuals may continue to open enrollment for a limited period of time each year if their contract with the State so provides; however, it is anticipated that most contracts with HMOs will provide for year-round Medicaid recipient enrollment (§ 249.82(c)(5)(1)).

8. It was suggested that the applicability of the regulations to subcontractors be increased. In response to this, provisions have been added to the general requirements in § 249.82(c)(1)(X).

9. The provisions on termination (§ 249.82(c)(5)(v)) have been revised to specifically address termination by the enrollee as well as by the contractor. The enrollee must be permitted to terminate enrollment without cause within thirty days of enrollment, and may be permitted to do so at any time if so provided in the contract.

10. The rates for Federal financial participation for the several types of contracts have been clarified (§ 249.82(d)(2)).

11. In response to several objections to the requirement that fiscal agent contracts give states the option to purchase computer programs, this has been clarified to require the fiscal agent to offer one or more of the following options to the State: Purchase, lease, or buying the use of such programs (§ 249.82(c)(3)(1)).

12. Several comments stated that the regulation provided insufficient protection against marketing abuses. Accordingly, § 249.82(c)(6)(v) now requires that the State have written criteria for approval of marketing plans, procedures and materials, and prohibits certain specific marketing abuses; the regulation also addresses confidentiality of information with the proposed title XVIII HMO regulations (20 CFR 405.3023(d)(2) and (3)). Paragraph (c)(6)(vi) requires dissemination of accurate information through appropriate health or social service agencies.

13. In response to several requests for more specificity in the requirement for an internal quality assurance system, § 249.82(c)(5)(xi) now adds appropriate details of an acceptable quality assurance system consistent with the HMO regulations under the HMO Act, Pub. L. 93-222 (42 CFR 110.168(j)).

14. In response to several general requests for better protection of the enrolled recipients, and taking cognizance of recent recommendations of the Comptroller General (September 10, 1974, GAO report on better controls for Medicaid HMOs), provisions have been added for improved capitation rate-setting systems (§ 249.82(c)(2)(v), and (c)(6)(1x)), better State monitoring of enrollment and disenrollment practices (§ 249.82(c)(6)(vi) and appropriate quality assurance of care through periodic medical audits (§ 249.82(c)(6)(1y))

Suggestions which were not accepted include:

1. Inclusion of provider appeal rights similar to the reconsideration provisions accorded States under § 249.82(d)(1) in cases where the Department determines that the contract has not been carried out properly. No change has been made since this provision relates to denial of Federal financial participation to the State, not to State denial of payment to contractors. Also, appeal rights for providers are established by the State, not by the Federal government.

2. Revision of the requirement (§ 249.82(c)(5)(ii)) that Medicare/Medicaid enrollment be limited to no more than 50 percent of the enrollee capacity, including both Medicare and Medicaid in the maximum percentage, an HMO could have all poor or elderly clientele and would not be "broadly representative" of the population in the area served. Also, the enrollment of more than 50 percent of such members may raise a question of economic viability of the HMO. Serious problems in meeting the requirement can be resolved by waiver of this requirement for waivers where good cause is shown. In addition to the changes listed above, a number of editorials, procedural and technical changes have been made, including addition of a requirement for States locating one or more wafer centers and relocating certain elements of the definition of an HMO in the proposed regulations (§ 249.82(b)(9)(iv), (v), (vii), (viii), (ix)) to more appropriate criteria. The definition of an HMO in the proposed regulations (§ 249.82(c)(5), (1), (ii), (xii); (c)(6)(1), (ii), (iii).

It should be stressed that no FFP will be available for payments made to a
contractor unless a contract meeting the requirements of the regulations executed between the single State agency and the contractor is in effect for all periods in which FFP is claimed. Moreover, no FFP will be available for such payments if the Secretary determines as a result of investigation that for such period there was a substantial failure of either party to the contract to fulfill it in accordance with its terms or the provisions of the regulations. A failure to have such contracts in effect or to fulfill them in accordance with the regulations will raise a compliance issue under section 1904 of the Social Security Act. Accordingly, the proposed regulations as modified are adopted.

Section 249.82 of Part 249, Chapter II, Title 45 of the Code of Federal Regulations is revised to read as follows:

§ 249.82 Contracts with fiscal agents, health care project grant centers, and providers reimbursed on a prepaid capitation basis.

(a) Purpose. This section sets forth the requirements for certain State contracts for the provision of payment for or on behalf of medical services under Title XIX of the Social Security Act.

(b) Definitions. (1) "Contractor" means a health insuring organization, a health maintenance organization or other medical provider reimbursed on a prepaid capitation basis for medical services to enrolled recipients, a public nonmedical institution, a health care project grant center, or a fiscal agent which contracts with the single State agency under the terms of a prepaid capitation contract to pay for or provide medical services under a State medical assistance plan, in consideration of a payment.

(2) "Health insuring organization" means an organization legally operating within the State which pays for the cost of medical services available under the State plan to eligible recipients in exchange for a premium or subscription charge paid by the State agency, and which assumes an underwriting risk. A "health insuring organization" includes a health maintenance organization or other medical provider which is reimbursed on a prepaid capitation basis if an underwriting risk is assumed by the contractor under the contract.

(3) "Fiscal agent" means a contractor which processes and pays vendor claims on behalf of the single State agency.

(4) "Private nonmedical institution" means a facility such as a child-care institution or a prehospital home whose regular business is not that of a prepaid health insuring organization, or community health care center, but which provides medical care through contracts or other arrangements with medical providers, and which receives payments on a prepaid capitation basis through a contract with the single State agency. No assumption of underwriting risk is borne by such provider.

(5) "Health care project grant center" means an organization supported in whole or in part by Federal project grant financial assistance which provides or arranges for medical services to an enrolled population and receives payment for services to eligible recipients through a contract with the single State agency.

(6) "Premium or subscription charge" means the per capita amount paid by the single State agency to a contractor for each eligible recipient enrolled under a contract for the provision of medical and remedial care and services under the State plan, whether or not they receive such medical or remedial care and services during the contract period.

(7) "Enrolled recipient" means an eligible recipient who has entered into an agreement to receive services from a medical provider reimbursed under the terms of a prepaid capitation contract with the State Title XIX agency under the provisions of paragraphs (c)(5) and (6) of this section.

(8) "Underwriting risk" means at least a significant risk of loss assumed by the contractor who receives the premium or subscription charge paid by the State agency for an arrangement with the single State agency for providing or paying for covered medical services eligible recipients. Such risk arises because the cost of services provided directly, or paid for by the contractor plus the administrative expenses of the contractor may exceed the premiums or subscription charges such contractor has received during the contract period.

(9) "Health maintenance organization (HMO)" means a public or private organization which:

(i) Provides, either directly or through arrangements with others and through institutions, entities, and persons meeting the requirements established for providers under Title XIX of the Social Security Act, those health services which a defined population might receive in order to maintain or improve their health or to maintain in good health, including, as a minimum, inpatient hospital services, outpatient services (including diagnostic, treatment and rehabilitative services to ambulatory patients, whether or not provided in a hospital-based facility), physicians' services, and laboratory and x-ray services; and

(ii) Provides physicians' services (A) directly through employees or partners of such organization, or who are under contract to the organization to provide health care services, or (B) under arrangements with one or more groups of physicians (organized on a group practice or individual practice basis) under which each such group is reimbursed for its services primarily on the basis of an aggregate fixed fee, or under any other basis which is regardless of whether the individual physician members of any such group are paid on a fee-for-service or other basis;

(c) State plan requirements for contracts under this section.—(1) All contracts. A State plan under Title XIX of the Social Security Act which provides part or all of its medical assistance, or provides for processing or paying vendor claims for medical assistance, through arrangements with contractors provisions outlined in paragraphs (a)(1) through (a)(10) of this section, the contract shall be in writing and will:

(i) Specify the contract period;

(ii) Specify the functions of the contractor;

(iii) Identify the population to be covered by the contract and specify any necessary procedures for their enrollment or reenrollment;

(iv) Specify the amount, duration and scope of medical assistance to be provided or paid for;

(v) Provide that the single State agency and the Department shall have the right to inspect or otherwise evaluate the quality, appropriateness, and timeliness of services performed under such contract, and to audit and inspect any books and records of such contractor which pertain to services performed under such contract or amounts payable under such contract;

(vi) Establish provisions and criteria for extension, renegotiation and termination of the contract. Termination provisions must include provisions required by the contractor to supply promptly all information necessary for the reimbursement of any outstanding claims of enrolled participants;

(vii) Provide that the contractor shall establish and maintain an appropriate record system for services rendered title XIX enrollees and that these records shall be preserved for the period of time specified by the Secretary;

(viii) Provide the contractor shall conform to the requirements of § 205.50 of this chapter regarding confidentiality of information about eligible recipients;

(ix) Specify how the requirements of § 205.31 of this chapter with respect to third party liability will be carried out by the contractor and by the State agency;

(x) Specify which functions undertaken by the contractor may be carried out under subcontracts and that all such subcontracts shall be in writing and fulfill the provisions of the section which are appropriate to the service or activity delegated under the subcontract. No subcontract can terminate the legal responsibility of the contractor to the State agency unless the contractor assures that all the activities under the contract will be carried out;

(2) Health insuring organizations. In addition to the requirements specified in paragraph (c)(1) of this section, a State plan which provides for contracts with health insuring organizations (including contracts with health maintenance organizations and other medical providers) under Title XIX (capitation basis which have assumed an underwriting risk under the contract) must also provide that such contracts will:

(i) Provide that the premium or subscription charge must be reasonable, and
may not exceed the amount set forth in § 250.30 of this chapter;

(ii) Provide that the premiums or subscription charges paid on behalf of each enrolled recipient shall not be subject to renegotiation during the contract period in the same manner, less, or more often than annually if the contract period is for more than one year, except when changes in Federal or State law or regulations so require. The premium or subscription charge may be renegotiated more often with respect to eligible persons who are not enrolled recipients at the time of the renegotiation. This restriction applies to contracts entered into by the State agency after the effective date of these regulations;

(iii) Provide that the premiums or subscription charges shall not include payment for recoupment of any losses incurred by the contractor for which he has assumed the risk under the same or any prior contract between the parties;

(iv) Provide, for the assumption by the contractor of the underwriting risk. Where the contractor has assumed the full underwriting risk, the contract must provide that the premium or subscription charge paid to the contractor in the contract period constitutes the full discharge of all responsibility of the State agency for the costs of medical care and services covered under the contract and provided to enrolled recipients during such period. In other situations, a risk contract must specify the apportionment of the underwriting risk;

(v) Specify how any “savings” (excess of premiums over allowable costs) will be used by the contractor under contract with the single State agency and the State agency;

(vi) Specify whether the contractor may obtain reinsurance. In the case of health maintenance organizations or other medical providers reimbursed on a prepaid capitation basis and which have assumed an underwriting risk under the contract, the contract shall require the contractor to retain, after reinsurance, a substantial portion of the underwriting risk;

(vii) Specify the actuarial basis for computation of the premium rate or subscription charge specified in the contract.

(3) Fiscal agents. In addition to the requirements specified in paragraph (c) (1) of this section, a State plan for medical assistance which provides for contracts with health maintenance organizations and other medical providers reimbursed on a prepaid capitation basis for medical services to enrolled recipients, must also provide that such contracts will:

(i) Specify the period during which enrollment shall be open and provide that the contractor will accept persons eligible to be covered under the contract in the order in which they apply for enrollment without restrictions, except as may be authorized by the Secretary, up to the limits authorized in the contract with the State;

(ii) Provide, in the case of an HMO, that the contractor will serve a population broadly representative of the various age, social, and income groups within the area it serves, except that within two years after the effective date of the contract no more than 50% of the enrolled members may be individuals receiving benefits under Title XVIII and individuals receiving assistance under Title XIX of the Social Security Act. Any contractor under contract with the single State agency prior to the effective date of this regulation must conform to this requirement within two years after such effective date. Exceptions to this subdivision may be waived by the Secretary for good cause shown.

(iii) Provide that enrollment is voluntary;

(iv) Specify the period during which enrollment shall be for a reasonable period of time, so as to assure continuity of care and avoid excessive costs due to rapid turnover of enrollment;

(v) Specify the reasons for which a recipient's enrollment may be terminated. Such reasons may not include termination by the contractor because of an adverse change in a recipient's health status. The contract must provide that the recipient shall have the right to terminate his enrollment without cause within 30 days of such enrollment, and that any termination be paid to the contractor for performing the required functions, the basis for the amount and when payment is to be made; and

(vi) Provide that payment to providers shall be made in accordance with § 250.30 of this chapter;

(4) Private nonmedical institutions. In addition to the requirements specified in paragraph (c) (1) of this section, a State plan which provides for contracts for prepayment of services from private nonmedical institutions must also provide that such contracts will:

(i) Specify the capitation amount which shall be based on the cost of services provided (in accordance with § 250.30 of this chapter);

(ii) Provide, in the case of an HMO, that the contractor will serve a population broadly representative of the various age, social, and income groups within the area it serves, except that within two years after the effective date of the contract no more than 50% of the enrolled members may be individuals receiving benefits under Title XVIII and individuals receiving assistance under Title XIX of the Social Security Act. Any contractor under contract with the single State agency prior to the effective date of this regulation must conform to this requirement within two years after such effective date. Exceptions to this subdivision may be waived by the Secretary for good cause shown.

(iii) Provide that enrollment is voluntary;

(iv) Specify the period during which enrollment shall be for a reasonable period of time, so as to assure continuity of care and avoid excessive costs due to rapid turnover of enrollment;

(v) Specify the reasons for which a recipient's enrollment may be terminated. Such reasons may not include termination by the contractor because of an adverse change in a recipient's health status. The contract must provide that the recipient shall have the right to terminate his enrollment without cause within 30 days of such enrollment, and that any termination be paid to the contractor for performing the required functions, the basis for the amount and when payment is to be made; and

(vi) Provide that payment to providers shall be made in accordance with § 250.30 of this chapter;

(vii) Provide that all medical services covered under the contract which are required on an emergency basis be available on a 24-hour, seven-day-a-week basis, either in the contractor's own facilities, or through arrangements, to be approved by the single State agency, with another provider;

(viii) Provide for prompt payment by the contractor, in accordance with § 250.30 of this chapter of all in-area or out-of-area services which are required by the contract and rendered by providers with whom the contractor has work arrangements, and which are medically urgent, that is, they are necessary to prevent jeopardization of the patient's health or infliction of severe pain and discomfort which would occur if use of the contractor's facilities were required;

(ix) Provide for an internal enrollee grievance procedure, approved in writing by the director of the medical assistance unit of the single State agency. Such procedure shall provide for expeditious resolution of grievances by personnel at a decisionmaking level with authority to require corrective action;

(x) Provide, if the State agency has a comprehensive hospital quality assurance system consistent with Federal requirements under title XIX. This system shall provide for review by appropriate health professionals of the process followed by the hospital in the diagnosis and treatment of the enrollee, and shall utilize systematic data collection of performance and patient results, provide interpretation of such data to the practitioners, and provide for the institution of needed improvements;

(xi) Provide that the contractor shall submit to the single State agency for prior approval its marketing plans, procedures and materials;

(xii) Provide that enrollees with dreadful health care and the contributions they can make to the maintenance of their own health;

(xiii) Provide for development of a medical record-keeping system through which all pertinent information relating to the medical management of the enrollees is accumulated and is readily available to appropriate professionals; and

(xiv) Provide, in contracts in which the contractor does not assume any underwriting risk, that payment to the contractor for services provided under the contract (including any necessary retrospective adjustment) will not exceed the amounts which could be paid for
such covered medical and remedial care and services actually delivered by the contractor to eligible recipients under the requirements imposed for specific provider services as set forth in § 250.30 of this chapter.

(ii) That the single State agency will document the basis for computation of the amounts paid for furnishing medical care services required by its members will be received promptly as appropriate and that the services which are received will meet quality standards;

(v) For the establishment and implementation of a system for approval of marketing plans, procedures and materials for enrolling eligible recipients in a health maintenance organization, including written criteria for such approval; such system shall include provisions that the contractor will not engage in marketing practices which would mislead, misinform, confuse or defraud recipients or the single State agency, for example, claims that the recipient must enroll or lose his Medicaid coverage;

(vi) For dissemination through appropriate health or social service agencies to eligible recipients in the service area of the contractor of factually accurate information, presented in readable and concise form, regarding at least coverage, locations and hours of service, and enrollment and disenrollment practices;

(vii) That payment will not be made on the enrolled recipient's behalf to providers other than the contractor for services rendered during the term of the contract if such services are available under the contract;

(viii) That upon termination of a contract or upon termination of enrollment of an enrollee, arrangements will be made to enable recipients formerly enrolled in the HMO to obtain without delay the services to which they are entitled;

(ix) That the single State agency will document the basis for computation of these fixed rates or charges;

(x) For the establishment of procedures to monitor enrollment and disenrollment practices and insure proper implementation of grievance procedures of the contractor; and

(xi) Provide that, where the contract does not include all services available under the State plan, those services not included shall be accessible and available either by referral arrangements with the contractor or by some other effective means; services in addition to those available under the State plan may be covered under the contract in accordance with § 249.10(a) (6) (vii) of this chapter.

(d) Financial participation.

(1) Federal financial participation shall be available for payments made to a contractor under this section only if a contract between the single State agency and the contractor, fulfilling all the requirements of this section and the appropriate requirements of Part 74 of this title, is in effect for all periods for which Federal financial participation is claimed.

The Secretary may deem such a contract not to be in effect, for the purposes of this paragraph, for any period, if the Secretary, as a result of investigation determines that for such period there was a substantial failure of either party to the contract to carry it out in accordance with its terms or the requirements of this section. States, upon request, will receive, in accordance with section 1116(d) of the Act, a reconsideration of the Secretary's determination under the provisions of this paragraph.

(2) For purposes of Federal financial participation:

(i) All expenditures which can reasonably be expected to exceed $100,000 in total during the contract must be approved in writing by the Regional Commissioner prior to the execution of the contract;

(ii) Under all contracts in which an underwriting risk is assumed, the total amount paid for carrying out the provisions of the contract will be regarded as a medical assistance cost;

(iii) Under other contracts in which no underwriting risk is assumed, the amounts paid for furnishing medical care and services to eligible recipients will be regarded as a medical assistance cost. Amounts paid for performing other agreed-upon functions will be regarded as an administrative cost; and

(iv) Under contracts with fiscal agents the amount paid to the provider of medical services will be considered as a medical assistance cost, and the amount paid to the contractor for performing the agreed-upon functions will be regarded as an administrative cost.

(Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302))

Effective date. The regulations in this section shall be effective August 5, 1975. (Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program)


JAMES S. DWIGHT, JR., Administrator, Social and Rehabilitation Service.

Approved: May 2, 1975.

CASPAR W. WEINBERGER, Secretary.

[FR Doc. 75-12091 Filed 5-8-75; 8:45 am]
Confidentiality of Alcohol and Drug Abuse Patient Records
PROPOSED RULES

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
SPECIAL ACTION OFFICE FOR DRUG ABUSE PREVENTION

[42 CFR Ch. I]

CONFIDENTIALITY OF ALCOHOL AND DRUG ABUSE PATIENT RECORDS

Notice of Proposed Joint Rulemaking


It is proposed to promulgate the regulations by an Advance Notice of Proposed Rulemaking. Notice of proposed regulations to add a new Part 2 entitled "Confidentiality of Alcohol and Drug Abuse Patient Records." Because it is anticipated that these regulations will become effective on June 29,1975, immediately prior to the date (June 30, 1975) of the transfer of authority to issue regulations applicable to the confidentiality of drug abuse patient records from the Director of the Special Action Office for Drug Abuse Prevention to the Secretary of Health, Education, and Welfare (see section 333 of Pub. L. 93-282, 88 Stat. 136), it has been determined not to promulgate the proposed regulations as a revision of 21 CFR Part 1401, the existing Special Single Action Office for Drug Abuse Prevention regulations, but to promulgate regulations on the confidentiality of drug abuse patient records which were issued prior to the amendment of section 408 of the Drug Abuse Office and Treatment Act of 1972 by Pub. L. 93-382, 21 CFR Part 1401, 1 will of course, be revoked when the proposed regulations become effective as final regulations.

The proposed regulations were published as an Advance Notice of Proposed Rulemaking on August 22, 1974 (39 FR 30426). A period of 74 days was provided for the submission of written comments on the regulations proposed in the Advance Notice. Hearings were held in 11 cities throughout the United States in accordance with the schedule of hearings published as part of the Advance Notice except that an additional day (October 24, 1974) of hearings was conducted in San Francisco. In addition to the testimony of the 84 witnesses who appeared at these hearings, 173 written comments were received. Transcripts of the hearings as well as copies of the written comments are and will continue to be available for public inspection at the Office of the General Counsel, Special Action Office for Drug Abuse Prevention, Room 3026, 726 Jackson Place, N.W., Washington, D.C. 20506 on weekdays during regular business hours.

If, as is intended, these regulations represent a sound step in the evolution of a relatively new field of law, such a result could not have been achieved without the generous contribution of time, effort, and thought on the part of those who testified or submitted written comments. Every effort has been made to accommodate as far as possible the great diversity of views presented while still effectively achieving the purposes of the authorizing legislation. While it was obviously impossible to adopt all the diverse, and sometimes conflicting, views presented, every technical was reviewed and carefully considered.

However, because of this diversity and volume of the written comments and of the testimony presented at the public hearings, no detailed summarization of the comments and the testimony thereof is attempted. Instead, significant comments are noted and summarized in the "basis and purpose" sections which highlight and explain the substantive changes in the new Part 2 compared to the August 22, 1974 proposal. In addition to these substantive changes, there has been some rearrangement in the order of appearance of certain sections and some minor technical and clarifying changes. On the basis of legal and practical difficulties which were pointed out at the hearings and in written comments the provisions of section 408 of the August 22, 1974 proposal. In addition to these substantive changes, there has been some rearrangement in the order of appearance of certain sections and some minor technical and clarifying changes. On the basis of legal and practical difficulties which were pointed out at the hearings and in written comments the provisions of one section of the August 22, 1974 proposal (§1401.18: "Employment information; evasion prohibited."), have been deleted. These provisions would have prohibited certain types of inquiries by employers about drug or alcohol abuse by actual or prospective employees. The deletion is based upon a determination that publication of the regulations should not be delayed until such time, if any, as the problems associated with these provisions can be resolved and is not to be construed as an administrative interpretation that any such provision would be beyond the legally authorized scope of the regulations.

It should also be noted that a new subpart A, Introductory Statement, has been added to the proposed regulations. This subpart describes the manner in which the regulations will be administered and enforced, explains the format of the proposed regulations and quotes fully the authorizing statutory provisions. The inclusion of the authorizing statutory provisions will enable the reader to refer to one document containing both the statutory and regulatory provisions. As is explained in §2.5, each section in Subparts B through E which sets forth the rules on a given topic is followed by a section having the same number, but with the suffix -1 added, which sets forth the basis and purpose for the rules.

Interested persons are invited to submit written views, or any comments with respect to the proposed regulations within 30 days of the date of publication of this notice to the Office of the General Counsel, Special Action Office for Drug Abuse Prevention, Room 3026, 726 Jackson Place, N.W., Washington, D.C. 20506. Telephone: 202-505-5600. Comments received will be available for public inspection at that address on weekdays during regular business hours. The comments will also be available for public inspection 30 days during regular business hours at the Office of the Administrator, Alcohol, Drug Abuse and Mental Health Administration, Rm. 1306, 5600 Fishers Lane, Rockville, Maryland 20852.


Dated: May 1, 1975.

[51] THEODORE COOPER,
Acting Assistant Secretary for Health, Department of Health, Education, and Welfare.

Approved: May 6, 1975.

[51] STEPHEN KUZMANZ,
Acting Secretary of Health, Education, and Welfare.

Dated: May 7, 1975.

GRANTY CREWS, II
General Counsel, Special Action Office for Drug Abuse Prevention.


ROBERT DU PONT
Director, Special Action Office for Drug Abuse Prevention.

Subpart A—Introductory Statement

Sec. 2.1 Statutory authority—drug abuse.

Sec. 2.2 Statutory authority—alcohol abuse.

Sec. 2.3Previous regulations as controlling authority.

Sec. 2.4 General purposes.

Sec. 2.5 Definitions and usages—rules.

Sec. 2.6 Forma.

Sec. 2.7 Administration and enforcement in general.

Sec. 2.8 Reports of violations.

Subpart B—General Provisions

Sec. 2.11 Definitions and usages—rules.

Sec. 2.11-1 Definitions and usages—basis and purpose.

Sec. 2.12 Applicability—rules.

Sec. 2.12-1 Applicability—basis and purpose.

Sec. 2.13 General rules regarding confidentiality—basis and purpose.

Sec. 2.13-1 General rules regarding confidentiality—basis and purpose.

Sec. 2.14 Penalty for violations—basis and purpose.

Sec. 2.15 Minor patients—basis and purpose.

Sec. 2.16 Incompetent and deceased patients—rules.
sec. 2.31- Written consent required—rules.

2.32 Prohibition on redisclosure—rules.

2.33- Diagnosis, treatment, and rehabilitation—rules.

2.34 Prevention of certain multiple enrollments—rules.

2.35 Relationship to State laws—rules.

2.36 Patient's benefit In general—rules.

2.37 Third party payers—rules.

2.38 Employers and employment agencies—rules.

2.39 Employers and employment agencies—rules.

2.40 Criminal justice system referrals and functions—rules.

2.41 Criminal justice system referrals and functions—rules.

2.42 Medical emergencies—rules.

2.43 Government agencies—rules.

2.44 Preventive of certain multiple enrollments—rules.

2.45 Relationship to State laws—rules.

2.46 Legal counsel for patient—rules.

2.47 Patient identifying information in connection with examinations—rules.

2.48 Patient identifying information in connection with examinations—rules.

2.49 Security precautions—rules.

2.50 Prohibition on disclosure of patient identities—rules.

2.51 Medical emergencies—rules.

2.52 Research, audit, and evaluation—rules.

2.53 Government agencies—rules.

2.54 Patient identifying information in connection with examinations—rules.

2.55 Supervision and regulation of narcotic maintenance and detoxification programs—rules.

2.56-1 Prohibition on disclosure of patient identities from research, audit, or evaluation records—rules.

2.57 Undercover agents and informants—rules.

2.58 Investigation and prosecution of patients—rules.

2.59 Investigation and prosecution of patients—rules.

2.60 Security precautions—rules.

2.61 Legal effect of order—rules.

2.62 Inapplicability to secondary records—rules.

2.63 Limitation to objective data—rules.

2.64 Procedures and criteria in general—rules.

2.65 Investigation and prosecution of patients—rules.

2.66 Investigation and prosecution of patients—rules.

2.67 Undercover agents and informants—rules.

2.68-1 Investigation and prosecution of programs—rules.

2.69 Security precautions—rules.

2.70 Security precautions—rules.

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2.150 Security precautions—rules.
PROPOSED RULES

(h) The Administrator of Veterans' Affairs, through the Chief Medical Director, shall, to the maximum feasible extent consistent with their responsibilities under title 38, United States Code, prescribe regulations making the provisions of this section applicable to the provision of hospital care, nursing home care, domiciliary care, and medical services under such title 38 to veterans suffering from alcoholism or alcohol abuse. The regulations prescribed by the Secretary under subsection (g) of this section to records maintained in connection with the provision of hospital care, nursing home care, domiciliary care, and medical services under such title 38 to veterans suffering from alcoholism or alcohol abuse shall, to the maximum feasible extent consistent with their responsibilities under title 38, United States Code, prescribe regulations making applicable the regulations prescribed by the Secretary under subsection (g) of this section to records maintained in connection with the provision of hospital care, nursing home care, domiciliary care, and medical services under such title 38 to veterans suffering from alcoholism or alcohol abuse. The regulations prescribed by the Secretary under subsection (g) of this section to records maintained in connection with the provision of hospital care, nursing home care, domiciliary care, and medical services under such title 38 to veterans suffering from alcoholism or alcohol abuse shall, to the maximum feasible extent consistent with their responsibilities under title 38, United States Code, prescribe regulations making applicable the regulations prescribed by the Secretary under subsection (g) of this section to records maintained in connection with the provision of hospital care, nursing home care, domiciliary care, and medical services under such title 38 to veterans suffering from alcoholism or alcohol abuse.

§ 2.2 Statutory authority—alcohol abuse.

Insofar as the provisions of this part pertain to the use of any program or activity relating to alcoholism or alcohol abuse education, training, treatment, rehabilitation, or research, such provisions are authorized under section 333 of Pub. L. 91-616, the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (42 U.S.C. 4832), as amended by section 122(a) of Pub. L. 93-283, the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act Amendments of 1974 (88 Stat. 131). As so amended, that section reads as follows:

CONFIDENTIALITY OF RECORDS

Sec. 333. (a) Records of the identity, diagnosis, treatment, or progress of any patient which are maintained in connection with the performance of any program or activity relating to alcoholism or alcohol abuse education, training, treatment, rehabilitation, or research, which is conducted, regulated, or directly or indirectly assisted by any department or agency of the United States shall, except as provided in subsection (e), be confidential and be disclosed only for the purposes for which the circumstances expressly authorized under subsection (b) of this section.

(b) (1) The content of any record referred to in subsection (a) may be disclosed—

(A) To medical personnel to the extent necessary to meet a bona fide medical emergency.

(B) To qualified personnel for the purpose of conducting scientific research, management audits, financial audits, or program evaluation, or otherwise disclose patient identities in any manner.

(C) If authorized by an appropriate order of a competent medical jurisdiction, or by an appropriate order of any court of competent jurisdiction granted on application showing good cause therefor, and if determining the court shall in the discretion of the court weigh the public interest and the need for disclosure against the injury to the patient, to the physician-patient relationship, and to the treatment services upon the granting of such order, the court, in determining the extent to which any disclosure of all or any part of any record in necessary, shall impose appropriate safeguards against unauthorized disclosure.

(c) Except as authorized by a court order granted under subsection (b)(2)(C) of this section, no record referred to in subsection (a) may be disclosed except as provided in subsection (b)(1), for such such extent as the court shall determine.

(d) The provisions of this section may continue to apply to records concerning any individual who has been a patient, irrespective of whether or when he ceased to be a patient.

(e) The prohibitions of this section do not apply to any interchange of records—

(1) within the Armed Forces or within those components of the Veterans' Administration furnishing health care to veterans, or

(2) between such components and the Armed Forces.

(f) Any person who violates any provision of this section or any record regulation pursuant to this section shall be fined not more than $2,000 or imprisoned for not more than one year, or both, in the case of each subsequent offense.

(g) Except as provided in subsection (h) of this section, the Administrator shall, from time to time, consult with the Secretary of Health, Education, and Welfare and the Secretary of Labor as well as the references in the legislative history and the regulations to carry out the purposes of this section. These regulations may contain such definitions as the Administrator deems necessary or proper to effectuate the purposes of this section, to prevent circumvention or evasion thereof, or to facilitate compliance therewith.

(h) The Administrator of Veterans' Affairs, through the Chief Medical Director, shall, to the maximum feasible extent consistent with their responsibilities under title 38, United States Code, prescribe regulations making applicable the regulations prescribed by the Secretary under subsection (g) of this section to records maintained in connection with the provision of hospital care, nursing home care, domiciliary care, and medical services under such title 38 to veterans suffering from alcoholism or alcohol abuse. The regulations prescribed by the Secretary under subsection (g) of this section to records maintained in connection with the provision of hospital care, nursing home care, domiciliary care, and medical services under such title 38 to veterans suffering from alcoholism or alcohol abuse shall, to the maximum feasible extent consistent with their responsibilities under title 38, United States Code, prescribe regulations making applicable the regulations prescribed by the Secretary under subsection (g) of this section to records maintained in connection with the provision of hospital care, nursing home care, domiciliary care, and medical services under such title 38 to veterans suffering from alcoholism or alcohol abuse. The regulations prescribed by the Secretary under subsection (g) of this section to records maintained in connection with the provision of hospital care, nursing home care, domiciliary care, and medical services under such title 38 to veterans suffering from alcoholism or alcohol abuse shall, to the maximum feasible extent consistent with their responsibilities under title 38, United States Code, prescribe regulations making applicable the regulations prescribed by the Secretary under subsection (g) of this section to records maintained in connection with the provision of hospital care, nursing home care, domiciliary care, and medical services under such title 38 to veterans suffering from alcoholism or alcohol abuse.

§ 2.4 General purposes.

(a) Policy objectives. The purpose of the regulations set forth in this part is to implement the authorizing legislation in a manner that, to the extent practicable, takes into account two streams of legal thought and social policy. One has to do with enhancing the quality and attractiveness of treatment systems. The other is concerned with the interests of patients as citizens, most particularly in regard to protecting their rights of privacy. Within each stream there are cross-currents, and it should come as no surprise that areas of turbulence are to be found at their confluence.

(b) Limited purpose. The regulations contained in this part are not intended to directly the manner in which substantive functions, such as research, treatment, and evaluation, should be carried out by professional or lay people. Nor is it intended to define the minimum requirements for the protection of confidentiality of patient records which must be satisfied in connection with the conduct of those functions in order to carry out the purposes of the authorizing legislation. This does not mean that observation of only the minimum legal requirements is always the wisest course, but in framing these regulations, allowance must be made for a diversity of emphasis and approach in the many different jurisdictions and by the great variety of public and private agencies which must find a way to function within the limits here prescribed.

§ 2.5 Format.

(a) Basis and purpose sections. Each section setting forth rules on any given topic in Subparts B through E of this part is followed by a section setting forth their basis and purpose. In many cases, the basis and purpose section is itself an interpretative rule regarding the legal thought and social policy which precede it. In other instances, it summarizes historical or evidentiary material relevant to the validity and interpretation of the section which precedes it.

(b) Statutory rules fully incorporated. Although, for convenience of reference, the statutory basis for this part is set out in full in §§ 2.1 and 2.2, the regulations in Subparts B through E of this part are intended to include all of the operative statutory provisions.

§ 2.6 Administration and enforcement in general.

It is not contemplated that any particular agency will be set up specifically to enforce compliance with this part. Programs which receive Federal grants in Subparts B through E of this part will have to comply with this and other applicable Federal law as an incident to the grant administration process. Similarly, FDA inspections of methadone programs will include inspection for compliance with this part, which is incorporated by reference in the methadone regulation (21 CFR 310.580).

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§ 2.7 Reports of violations.

Any violation may be reported to the United States Attorney for the judicial district in which the violation occurs. Violations on the part of methadone programs may be reported to the regional offices of the Food and Drug Administration. Violations on the part of a Federal grantee or contractor may be reported to the Federal agency monitoring the grant or contract.

Subpart B—General Provisions

§ 2.11 Definitions and usages—Rules.

(a) Authorizing legislation. The term "authorizing legislation" means section 498 of the Drug Abuse Office and Treatment Act of 1972 (21 U.S.C. 1175) and section 333 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (42 U.S.C. 4582), as such sections may be amended and in effect from time to time.

(b) Deemed terms. The definitions and rules of construction set forth in this section are applicable for the purposes of this part. To the extent that they refer to terms used in the authorizing legislation, they are also applicable for the purposes of such legislation.

(c) Alcohol abuse. The term "alcohol abuse" includes alcoholism.

(d) Drug abuse. The term "drug abuse" includes drug addiction.

(e) Diagnosis and treatment. The terms "diagnosis" and "treatment" include interviewing, counseling, and any other services or activities carried on for the purpose of or as an incident to diagnosis, treatment, or rehabilitation with respect to drug abuse or alcohol abuse, whether or not conducted by a member of the medical profession.

(f) Program. (1) The term "program," when referring to an individual or organization, means an individual or any other person furnishing a service or performing a service or furnishing care to patients or to the public generally, or furnishing a service organization which furnishes diagnosis, treatment, or rehabilitation services to patients, whether functional or organizational, or furnishing diagnosis, treatment, or rehabilitation services to the public generally, whether governmental or nongovernmental, whether functional or organizational, or furnishing diagnosis, treatment, or rehabilitation services to the public generally, whether governmental or nongovernmental, whether functional or organizational.

(2) The term "program," when not used in the sense defined in paragraph (f)(1), means a plan or procedure, whether functional or organizational, which furnishes diagnosis, treatment, or rehabilitation services to patients or to the public generally, whether governmental or nongovernmental, whether functional or organizational, or furnishes diagnosis, treatment, or rehabilitation services to the public generally, whether governmental or nongovernmental, whether functional or organizational.

(g) Program evaluation. The term "program evaluation" means an evaluation of—

(1) The effectiveness, efficiency, compliance with applicable therapeutic, legal, or other standards, or other aspects of the utility or success of a program in the sense defined in paragraph (f)(2) of this section;

(2) The validity, effectiveness, efficiency, practicability, or other aspects of the utility or success of a program which is an organization, the individual, if any, who is the principal, or in the case of organizations consisting of partners or under the control of a board of directors, board of trustees or other governing body, the individual designated as program director, and any other person who has applied for or been given diagnosis or treatment for drug abuse or alcohol abuse and includes any individual who, after arrest on a criminal charge, is interviewed and/or tested in connection with drug abuse or drug abuse preliminary to a determination as to eligibility to participate in a treatment or rehabilitation program.

(j) Patient identifying information. The term "patient identifying information" means the name, address, social security number, or similar information by which the identity of a patient can be determined with reasonable accuracy and given reference to other publicly available information. The term does not include a patient identifying number assigned by a program.

(k) Alcohol abuse or drug abuse prevention function. The term "alcohol abuse or drug abuse prevention function" means any program or activity relating to alcohol abuse or drug abuse prevention, treatment, rehabilitation, training, research, or other activities for the purpose of such legislation.

(l) Service organization. The term "service organization" means an individual or organization which provides services to a program such as data processing, laboratory analyses, or legal, medical, accounting, or other professional services. The term does not include a service organization which includes neither patient identifying information nor identifying numbers assigned by the program to patients.

(m) Qualified service organization. The term "qualified service organization" means a service organization which has entered into a written agreement with a program pursuant to which the service organization—

(1) Acknowledges that in receiving, recording, processing, or otherwise dealing with any information from the program about patients in the program, it is fully bound by the provisions of this part;

(2) Undertakes to institute appropriate procedures for safeguarding such information, with particular reference to patient identifying information; and

(3) Undertakes to resist in judicial proceedings to obtain any effort to obtain access to information pertaining to patients otherwise than as expressly provided for in this part.

(n) Records. The term "records" includes any information, whether recorded, in the possession of a patient, received or acquired in connection with the performance of any alcohol abuse or drug abuse prevention function, whether such receipt or acquisition is by a program, a service organization, or any other agency or entity.

(o) Communications not constituting disclosures. The following types of communications do not constitute disclosures of records:

(1) Communications of information within a program between or among personnel of such program in connection with their duties.

(2) Communications between a program and a qualified service organization of information needed by the organization to perform its services to the program.

(3) Communications of information which includes neither patient identifying information nor identifying numbers assigned by the program to patients.

(p) Previous regulations. The term "previous regulations" refers to the interpretative regulations issued by the Special Action Office for Drug Abuse Prevention, 21 CFR Part 1401, originally published November 17, 1972, 37 FR 24636, as revised December 6, 1973, 38 FR 39744.

(q) State law. The term "State law" refers to the law of a State or other jurisdiction, such as the District of Columbia, to the extent that it is applicable to transactions taking place within the State, as applied or as modified by any applicable Federal statutes and regulations.

(r) State law. The term "third party payer" means any organization (or person acting as agent or trustee for an organization or fund) which pays or agrees to pay for diagnosis or treatment furnished or to be furnished to a particular individual, such payment or agreement to pay is on the basis of an individual relationship between the payer and the patient (or a member of the patient's family in the case of self-and-family insurance coverage or similar arrangements) evidenced by a contract, and insurance policies, certificated membership or participation, or similar documentation.

(s) Funding source. The term "funding source" means any individual or any public or private organization, including any Federal, State, or local governmental agency, which makes payment or agreement to pay for diagnosis or treatment furnished or to be furnished to a particular individual, such payment or agreement to pay is on the basis of an individual relationship between the payer and the patient (or a member of the patient's family in the case of self-and-family insurance coverage or similar arrangements) evidenced by a contract, and insurance policies, certificated membership or participation, or similar documentation.


2.11 Definitions and usages— Basis and purpose.

(a) In general. The definitions are based upon the legislative history of and experience with the authorizing legisla-
tion, and are intended as aids to construc-
tion that cannot be expected to carry out the purposes of those statutes.

(b) Coverage of applicants for treat-
ment. Section 2.11(1) is intended to make it clear that records of the identity and other information about a person whose application is rejected or withdrawn are fully as much covered by this part as records pertaining to a patient actually accepted for treatment.

Program terminology for patients not controlling. While many programs prefer to use "client" or some other term instead of "patient" to describe the recipi- ents of their services, it is believed preferable to use terminology in this part which is consistent with that used in the authorizing legislation. It should be clearly understood, however, that the records of any individual who fits the definition set forth in §2.11(1) are covered, no matter what terminology the program may use to designate his status.

(d) Origin of "prevention function" terminology. The definition of alcohol abuse patient records was used in the §2.11(k) is adapted from the definition of drug abuse prevention function in section 103(b) of the Drug Abuse Office and Treatment Act of 1972 (21 U.S.C. 1103(b)), which was no longer defined by any corresponding defined term available to the draftsman of the 1974 amendment to section 333 of the Comprehensive Alcohol Abuse and Alcoholism Prevention Treatment and Rehabilitation Act of 1970 (42 U.S.C. 4852), it is clear from the legislative history that the coverage of alcohol abuse patient records was intended to be as wide as the coverage of drug abuse patient records, and the definition in §2.11(k) reflects that intention.

(e) Ambiguity of the term "program". It is recognized that it is ordinarily poor drafting technique to use the same term in senses which are as different, yet related, as those in §2.11(f)(1) and 2.11(f)(2). This part, however, has to be read both in conjunction with the Food and Drug Administration's Uniform Record Regulation and the Drug Abuse Office and Treatment Act of 1972. The Methadone Regulation (21 CFR 310.505) clearly uses the term "program" in the §2.11(f)(1) sense. In section 103(b) of the Act (21 U.S.C. 1103(b)), it is clearly used in the §2.11(f)(2) sense, and the usage in section 408(b)(2) of the Act has from its original enactment been administered integrally to those same senses. As used in this part, the context should indicate the intended meanings with sufficient clarity to make this pre-
ferable to creating and defining new termin-
yology which would be different from that used in related regulations and the authorizing legislation.

Construction of disclosures. Sec-
tion 2.11(1) is intended to clarify the statute. It is normally inadvisable to re-
ried on within a program or between a program and persons or organizations which are assisting it in providing patient care. The authorizing legislation was not intended to prohibit programs from carrying on accepted practices in terms of obtaining specialized services from outside organizations. In conjunc-
tion with the definition of qualified service organizations, set forth in §2.11(m), the provisions of §2.11(a) should pre-
vent the development of abuses in this area.

§2.12 Applicability.—Rules.

(a) In general. Except as provided in paragraph (c) of this section, this part applies to records of the identity, diagnosis, prognosis, or treatment of any patient which are maintained in connection with the performance of any alcohol abuse or drug abuse prevention function.

(1) Which is conducted in whole or in part, whether directly or by grant, contract, or otherwise, by any department or agency of the United States.

(2) For the lawful conduct of which in whole or part any license, registration, application, or other authorization is re-
quired to be granted or approved by any department or agency of the United States.

(3) Which is assisted by funds supplied by any department or agency of the United States, whether directly through a grant, contract, or otherwise, or indirectly by funds supplied to a State or local government unit through the me-
dium of contracts, grants of any descrip-
tion, general or special revenue sharing, or otherwise.

(4) Which is assisted by the Internal Revenue Service of the Treasury through the allowance of income tax deductions for contributions to the program conducting such function, or by a way of a tax-exempt status for such program.

(b) Armed Forces and Veterans' Admin-
istration.

(1) The provisions of this part do not apply to any interchange, entirely within the Armed Forces, within those components of the Veterans' Administration furnishing health care to veterans or between such components and the Armed Forces, of records pertaining to a person relating to a period when such per-
son is or was subject to the Uniform Code of Military Justice.

(2) Except as provided in paragraph (b) of this section, this part applies to any communication between any person outside the Armed Forces and any person within the Armed Forces.

(c) Exception as provided in paragraph (b) of this section, this part applies, insofar as it pertains to any drug abuse prevention function, to any communication between any person outside those components of the Veterans' Administra-
tion furnishing health care to veterans and any person within such components, until such date as the Secretary of Health, Education and Welfare exercises the authority (conferred by an amend-
ment effective October 10, 1975) to prescribe regulations under section 408 of Pub. L. 82-285 (21 U.S.C. 1170). After such date, this part applies thereto to such extent as the Administrator of Veterans' Af-
fairs, through the Chief Medical Direc-
ior, by regulation makes the provisions of this part applicable thereto.

(d) Except as provided in paragraph (b) of this section, this part applies, insofar as it pertains to any alcohol abuse prevention function, to any communication between those components of the Veterans' Adminis-
tration furnishing health care to veterans and any person within such components, to such extent as the Ad-
mistrator of Veterans' Affairs, through the Chief Medical Director, by regulation makes the provisions of this part applica-
table thereto.

(e) Period covered as affecting appli-
cability. The provisions of this part apply to records of identity, diagnosis, prognosis, or treatment pertaining to any given individual maintained over any period of time which, irrespective of when it begins, does not end before March 21, 1972, in the case of diagnosis or treatment for drug abuse or before May 14, 1974, in the case of diagnosis or treatment for alcohol abuse.

§2.12-1 Applicability.—Basis and pur-
pose.

The broad coverage provided by §2.12 is appropriate in the light of the remedial purposes of the Act, as well as the practical desirability of cer-
tainty and uniformity. Sections 2.12(a)(1) and 2.12(a)(2) simply follow the terms of subsection (a) of the statutes, with some expansion for the sake of clar-
ity and explicitness.

(b) Sections 2.12(a)(3) and 2.12(a)(4) are based upon the use by Congress of the phrase "directly or indirectly ac-
quired by any department or agency of the United States". In the light of the multiplicity and extent of Federal pro-
grams and policies which can be of as-
sistance to drug and alcoholism pro-
grams, this wording strongly suggests an intention to provide the broadest cover-
age consistent with the literal terms of the statutes. Many programs commence with direct Federal assistance, financial, technical, or both, and later continue with State aid and private, tax-deducti-
ble contributions. It would be manifestly contrary to the general policy sought to be effectuated by the legislation if the confidential status of a program's records were to terminate, or even be called into question, by the cessation of direct Federal assistance.

(c) With regard to §2.12(a)(3), it seems clear that whether State or local government is assisted by the Federal government by way of revenue sharing or other unrestricted grants, all of the programs and activities of the State or local government are thereby indi-
rectly assisted, and thus meet that aspect of the statutory criteria for coverage.

(d) Section 2.12(a)(4) follows the doctrine established in McGlotten v. Con-
olly, 238 F. Supp. 448 (D.C. D.C. 1972), in which it was held that the deductible status of contributions to an organization constitutes "Federal financial as-
sistance" within the meaning of section 301 of the 1964 Civil Rights Act (42 U.S.C. 2000d). The inclusion of the ad-

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§ 2.15 Minor patients.— Rules.

(a) Definition of minor. The term "minor" means a person who has not attained the age of 18 years or, in a State where a different age is expressly provided by State law as the age at which a person ceases to be a minor, the age prescribed by the law of such State.

(b) Consent to disclosure in general. Except as provided in paragraph (c), where consent is required for any disclosure under this part, such consent in the case of a minor must be given by both the minor and his parent, guardian, or other person authorized under State law to act in his behalf, but any disclosure made after the patient has ceased to be a minor may be consented to only by the patient.

(c) Rule when State law authorizes treatment without parental consent. Whenever a patient, acting solely, has the legal capacity under the applicable State law to apply for and obtain such diagnosis, counselling, administration of medication, or other services as actually are or were provided to him by the program

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with respect to which he is or was a minor, any consent required for disclosure under this part may be given only by the patient, notwithstanding the fact that the patient may be a minor.

(d) Initial contacts. When a minor applicant applied for services other than those described in paragraph (c) of this section, the fact of such application may not be disclosed, except as an incident to a communication authorized under paragraph (f) of this section, without consent of the applicant, to the applicant's parent, guardian, or other person authorized under State law to act on behalf of the applicant. When such an applicant refuses consent, it must be explained to the applicant that while he or she has the right (subject to the provisions of paragraph (f) of this section) to withhold such consent, the service applied for cannot be provided without it.

(e) Collection or attempted collection of payment for services. Where State law authorizes the furnishing of services to a minor without the consent of the minor's parent or guardian, no inquiry may be made of the parent's or guardian's financial responsibility, and no bill, statement, request for payment, or any other notice, request for payment, or other communication in respect of such services may be transmitted directly or indirectly to such parent or guardian, without the express written consent of the patient. Such consent may not be made a condition of the furnishing of services except in the case of a program which is not required by law, and does not in fact hold itself out as willing, to furnish services irrespective of ability to pay.

(f) Applicant lacking capacity for rational choice. When, in the judgment of a program director a minor applicant for services, because of extreme youth or mental or physical condition, lacks the capacity to make a rational decision on whether to consent to the notification of a parent or guardian, and the situation arises repeatedly, and it is therefor appropriate addressed under the general rulemaking authority conferred by subsection (g) of the authorizing legislation.

(b) Perhaps no legal issues are more highly charged than those affecting the relationship of parent and child. Since Congress has not evidenced an intention to affect this relationship, it is clear that local law should govern, and the task of rulemaking is limited to that insuring, as far as possible, that the results under Federal law are consistent with local policy.

(g) Where a State has authorized the furnishing of treatment or other services of a given type to a minor without notice to or consent by the parent or guardian, it seems clear that a consistent Federal policy with respect to disclosure requires that consent for any disclosure of the treatment record be given by the minor. This policy, moreover, should not be frustrated by attempts to enforce parental financial responsibility in a situation where the State itself has determined that the minor should have a right to obtain services without involving the parent.

2.15 Minor patients.— Basis and purpose.

(a) The statutes authorizing this part are totally silent as to the incapacity of a minor to give consent for disclosures, and there is nothing in the legislative history to suggest that the question was ever considered by Congress. Perhaps the only issue raised is that which arises repeatedly, and it is therefore addressed under the general rulemaking authority conferred by subsection (g) of the authorizing legislation.

(b) Perhaps no legal issues are more highly charged than those affecting the relationship of parent and child. Since Congress has not evidenced an intention to affect this relationship, it is clear that local law should govern, and the task of rulemaking is limited to that insuring, as far as possible, that the results under Federal law are consistent with local policy.

2.16 Incompetent and deceased patients.— Basis and purpose.

(a) Incompetent patients other than minors. When a patient is adjudicated to be incompetent for any disclosure under this part, such consent in the case of a patient who has been adjudicated as lacking the capacity, for any reason other than insufficiency of personal representative, the public interest is served by permitting others to consent to disclosure. The statutes authorizing this part should not read as requiring such a choice.

2.17 Security precautions.— Rules.

(a) Precautions required. Appropriate precautions must be taken for the security of records to which this part applies. Records containing any information pertaining to patients shall be kept in a locked file cabinet, safe, or other similar container when not in use.

(b) Policies and procedures. Depending upon the type and size of the program, appropriate policies and procedures should be instituted for the further security of records. For example, except when the functions of a program are performed by the program director, a single member of the program staff should be designated to process inquiries and requests for patient information, and a written procedure should be in effect regulating and controlling access by those members of the staff whose responsibilities require such access, and providing for accountability.

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pertaining to drug or alcohol treatment—precisely the opposite of the intended result. The purpose of this section, which is based upon §1401.29 of the previous regulations, is to alert programs to the necessity of exercising due care with respect to the security of patient records.

§2.18 Extent of disclosure.—Rule.

Any disclosure made under this part, whether with or without the patient's consent, shall be limited to information necessary in the light of the need or purpose for the disclosure.

§2.18-1 Extent of disclosure.—Basis and purpose.

(a) Section 2.18 expresses the general principle, which has application in many different contexts, that any disclosure from records covered by this part should be limited to information necessary in the light of the need or purpose for the disclosure. It is identical to §1401.06 of the previous regulations.

(b) This section should not be misunderstood as imposing a limitation on the scope of records which may or should be made available to health agencies conducting inspections as described in §2.55. All of the records maintained by a program may be relevant to such inspection.

(c) The Congress has determined that disclosure under such circumstances is not a violation of the statutes authorizing this part; where such disclosure is required by Federal or State law, and the inspecting agency is a qualified State health agency as defined in §2.55(e)(1), it becomes the responsibility of that agency to protect the confidentiality of information it acquires in the course of its lawful activities.

§2.19 Undercover agents and informants.—Rules.

(a) Definitions. As used in this section, §§2.97 and 2.67-1.

(1) The term "undercover agent" means a member of any Federal, State, or local law enforcement or investigative agency whose identity as such is concealed from either the patient or personnel of any such program; in which he enrolls or attempts to enroll.

(2) The term "informant" means a person who, at the request of a Federal, State, or local law enforcement or investigative agency or officer, carries on observation of one or more persons enrolled in or employed by a program in which he is enrolled or employed, for the purpose of reporting to such agency or officer; information concerning such persons which he obtains as a result of such observation subsequent to such request.

(b) General prohibition. Except as otherwise provided in paragraph (c) of this section, or as specifically authorized by a court order granted under §2.67-1.

(1) No undercover agent or informant may be employed by or enrolled in any alcohol or drug abuse treatment program.

(2) No supervisor or other person having authority over an undercover agent may knowingly permit such agent to be or remain employed by or enrolled in any such program; and

(3) No law enforcement or investigative agency shall take any affirmative action to release an informant with respect to such a program.

(c) Exceptions. The enrollment of a law enforcement officer in a treatment program shall not be deemed a violation of this section if (1) such enrollment is solely to enable the officer to obtain treatment for his own abuse of alcohol or drugs, and (2) his status as a law enforcement officer is known to the program director.

§2.19-1 Undercover agents and informants.—Basis and purpose.

(a) In many instances, persons who are patients in treatment programs are making their first tentative efforts toward re-integration into productive society. They may be both vulnerable and suspicious, and the presence in a treatment program of undercover law enforcement agents or informants can have a devastating effect on the program's morale and therapeutic effectiveness.

(b) It is the element of prearrangement which might be revealed by inspection of counselor notes and other patient records maintained by the program; the placing of an undercover agent or informant in a program, either as a patient or as an employee, would appear to be contrary to the purposes for which the provisions of law authorizing this part were enacted, and properly subject to prohibition under regulations expressly authorized to carry out such purposes.

(c) From a policy standpoint, §2.19 is based on the reasoning that while the use of undercover agents and informants in treatment programs is sometimes necessary to be avoided, there may occasionally arise circumstances where their use may be justified. Accordingly, where a showing is made to a court of the necessity for the enrollment of an undercover agent under §2.67 that the criteria set forth in that section are satisfied, the court may grant such an order.

(d) When this section of the regulations was proposed, numerous written comments were received urging that there be an absolute prohibition on the use of undercover agents and informants, and most of the witnesses at the hearings who addressed the issue at all testified to the same effect. A number of comments were received to the effect that §2.19 should be dropped altogether, but this request was always clearly and often explicitly predicated on the assumption that anything about undercover agents and informants would make their use illegal. Our view is to the contrary: we think that the statutes, standing alone, do not prohibit the practice. The purpose of a specific prohibition in these regulations, the use of undercover agents and informants in treatment programs would not be unlawful. Since this is a view which we believe to be shared by the law enforcement and investigative agencies which are affected by §2.19, there is a practical matter of no alternative to predating these regulations upon its correctness.

(e) However desirable it may be to limit the use of undercover agents and informants in treatment programs, we think a strong argument can be made against the power to impose an absolute prohibition. To the extent that the practice is susceptible to regulation through the rulemaking process at all; it is the theory that it opens the way to disclosure of information which is or should be in program records, and thus is contrary to the purposes of the statutes.

(f) Since subsection (g) of the statutes confers express rulemaking authority to specify curtailed purposes, regulation of the use of undercover agents and informants is a proper subject for the exercise of that authority. But even the express statutory prohibition against disclosures of confidential records is subject to the power of the courts to authorize such disclosure under subsection (b) (2) (C) of the statutes. It seems difficult to argue that Congress intended to confer rulemaking powers upon the authority to impose an absolute prohibition even though its own restrictions (other than those on disclosures of patient identities from secondary records) were imposed by §2.19 under court order in particular cases. Since we have not attempted to exercise such an authority, it is not necessary to decide at this time whether it was conferred.

(g) A careful reading of the definitions set forth in §2.19(a) is crucial to an understanding of the prohibitions which are imposed by §2.19. Objections to the use of undercover agents and informants are frequently if not normally based on the assertion that the use of such agents or informants is a proper subject for the exercise of that authority. But even the express statutory prohibition against disclosures of confidential records is subject to the power of the courts to authorize such disclosure under subsection (b) (2) (C) of the statutes. It seems difficult to argue that Congress intended to confer rulemaking powers upon the authority to impose an absolute prohibition even though its own restrictions (other than those on disclosures of patient identities from secondary records) were imposed by §2.19 under court order in particular cases. Since we have not attempted to exercise such an authority, it is not necessary to decide at this time whether it was conferred.

(h) Since subsection (g) of the statutes confers express rulemaking authority to specify curtailed purposes, regulation of the use of undercover agents and informants is a proper subject for the exercise of that authority. But even the express statutory prohibition against disclosures of confidential records is subject to the power of the courts to authorize such disclosure under subsection (b) (2) (C) of the statutes. It seems difficult to argue that Congress intended to confer rulemaking powers upon the authority to impose an absolute prohibition even though its own restrictions (other than those on disclosures of patient identities from secondary records) were imposed by §2.19 under court order in particular cases. Since we have not attempted to exercise such an authority, it is not necessary to decide at this time whether it was conferred.
believe that the prohibition contained in § 2.19 and in this part may well be found in § 2.67 provide a measure of relief which is consistent with the structure and intent of the underlying statutes.

§ 2.20 Identification cards.—Rules.

(a) Required use prohibited. No program may require or request any patient to carry in his or her possession, while away from the program premises, an identification card or other form of identification which is issued by the program or which would tend to identify the bearer as a participant in it or any similar program.

(b) Conditions of voluntary use. Nothing in this section prohibits a program from issuing an identification card to a patient if the patient's counsellor or other authorized member of the program staff shall explain to the patient his right to turn it in without prejudice at any time.

(c) On-premises exemption. Nothing in this section prohibits a program from maintaining and using on its premises cards, photographs, tickets, or other devices, or using passwords or other information, to assure positive identification of patients, correct recording of attendance or medication, or for other proper purposes, as long as no pressure is brought on any patient to carry any such device when away from the program premises.

§ 2.20-1 Identification cards.—Basis and purpose.

Section 2.20 is in furtherance of one of the basic purposes of the statutes authorizing this part, namely, protection of patients from improper disclosure of their status as such. Regrettably, there appear to be areas where possession of a treatment program identification card can be prejudicial to a person under arrest or subjected to a search. In any part of the country, the accidental display or circulation of such a card by reason of its loss or theft could have adverse consequences for the patient and interest. Treatment programs have other means of achieving the ends which identification cards are meant to serve, patients who do not wish to assume whatever risks may be involved in carrying such cards should not be compelled to do so.

§ 2.21 Disclosure to funding sources.—Rules.

(a) Disclosure prohibited. Patient identifying information may not be disclosed to a funding source as such, whether with or without patient consent.

(b) Audits not prohibited. This section does not prohibit a funding source from requiring that any program which it funds be audited for, among things, compliance with conditions of eligibility with respect to patients in that part of its patient load so funded in whole or part, but under no circumstances may any such funding source require that programs directly or indirectly report patient identifying information to it. Any such audit shall be subject to the requirements of §§ 2.20(e) and 2.67(c) and all other applicable provisions of this part, including § 2.64.

(c) Contrary arrangements void. Any provision or condition of any contract, grant, or other agreement or arrangement which is contrary to the provisions of this section is void and unenforceable, whether entered into before or after the effective date of this section.

§ 2.21-1 Disclosure to funding sources.—Basis and purpose.

In view of the fact that a very high proportion of patients subject to this part are supported by various public and private agencies as funding sources, it is clear that the Congress did not intend funding sources, as such, to have access to patient identifying information. Any other construction of the statutes authorizing this part would make a mockery of them by permitting a flow of sensitive information to such a varied and varied outlet that it would be, for all practical purposes, uncontrollable. It is the purpose of § 2.21 to forestall any such construction unequivocally and finally.

§ 2.22 Disposition of program records.—Rules.

(a) In general. Except where such records are held (or for the purpose of conducting long-term research or evaluation projects, records maintained by a program containing patient identifying information shall be destroyed, or completely purged of any patient identifying information, in accordance with the provisions of this section.

(b) Programs continuing in operation.

Not more than five years after a patient's participation has been formally terminated or not more than five years after the last entry in any records held by that program (or any transverse program) pertaining to such patient, whichever is earlier, the program's records shall be completely purged of any patient identifying information with respect to such patient, except that the program may, for not more than two years after such termination, maintain patient identifying information with respect to such patient in a special log or record of patients with respect to whom an electronic record system has otherwise been used, but not patient identifying information.

(c) Programs discontinuing operation.

(1) When a program discontinues operations or is taken over by another program, its records to which this part applies with respect to any patient may, with the written consent of that patient, be turned over to the acquiring program or, if none, to any other program specified in the patient's consent. Except as otherwise provided in this paragraph, any records to which this part applies, but for the transfer of which patient consent is not obtained, shall be either completely purged of patient identifying information, or destroyed.

(2) Where records are required by law to be kept for a specified period, and such period does not expire until after the discontinuance or acquisition of the program, and patient consent for their transfer is not obtained, such records shall be sealed in envelopes or other containers marked or labelled as follows: "Records of [insert name of program] required to be maintained pursuant to [insert citation to law or regulation requiring that records be kept] until a date after not later than December 31, [insert appropriate year]."

(3) Records marked and sealed in accordance with paragraph (c) (2) of this section may be held by any lawful custodian, but may be disclosed by such custodian only under such circumstances and to such extent as would be feasible for the program in which they originated. As soon as practicable after the date specified on the label or legend required to be affixed pursuant to paragraph (c) (2) of this section, the custodian shall destroy the records. In the case of any program terminated by reason of bankruptcy, the expense of compliance with this paragraph shall be an expense of administration of the bankrupt estate.

§ 2.22-1 Disposition of program records.—Basis and purpose.

Testimony received at the hearings on the August 22, 1974 draft regulations, as well as further experience with the regulations then in force, clearly indicated a need for guidance in the matter of records disposition. Any limitations on the length of time records can be held are of necessity somewhat arbitrary, but the periods prescribed in § 2.22 appear to be consistent with practical experience.

§ 2.23 Former employees and others.—Rules.

The prohibitions of this part on disclosure of patient records or information contained therein apply to all individuals who are personnel of treatment programs, researchers, auditors, evaluators, service organizations, or others having access to such records or information, and continue to apply to such individuals with respect to such records or information after the termination of their association with such programs or records, or in the event of retirement or termination of such association. No patient, however, retaining possession of patient identifying information after the termination of their association with such programs or records, or in the event of retirement or termination of such association, shall destroy the records. In the case of any program terminated by reason of bankruptcy, the expense of compliance with this paragraph shall be an expense of administration of the bankrupt estate.

§ 2.23-1 Former employees and others.—Basis and purpose.

The prohibitions contained in § 2.23 is arguably an interpretation of the authorizing legislation which would be necessary as a matter of law even in the absence of this part; its validity as an exercise of the rulemaking power conferred by subsection (g) of the authorizing legislation seems beyond dispute.
§ 2.24 Relationship to State laws.—

Rules.

The enactment of the provisions of law authorizing this part was not intended to preempt the field of law covered thereby to the exclusion of State laws not in conflict therewith. If so disposed permitted under the provisions of this part, or under a court order issued pursuant thereto, is prohibited under State law, nothing in this part or in the provisions of law authorizing this part may be construed to authorize any violation of such State law. No State law, however, may either authorize or compel any disclosure prohibited by this part.

§ 2.24— Relationship to State laws.—

Basis and purpose.

Section 2.24 sets forth publicly an interpretation which, in informal communications, has consistently been given to 21 U.S.C. 1175 since its original enactment, and clearly has equal applicability to 42 U.S.C. 4582.

§ 2.25 Relationship to section 303(a) of the Public Health Service Act and section 502(c) of the Controlled Substances Act.—

(a) Research privilege description. In some instances, there may be concurrent coverage of a program or activity by the provisions of this part and by a regulation or other administrative action under section 303(a) of the Public Health Service Act (42 U.S.C. 242(a) or section 502(c) of the Controlled Substances Act (21 U.S.C. 872(c)). The latter two provisions of law, referred to hereafter in this section as the research privilege sections, confer on the Secretary of Health, Education, and Welfare, and on the Attorney General, respectively, the power to authorize researchers to withhold from all persons not connected with the research the names and other identifying information concerning individuals with regard to the object of such research. The Secretary of Health, Education, and Welfare may grant this privilege with respect to any "research on mental health, including research on the use and effect of alcohol, other psychoactive drugs. The Attorney General's power is referred to as a section authorizing research related to enforcement of laws under his jurisdiction concerning substances which are or may be subject to control under the Controlled Substances Act, but is not expressly limited to such research. Regardless of whether a grant of research privilege is made by the Secretary or by the Attorney General, it is expressly provided that persons who obtain it "may not be compelled in any Federal, State, or local civil, criminal, administrative, legislative, or other process, to disclose the subjects of research for which the privilege is obtained."

(b) Comparison with authority for this part. Although they deal, in a sense, with the same subject matter, and may on occasion concurrently cover the same transactions, it is important to disclose the differences between the research privilege sections (21 U.S.C. 872(c) and 42 U.S.C. 242(a)) and the provisions of law (21 U.S.C. 1175 and 42 U.S.C. 4582) which authorize this part. Briefly, these differences are as follows:

(1) Although they contain broad grants of express rulemaking authority, the provisions of law authorizing this part are self-executing in the sense that they are operative irrespective of whether the rulemaking authority is exercised. The protection afforded by the research privilege sections, on the other hand, can only come into existence as a result of affirmative administrative action.

(2) The provisions of law authorizing this part, as well as the provisions of this part itself, impose affirmative duties with respect to the records to which they apply, and the violation of such duties is subject to criminal penalties. To the extent that a privilege is thereby created, it grows out of the duties thus imposed. The research privilege sections, by contrast, impose no duties by their own terms, and if any duties are implied from their existence, they have to be enforced on the basis of an implicit civil liability for damages or by equitable relief, as there are no criminal or administrative sanctions available.

(3) The exercise of the authority conferred by the research privilege sections is subject to administrative discretion, whereas in the case of the duties imposed under this part there is judicial discretion, within the limits and subject to procedures and criteria prescribed by statute and regulation, to grant relief in particular cases.

(c) Grant of research privilege not affected by (b) (1) (C) order. The issuance of an order under subsection (b) (2) (C) of either of the sections authorizing this part (21 U.S.C. 1175 and 42 U.S.C. 4582) in no way affects the continuing effectiveness of any exercise of the authority of the Secretary of Health, Education, and Welfare under 303(a) of the Public Health Service Act (42 U.S.C. 242(a)) or the Attorney General under section 502(c) of the Controlled Substances Act (21 U.S.C. 872(c)).

§ 2.25— Relationship to section 303(a) of the Public Health Service Act and section 502(c) of the Controlled Substances Act.—

Basis and purpose.

(a) In Pub. L. 93-282, the Congress expressly amended (by sections 122(a) and 303(a), 86 Stat. 131 and 137) the provisions of law which authorize this part, expressly amended (by section 122(b), 88 Stat. 132) the research privilege section under the Secretary's jurisdiction, and made explicit reference (in section 303(d), 88 Stat. 130) to the regulations previously issued by the Special Action Office for Drug Abuse Prevention reenacting the provisions of section 408 of the Drug Abuse Office and Treatment Act of 1972 and references cited in the regulations to the Controlled Substances research privilege sections. When the bill which became Pub. L. 93-282 was before the House of Representatives for its last Congressional consideration before transmission to the President, its floor manager, Chairman Slaggers of the Committee on Interstate and Foreign Commerce, inserted in the Record a detailed analysis of the bill in its final form (Congressional Record. daily edition, May 6, 1974, page H3863). This analysis contained the following paragraph:

The relationship of section 303(a) of the Public Health Service Act and the administrative grant of absolute confidentiality for research, to section 408 of the Drug Abuse Prevention and Control Act of 1972, requiring that Federally-connected drug abuse patient records generally be kept confidential, has been correctly described in an interpretative regulation, 21 C.F.R. 1401.61 and 1401.62, which was upheld in People v. Newman, 39 N.Y. 3d 370, [reversing] 396 N.Y.S. 3d 127, 298 N.E. 2d 561 (1973); certiorari denied, [414] U.S. [1103], 94 S. Ct. 927, [99 L. Ed. 3d 110] (1974). For that reason, among others, section 303(d) of the Senate amendment expressly continues the effectiveness of the current regulation promulgated by the Director of the Special Action Office for Drug Abuse Prevention. Thus, although section 502(c) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is implicitly referred to hereinafter in this legislation, the congressional intent is clear that the authority conferred by that section was modified by Pub. L. 93-282, and is not intended to be modified by the bill now before the House.

(b) Sections 2.25 and 2.51 relate, in substance, the interpretative rules (§§ 1401.61 and 1401.62 of the previous regulations) referred to in the passage quoted in paragraph (a) of this section, modified to reflect the amendment made to section 303(a) of the Public Health Service Act (42 U.S.C. 242(a)) by Pub. L. 93-282.

Subpart C—Disclosures With Patient's Consent

§ 2.51 Written consent required.—

Rules.

(a) Form of consent. Except as otherwise provided, a consent for a disclosure under this part must be in writing and must contain the following:

(1) The name of the program which is to make the disclosure;

(2) The name of the person or organization to which disclosure is to be made;

(3) The name of the patient;

(4) The purpose or need for the disclosure;

(5) The specific type of information to be disclosed;

(6) A statement that the consent is subject to revocation at any time and, unless an earlier date is specified, that it expires in any event 60 days after it is signed, except as otherwise specifically provided hereinafter in this part;

(7) The date on which the consent is signed;

(8) The signature of the patient and, when required under § 2.15, the signature of a person authorized to give consent under that section; or, when required under § 2.15, the signature of a person authorized to give consent under that section in lieu of the patient;

(b) Disclosure prohibited with deficient consent. No program may disclose any information on the basis of a consent form—
Pertal, or as otherwise permitted under this part.

(6) Restriction on redisclosure. Whenever information from patient records is needed by any person, such information must be obtained directly from the program maintaining such records and not from another person to whom disclosure thereof has been made, except where the initial disclosure was intentionally and expressly made for the purpose of redisclosure (as for example in the case of an insurance company or other agency, or where the information is no longer available from the program and redisclosure is not prohibited by any other provision of this part.

§ 2.32—Prohibition on redisclosure—Basis and purpose.

(a) Section 2.32 is intended to provide a reasonable protection against unauthorized disclosure of information disclosed with consent in accordance with this section. There is, of course, no problem where those to whom such disclosures are made are themselves engaged in functions which bring their patient records within their control. But where they are given actual notice that specific patient consent is normally required for redisclosure, we think they can and should be bound by it.

(b) Oral disclosures are not mandatory covered because they should rarely be made to any recipient with whom the program does not have a continuing relationship. Where such a relationship exists or the program is otherwise satisfied that the recipient understands and respects the confidential nature of the information, but where they are given actual notice that specific patient consent is normally required for redisclosure, we think they can and should be bound by it.

§ 2.33 Diagnosis, treatment, and rehabilitation—Rules.

(a) Disclosure authorized. Where consent is given in accordance with § 2.31 disclosure of information subject to this paragraph may be made to medical personnel or to treatment or rehabilitation programs where such disclosure is needed in order to better enable them to furnish services to the patient to whom the information pertains.

(b) Incarcerated and hospitalized patients on medication. Where a patient on medication is incarcerated or hospitalized, or is otherwise unable to communicate in person with the program which offers maintenance treatment or detoxification treatment, the program at the time the disclosure is made to the program does not have a continuing relationship with the patient upon the oral representation of such personnel that the patient is required, medication and consented to such disclosure. Any program making a disclosure in accordance with this paragraph shall make a written memorandum showing the name of the patient, the dosage of the medication prescribed, the name and address to which the disclosure is being made, the date and time of the disclosure was made, and the information disclosed, and the names of the individuals by whom and to whom it was made.

§ 2.34 Prevention of certain multiple enrollments—Rules.

(a) Definitions. For the purposes of this section and § 2.55—

(1) The terms "administer", "controlled substance", "dispense", "maintenance treatment", and "detoxification treatment" shall respectively have the meanings defined in paragraphs (2), (6), (10), (21), and (28) of section 102 of the Controlled Substances Act (21 U.S.C. 802).

(2) The term "program" means a program which offers maintenance treatment or detoxification treatment.

(b) Use of central registries prohibited except as expressly authorized. The furnishing of patient identifying information by a program to any central registry which fails to meet the definition of a permissible central registry set forth in paragraph (a)(3) of this section is prohibited, and the furnishing of patient identifying information to or by any central registry except as authorized in this section is prohibited.
ducted (1) by authorized personnel designated in accordance with § 2.17(b), and (2) in conformity with procedures established in accordance with that section.

d) Disclosures with respect to patients in treatment. A member program may supply patient identifying information and information concerning the type of drug used or to be used in treatment and the dosage thereof, to a permissible central registry with respect to any patient—

(1) When the patient is accepted for treatment,

(2) When the type or dosage of the drug is changed, and

(3) When the treatment is interrupted, resumed, or terminated.

e) Disclosures with respect to applications. When any person applies to a program for maintenance treatment or detoxification treatment, then for the purpose of inquiring whether such person is currently enrolled in another program for such treatment, the program may furnish patient identifying information with respect to such person—

(1) To any permissible central registry of which the program is a member, and

(2) To any other program which is not more than 200 miles distant and which is not a member of any central registry of which the inquiring program is a member.

(f) Program procedure in case of apparent concurrent enrollment. When an inquiry pursuant to paragraph (e) (2) is made of another treatment program and its response is affirmative, the two programs may engage in such further communication as may be necessary to establish whether an error has been made, and if none, the programs should proceed in accordance with sound clinical practice and any applicable regulations pertaining to the type of treatment involved.

g) Registry procedure in case of apparent concurrent enrollment. If an inquiry pursuant to paragraph (e) (1) is made of a permissible central registry and its response is affirmative, it may advise the inquiring program of the name, address, and telephone number of the program of the identity of the patient and the name, address, and telephone number of the inquiring program, or it may advise the other program of the status of the patient. In any event, the two programs may then communicate as provided in paragraph (f) above.

(h) Advice to patients. When the policies and procedures of any program involve any disclosures pursuant to this section, before any patient is accepted for or continued in treatment (other than detoxification treatment) after September 30, 1975, written consent in accordance with § 2.31 shall be obtained. Such consent shall set forth a current list of the names and addresses either of any programs or of any central registries to which such disclosures will be made. Notwithstanding the above statement, if the patient's name and address, and shall so state. Such consent shall be effective for as long as the patient remains enrolled in the program to which it is given.

§ 2.34-1 Prevention of certain multiple enrollments.—Basis and purpose.

Section 2.34 is based upon § 1401.43 of the previous regulations. It was omitted from the August 22, 1974 draft, but comments on the omission made it clear that in certain areas of the country, central registries are a functional component of the treatment system, and that regulations to guide their operations are needed.

§ 2.35 Legal counsel for patient.—Rules.

When a bona fide attorney-client relationship exists between an attorney-at-law and a patient, disclosure of any information in the patient's records may be made to the third party, if in the exercise of reasonable professional judgment the attorney consider it necessary to assure compliance with § 2.31 shall be obtained. Such consent shall set forth a current list of the names and addresses of any programs or of any central registries to which such disclosures will be made. Notwithstanding the above statement, if the patient's name and address, and shall so state. Such consent shall be effective for as long as the patient remains enrolled in the program to which it is given.

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provided in §2.17(b), the following criteria are met:

1. The program has reason to believe, on the basis of past experience or other creditable information (which may in appropriate cases consist of a written statement by the employer), that such information will be used for the purpose of assisting in the rehabilitation of the patient and not for the purpose of identifying the individual as a patient in order to fill an employment opportunity because of his history of drug or alcohol abuse.

2. The information sought appears to be reasonably necessary in view of the type of employment involved.

§2.28—1 Employers and employment agencies.—Basis and purpose.

Section 2.28 is based on the rulemaking power conferred by subsection (b) (1) of the authorizing legislation, and is adapted from §1401.26 of the previous regulations. Its purpose is to allow disclosure of the personal information about patients and former patients, while protecting patients against unnecessary or excessively broad disclosures. It was urged in a comment received on the August 22, 1974 draft that disclosures to employers be flatly prohibited on the ground that the employer's sole legitimate concern is with the on-the-job performance of the employee. To the contrary, however, a countervailing concern is with on-the-job performance. The discretion vested in the program to protect the best interests of its patients in this very sensitive area. This, like many other choices, is best made in the light of experience.

§2.29 Patient's benefit in general.—Rules.

(a) Criteria for approval. In any situation not otherwise specifically provided for in this subpart, a consent given in accordance with §2.23, §2.31, or §2.31, a program may make a disclosure from the records of a patient if, in the judgment of the program director or his authorized representative, such disclosure is appropriate to facilitate the employment of patients and former patients, while protecting patients against unnecessary or excessively broad disclosures. It was urged in a comment received on the August 22, 1974 draft that disclosures to employers be flatly prohibited on the ground that the employer's sole legitimate concern is with the on-the-job performance of the employee. To the contrary, however, a countervailing concern is with on-the-job performance. The discretion vested in the program to protect the best interests of its patients in this very sensitive area. This, like many other choices, is best made in the light of experience.

(b) Extent of permissible disclosures. Where consent is given in accordance with §2.31 by an individual referred to a treatment program by responsible criminal justice system personnel, the program may disclose to such person:

1. A description or identification of the services provided or to be provided by the program to that individual;
2. The location of the clinics or other facilities at which such services are performed;
3. The dates such services are begun and ended;
4. The name of the physician, counselor, or other individual primarily responsible for the patient's care; and

(c) Duration of consent. Where consent is given for disclosures described in paragraph (b), the maximum duration of any consent under these circumstances shall be for the greater of 60 days or, in the case of a person who has been arrested for a criminal offense:

1. Arrested, until such person is formally charged or unconditionally released from arrest;
2. Formally charged, until such time as the charges have been dismissed with prejudice, or the trial of such person has been commenced;
3. Brought to a trial which has commenced, until such person has been acquitted or the trial has been recessed;
4. Sentenced, until the sentence has been fully executed.
5. Grandfather clause. Notwithstanding the provisions of paragraphs (b) and (c), a program which, prior to March 1, 1975, supplied information other than that described in paragraph (b) of this section may continue to supply the same type of information to criminal justice system personnel until December 31, 1976, on the basis of patient consent in conformity with §1401.21 of the previous regulations.
6. Treatment or referral by correctional agencies. Where treatment or referral is provided by a correctional agency, this part does not prohibit disclosures within such agency with respect to such treatment or referral, but disclosures of records of such treatment or referral to persons outside such agency are subject to the provisions of this part.
7. Probation and parole officers. Where referral or counselling is provided by a probation or parole officer, nothing in this part shall be construed as prohibiting such officer from making reports to the court or other authority to which he is responsible, but to the extent that such reports constitute records maintained in connection with the performance of a function subject to this part, disclosure thereof by such authority is subject to the provisions of this part.

§2.40 Criminal justice system referrals and functions.—Rules.

(a) Definitions and rules of construction. For the purposes of this section—

1. A description or identification of the individual or organization other than that described in paragraph (c) of this section which provides such referral services.
2. The type and purpose of the services provided or to be provided by the program to that individual.
3. The name of the physician, counselor, or other individual primarily responsible for the patient's care; and

(b) Extent of permissible disclosures. Where consent is given in accordance with §2.31 by an individual referred to a treatment program by responsible criminal justice system personnel, the program may disclose to such person:

1. A description or identification of the services provided or to be provided by the program to that individual;
2. The location of the clinics or other facilities at which such services are performed;
3. The dates such services are begun and ended;
4. The name of the physician, counselor, or other individual primarily responsible for the patient's care; and

(c) Duration of consent. Where consent is given for disclosures described in paragraph (b), the maximum duration of any consent under these circumstances shall be for the greater of 60 days or, in the case of a person who has been arrested for a criminal offense:

1. Arrested, until such person is formally charged or unconditionally released from arrest;
2. Formally charged, until such time as the charges have been dismissed with prejudice, or the trial of such person has been commenced;
3. Brought to a trial which has commenced, until such person has been acquitted or the trial has been recessed;
4. Sentenced, until the sentence has been fully executed.
5. Grandfather clause. Notwithstanding the provisions of paragraphs (b) and (c), a program which, prior to March 1, 1975, supplied information other than that described in paragraph (b) of this section may continue to supply the same type of information to criminal justice system personnel until December 31, 1976, on the basis of patient consent in conformity with §1401.21 of the previous regulations.
6. Treatment or referral by correctional agencies. Where treatment or referral is provided by a correctional agency, this part does not prohibit disclosures within such agency with respect to such treatment or referral, but disclosures of records of such treatment or referral to persons outside such agency are subject to the provisions of this part.
7. Probation and parole officers. Where referral or counselling is provided by a probation or parole officer, nothing in this part shall be construed as prohibiting such officer from making reports to the court or other authority to which he is responsible, but to the extent that such reports constitute records maintained in connection with the performance of a function subject to this part, disclosure thereof by such authority is subject to the provisions of this part.

§2.40—1 Criminal justice system referrals and functions.—Basis and purpose.

(a) Section 2.40(a) makes an important change in the extent of disclosures permissible in connection with patients...
referred by the criminal justice system. It is, however, difficult to determine with certainty whether patients to two general matters: First, the extent, duration, and person responsible for the services provided, and second, a general evaluation of the patient's progress toward treatment. We have considered carefully the alternatives presented for unrestricted access to the treatment record by various elements of the criminal justice system, including in particular, probation or parole officers. The argument that the degree of deterrence per se would be a matter for the discretion of the authority granting the release is a powerful one. It is said that the denial of such discretion will result in the selection of some judges to participate in referral programs. That would be an unfortunate result—it is a matter for concern where even one individual is incarcerated if he and society would be better served by his release for treatment—but we question whether it will occur on a large scale with respect to genuinely useful programs. On the other hand, the closure of detailed clinical data to criminal justice system personnel can serve no purpose which is not better served by other means. Broadly, these purposes fall into two categories: those pertaining to the patient, and those pertaining to the program.

(b) The purposes pertaining to the patient can be summarized by saying that detailed clinical data relative to the criminal justice system personnel to substitute their judgment for that of the program with respect to the patient's progress in treatment, or aids them in their general supervision of the patient. As to the extent of these, it is sufficient to say that if a given program's clinical judgment is normally inferior to that of criminal justice system personnel, it is questionable whether patients should be referred to that program under any conditions.

(c) To the extent that the criminal justice system is asking the treatment system to assume custodial as opposed to therapeutic responsibilities, a role conflict may be created which may serve to handicap if it does not completely vitiate the treatment process. For example, one step in changing attitudes is to face an honest exploration of attitude in the nature of this part, the counsellor is required to make the report on a large scale with respect to genuinely useful programs. On the other hand, the closure of detailed clinical data to criminal justice system personnel can serve no purpose which is not better served by other means. Broadly, these purposes fall into two categories: those pertaining to the patient, and those pertaining to the program.

(d) The criminal justice system has an entirely legitimate need for information about persons who are conditionally released from custody. Nothing in this part inhibits it from obtaining that information directly from such persons. Treatment programs can and should be in communication with the criminal justice system. As to the extent the clientele by that system. Treatment programs can and should encourage their clients to comply with the conditions of their release, including reporting to their probation or parole officer. Information about themselves may be required. But where the treatment system itself is made the conduit for detailed personal information to be reported to the criminal justice system, the risk of subverting its purposes appears to us to outweigh the administrative convenience achieved.

(e) The other major justification offered for the submission of detailed patient data is that it permits the criminal justice system to participate in the design of objective criteria, such as attendance at treatment when it arises for determining success or failure in treatment, and to assure itself that such criteria are adhered to in practice. We regard both purposes as legitimate, but there is nothing in these regulations to prohibit discussion and agreement between criminal justice and treatment personnel on such criteria. Moreover, where this is deemed necessary or desirable, the courts, referral agencies, or other elements of the criminal justice system involved can ascertain the degree of adherence to such criteria on the part of the program by means of independent audits.

(f) The audit reports cannot, of course, include data identifying individual patients, and this is precisely the reason why the audit is a better way of assessing patient records without violating the provisions. In § 2.32 pertaining to the submission of detailed patient data is that it permits the criminal justice system to participate in the design of objective criteria, such as attendance at treatment when it arises for determining success or failure in treatment, and to assure itself that such criteria are adhered to in practice. We regard both purposes as legitimate, but there is nothing in these regulations to prohibit discussion and agreement between criminal justice and treatment personnel on such criteria. Moreover, where this is deemed necessary or desirable, the courts, referral agencies, or other elements of the criminal justice system involved can ascertain the degree of adherence to such criteria on the part of the program by means of independent audits.

(g) To prevent the disruption of referral programs already underway in conformity with the previous regulations, but which involve disclosures impermissible under the regulations here prescribed, § 2.40(d) allows continued operation on the basis of the previous regulations until the end of 1976. This will provide a period of more than a year and one-half for practices not in conformity with the new regulations to be reviewed and revised. Referral programs commenced after March 1, 1975, must comply with the new regulations after July 1, 1975.

(h) Sections 2.40(e) and 2.40(f) address the situation which arises when functions covered by this part are directly performed by responsible criminal justice system personnel or provided by correctional agencies. It is true that the activities and agencies of the courts, to the extent that they constitute a "prevention functions" and involve a "patient", as those terms are respectively defined in § 2.4(b), are covered by this part. But it has uniformly been the construction of the authorizing legislation that where such functions are performed by an organization, consultation of a more theoretical nature between the organization do not constitute disclosures within the meaning of the statutes. The general problem that thus arises is to define the boundaries of the relevant organization. In the present context, especially, there is no solution to this problem which is wholly satisfactory from any standpoint, whether practical or theoretical, but the accommodation to practicality which these rules allow appears to fall within at least the outer limits of a permissible theoretical justification.

(i) It was not the intention of the authorizing legislation to discourage probation and parole officers from learning about their clients' problems with alcohol and drugs or from referring them to appropriate treatment agencies. Such officers are accustomed to hearing about a variety of sensitive matters, and their clients are generally not under any illusions about the context in which these communications take place. Thus, there is no reason to believe that such information would be lost by a rule which would here define the relevant organization more narrowly than the court in the case of probation or the parole authority in the case of parole.
(e) Incapacitated persons. Where a patient is incapacitated and information concerning the treatment being given him by a program is necessary to make a sound determination of appropriate emergency treatment, such information may be given without the patient's consent to personnel providing such emergency treatment.

(d) Record required. Any program making an initial disclosure under authority of this subsection shall make a written memorandum showing the patient's name or case number, the date and time the disclosure was made, the information disclosed, and the names of the individuals by whom and to whom it was disclosed.

§ 2.51—Medical emergencies.—Basis and purpose.

The provisions of § 2.51 are adapted from § 1401.42 of the previous regulations, and are based on subsection (b) (2) (A) of the licensing legislation. The provision in the previous regulations with respect to patients who may be incarcerated is now covered in § 2.33 (b).

§ 2.52—Research, audit, and evaluation.—Rules.

(a) Research, audit, and evaluation. Subject to any applicable specific provisions set forth hereinafter in this part, the content of records pertaining to any patient which are maintained in connection with the performance of a function subject to this part may be disclosed whether or not the patient gives consent, to qualified personnel for the purpose of conducting scientific research, management audits, financial audits, or program evaluation, but such personnel may not identify, directly or indirectly, any individual patient in any report of such research, audit, or evaluation, or otherwise disclose patient identities in any manner. For the purposes of this subsection, the term "qualified personnel" means persons whose training and experience are appropriate to the nature and type of work in which they are engaged and who, while working as part of an organization, are performing such work with adequate administrative safeguards against unauthorized disclosures.

(b) Use of disclosures of patient identifying information.

(1) Where a disclosure made to any person pursuant to paragraph (a) of this section includes patient identifying information with respect to any patient, such information may not be further disclosed, and may not be used in connection with any legal, administrative, supervisory, or other action whatsoever with respect to such patient, except as provided in paragraphs (b) (2) and (b) (3) of this section.

(2) The inclusion of patient identifying information in any written or oral communication with respect to whom a disclosure has been made pursuant to paragraph (a) and the program making such disclosure does not constitute the identification of a patient in a report or otherwise in violation of paragraph (a).

(3) Where a disclosure is made pursuant to paragraph (a) of this section to a person other than one on the basis of such disclosure, the presence of a substantial risk to the health and well being, whether physical or psychological, of any patient, and, in the judgment of each such person, the situation cannot be dealt with solely by means of communications as described in paragraph (b) (2) of this section without intensifying or prolonging the risk of harm, then the initial disclosure under paragraph (a) and any subsequent disclosure or redisclosure of patient identifying information for the purpose of conducting scientific research or broad issues of public policy, while at the same time safeguarding the personal privacy of the individuals who are the intended beneficiaries of the process or program under investigation. This subpart in particular, and this part as a whole, are intended to be used to aid in carrying out that purpose.

(b) The succeeding sections of this subpart deal with problems which arise in connection with disclosures made for certain specific purposes which have been interpreted as falling within the general purposes embraced by § 2.52. Those sections will be best understood, however, in the light of discussion of the underlying premises of the general rule, and its relationship to two other legal concepts: the right of privacy, and the duty to obtain informed consent from research subjects.

(c) Right of Privacy. So far as is relevant to this discussion, we may consider the right of privacy in two aspects. One, a protection against improper governmental activity, is the right to be secure against unreasonable searches and seizures guaranteed by the Fourth Amendment, with some expansion from the penumbras of the Fifth and Sixth Amendments. The protections afforded to patients by the authorizing legislation, not to mention these regulations, go far beyond those which are constitutionally required.

(d) The other aspect of the right of privacy, which has sometimes been described as the right to be left alone, is the notion that an individual has a right not to be put to any action in his personal life. To have essentially private information exploited for commercial gain, whether or not the intrusion or exploitation is in connection with any possible governmental action against him. The courts have spoken of a right of privacy in a wide variety of contexts, but they have repeatedly and explicitly rejected the notion that it gives the individual any sort of immunity from governmental action. The same is true of the right to be left alone.

(e) Right to a balanced view of the case. In defense of the position that disclosure of patient identifying information even for thoroughly justified and necessary purposes should be permitted only on a consensual basis, two dominant lines of argument, somewhat interrelated, have emerged. One is that retrospective studies are of questionable value in any case; the other is that a sampling technique involving informed consent on the part of the members of the sample can always be used to develop the information sought. Neither line of argument, will withstand careful scrutiny.

(f) It is true, of course, that the efficacy of a given therapeutic agent can often be best evaluated by means of a randomized, double-blind, placebo controlled study. But does special recordkeeping procedures, special criteria for patient selection, and an appropriate control have all been established with a view to the purpose of the study? There are, however, important investigations which simply do not lend themselves to such a format. Sometimes the desirability or even the possibility of a particular study does not support itself in prospect. Another important consideration is the fact that knowledge that an investigation is going on may influence the behavior of patients, clinicians, or both. How much knowledge can influence the make-up of a sample, it will normally do so in the direction of favorable outcomes, but to an unknown degree, thus tending to invalidate the results reported.

(g) The rule, as it has evolved, and as it continues to have use, especially with populations that are unmanageably large, is often less difficult and expensive, and less likely to interfere with the actual conduct of the research or rehabilitation processes, to use the full population under study. Even more important than economy and administrative convenience in carrying out a study, there may be an overriding advantage in terms of eliminating any question as to the validity of the results of the study on the ground of bias in the selection of the sample.

(h) Informed Consent. The duty to obtain informed consent is obvious and compelling in situations where an individual is exposed to the possibility of harm, either physical or psychological, as a consequence of medical procedures, research, or similar activities. Where such a situation exists the person conducting the research or medical procedure violates his duty to the subject or patient if he proceeds without obtaining the properly informed consent from the individual or his legally authorized representative. Thus, in conducting an activity which places the subject or patient at risk the practitioner may not give precedence to a hidden agenda.
even for so lofty a motive as the advancement of knowledge. 

(i) It is apparent that the foregoing rationale for requiring informed consent does not apply to the same degree in situations involving the disclosure of clinical records for research in the form of work performed by individuals in the regular course of their duties. Under these circumstances the risk to the subject is that some disclosure or misuse of information from which he could be identified might result in embarrassment, loss of opportunity, or other forms of psychological or social injury. While that possibility of harm could be reduced by requiring consent to every review of clinical records for research purposes, a similar result can be achieved by the less restrictive method of limiting further disclosure of identifying information by the researcher. Given the applicability of this alternative, equally valid considerations in favor of protecting a patient or subject from the possibility of a harmful public disclosure, it is unreasonable to insist upon informed consent to every review of clinical records for the purposes of research, particularly such legitimate research, as concerns the patient's natural and source of an unknown plague simply because the patients or researchers are unwilling to disclose the clairvoyance to have consent forms signed prior to the onset of the affliction. 

(ii) In sum, there are restraints on certain means of governmental acquisition of information about individuals which are operative irrespective of how the information is used, and there are standards of professional ethics which must be observed which are independent of how or by whom it is acquired, but they do not and should not add up to the proposition that the use of information about a person is either moral or legal the absolute prerogative of that person to determine. 

(k) For all of these reasons, the authorizing legislation expressly provides that patient consent is not required with respect to purely voluntary scientific research, and evaluation, nor does it prohibit individual patient identification in connection with such disclosures. While it is entirely appropriate to impose safeguards and procedures in connection with these activities, it would be wholly inappropriate to use the rulemaking process to impose an absolute requirement of patient consent with respect to activities which, by statute may be conducted without it.

(i) Classification of activities. It is clear that Congress intended a balancing of the social interest in the validity of the rules of inquiry, on the one hand, with the individual interest in anonymity, on the other, all within the limits set by the legislation and the constitution. With that objective in mind, we may turn to the various categories of activities which are within the purview of this subpart.

(m) These activities may be classified first, in regard to whether participation is voluntary from the standpoint of the program, and second, as to whether the objective is to ascertain compliance with predetermined standards (examinations and program evaluations as defined in §2.11(g)), or to ascertain the validity of a given standard or hypothesis (scientific research, and program evaluation as defined in §2.11(g)) for the program classifications logically results in the creation of four categories of activities. Three of them are specifically dealt with in the succeeding sections of this subpart and will be examined here; the fourth is discussed below.

(ii) Scientific research and evaluation. Beyond the bare restatement of the authorizing legislation set forth in §2.52, there are, regrettably, few deliberate allocations with respect to purely voluntary scientific research and program evaluation in the sense defined in §2.11(g). Testimony and written comments received on the August 22, 1974 draft regulations were noteworthy in two respects. First, no instances of abuse on the part of persons acquiring patient identifying information under these circumstances were demonstrated, and second, considerable well-founded criticism of the attempt in that draft to provide guidelines for determining what is scientific research and who is qualified to do it, no usable alternatives for research or subject were forthcoming.

(o) In one of the written comments, the writer cautioned against any assumption "that our major remaining problems in drug and alcohol abuse treatment are prevention of illicit diversion and protection of confidentiality," and suggested "that we still have a problem in discovering, testing and evaluating improved treatment techniques. To do this he continued, "one should place minimal obstacles in the way of bona fide clinical and epidemiologic research!" 

(p) The result of leaving the rule as it is in the statute, without attempting to specify the scope of the term, will be to leave it for interpretation on a case-by-case basis by those who must apply it in practice: the researchers who seek the information, and the programs furnish patient identifying information to itself or another recipient except where disclosed in confidence, is prohibited from taking any administrative, investigative, or other action with respect to programs or subject furnishing patient identifying information on the basis of such information, and is prohibited from identifying, directly or indirectly, any individual patient in any report of such research or evaluation, or any disclosure patient identities in any manner.

(d) Opinion and description to be furnished program. Before any patient identifying information is required to be submitted by a program in the circumstances described in paragraph (c), the program shall be furnished:

(1) An opinion by the attorney general or other chief legal officer of the State that the authorization provided in paragraph (c) are fulfilled with respect to such program or with respect to all programs in such State similarly situated, and

(2) A description of the administrative procedures and physical limitations on access or other measures to provide for the security of the data, but such description shall not be in such detail as to furnish guidance for wrongful attempts to breach such security.

(e) Exclusiveness of procedures. No State or local governmental agency may require any treatment program to furnish patient identifying information to itself or any other recipient except in conformity with this section or §2.54. No Federal agency may require any treatment program to furnish patient identifying information to itself or any other recipient except in conformity with this section other than paragraph (g) of the authorizing legislation to provide safeguards and procedures to effective financial and administrative records. Where program records are required to be maintained, it is for the responsibility for, or appropriate training and supervision for, conducting scientific research, determining adherence to treatment standards, or evaluating treatment results. Program classifications are defined as far as practicable to administrative and financial records. Under no circumstances should such personnel be shown caseworker or counsel or other similar clinical records. Programs should organize their records so that financial and administrative matters can be reviewed without disclosing clinical information and without disclosing patient identifying information except where necessary for audit verification.

(c) Scientific research and long-term evaluation studies. No State and no agency or political subdivision of a State may require, as a condition to funding, licensing, or otherwise, that any program furnish patient identifying information for the purpose of conducting scientific research or long-term evaluation studies. Any program is required to furnish patient identifying information except in circumstances described in paragraph (a), the program shall be furnished:

(1) An opinion by the attorney general or other chief legal officer of the State that the authorization provided in paragraph (c) are fulfilled with respect to such program or with respect to all programs in such State similarly situated, and

(2) A description of the administrative procedures and physical limitations on access or other measures to provide for the security of the data, but such description shall not be in such detail as to furnish guidance for wrongful attempts to breach such security.

Section 2.53 is an implementation of the authority contained in subsection (g) of the authorizing legislation to provide safeguards and procedures to effective.
tuate the purposes of such legislation. It makes clear that whenever infor-

mation is required of a program, whether by law or by the terms or condi-
tions in a contract or grant, the pro-
cedures and safeguards required under this section are applicable.

§ 2.54 Patient identifying information in connection with examinations.—
Rules.

(a) Definitions. For the purposes of this section—

(1) The term "examination" means any examination to which this section is made applicable by paragraph (b) of this section.

(2) The term "examining" means any individual or any public or private or-
ganization, including any Federal, State, or local governmental agency, which con-
ducts an examination to which this section applies.

(b) Applicability. This section applies to any preparation of the records of a treatment program which is carried out for the purpose of or as aid to ascer-
taining the accuracy or adequacy of its financial or other records, or the effi-
ciency or effectiveness of its financial, admin-
istrative, or medical management, or its adherence to financial, legal, medical,
administrative, or other standards, regard-
ed of whether such examination is called an audit, an evaluation, an in-
spection, or by any other name.

(c) Statement required for disclosure of patient identifying information in con-
nection with examination. No program may make, and no examiner may require,
any disclosure of patient identifying in-
formation in connection with an exami-
nation unless the examiner furnishes to the program a written state-
ment—

(1) that no record of patient identify-
ing information will be made or retained by or on behalf of the examiner in con-
nection with the examination without notice to the program in accordance with paragraph (c)(2) of this section, or

(2) that no record of patient identifying information is being retained by or on behalf of the examinee in con-
nection with the examination without notice to the program in accordance with paragraph (c)(2) of this section, or

(3) that no record of patient identifying information will be made or retained by or on behalf of the examiner in connection with the examination without notice to the program in accordance with paragraph (c)(2) of this section, or

(d) Disposition of record of patient identifying information in connection with exami-
nation. After any record of patient identifying information retained in connection with an examination has served its purpose, or within the time pres-
scribed in paragraph (e) of this section, whichever is earlier, the examiner shall destroy or return to the program all rec-
cords (including any copies thereof) con-
taining patient identifying information which have been in its possession in con-
nection with such examination.

(e) Maximum time allowed for dispo-
sition. The action required by paragraph (d) shall be completed—

(1) Except as provided in paragraph (e)(2) of this section not more than two

years after the record was acquired by or on behalf of the examiner, or

(2) Where the record is needed in con-
nection with a formal legal proceeding against the examiner, or to be

commenced not more than two years after the record was acquired, and writ-
ten notice to this effect is furnished to the program within two years after the

record was acquired, not later than the termination of such proceeding.

(f) Notice of final disposition. When an examiner disposes of records as re-
quired by paragraph (e) of this section, or not later than the time prescribed

by paragraph (e) of this section, which-

ever is earlier, the examiner shall furnish to the program concern a written state-
ment—

(1) That there has been compliance with this section and with the provisions of this part prohibiting any disclosure of patient identifying information from rec-
ords held by auditors or evaluators, or

(2) Specifying the time in which there has been a failure of compliance.

§ 2.54-1 Patient identifying information in connection with examina-
tions.—Basis and purpose.

Confidence on the part of treatment program personnel in the integrity of auditing and regulatory processes is im-
portant to the effective functioning of the treatment system. It is the purpose of § 2.54 to foster practices which will both justify and engender such confidence.

§ 2.55 Supervision and regulation of narcotic maintenance and detoxifica-
tion programs.—Rules.

(a) Definition of "registrant." For the purposes of this section, the term "registrant" means a practitioner who—

(1) has pending an application for regis-
tration under section 303(g)(1) of the Con-
trolled Substances Act (21 U.S.C. 823(g)(1))., or

(2) has been registered under such section and whose registration has not expired or been surrendered or re-
voked.

(b) Drug Enforcement Administration. Duly authorized agents of the Drug Enforcement Administration shall have access to the premises of registrants for the purpose of ascertaining compliance (or ability to comply) with standards es-
tablished by the Attorney General under section 303(g)(1) of the Controlled Substances Act, and (2) has been registered under such section and whose registration has not expired or been surrendered or revoked.

(c) State health authorities.

(1) Definition of "qualified State health agency." As used in this para-

graph, the term "qualified State health

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agency" means an agency of State government which has expressed legal responsibility to ascertain that registrants under its jurisdiction comply with appropriate medical standards; (ii) which is legally and administratively separable from any other agency responsible for investigation of violations of, or enforcement of, criminal law generally or criminal laws relating to controlled substances; (iii) whose personnel are by law and policy required by training or experience to conduct inspections of health care facilities to ascertain compliance with treatment standards; and (iv) whose personnel are by State law, or by published administrative directive, authorized by effective sanctions, required to maintain the confidentiality of any information concerning the identity of patients which they may acquire in the course of their official duties.

(2) Access. Duly authorized agents of a qualified State health agency shall have access to the premises of registrants and to all records maintained by registrants which are subject to the regulations of this part, including records of patients which they may acquire in the course of their official duties.

§ 2.55— Supervision and regulation of narcotic maintenance and detoxification programs— Basis and purpose.

(a) Section 2.55 is addressed to the general problem described in the following passage from the legislative history of Pub. L. 93-282:

A major element of the task of fashioning new regulations pursuant to the express rulemaking authority conferred by this legislation will be to reconcile the sometimes conflicting interests of research, audit, and evaluation with rights of privacy and the confidentiality of patient information concerning patients, and the statutory prohibition has been buttressed by provisions of these regulations, notably § 2.54, providing safeguards and procedures to assure that the statutory prohibition is respected. We believe that such a provision is beyond our power to impose.

(b) From a legal standpoint, the term "audit" has long comprehended the notion of external verification. In a commercial setting, this means that at least some inventory will actually be counted, at least some receivables will be verified by contacting the customers, and so on. To rule that this crucial aspect of the audit process cannot be carried out with respect to a treatment program until after the auditor goes through the procedure of obtaining a specific court order under subsection (b) (2) (C) would seem to contravene the intent of subsection (b) (2) (B).

In all of this, our decisions must be illuminated by a balanced consideration of the best interests of the patient no less than a desire to foster the implementation of cherished values in society. The individual's recognition of the patient's right to privacy is achieved by means which seriously impair our ability to protect him from exploitation and malpractice, not to mention the diversion of funds from his benefit, it would be a hollow victory indeed. We believe that the procedures and safeguards which these regulations impose on the conduct of audits and evaluations will accomplish this end, and that the so-called research privilege and the treatment involving the use of a drug such as methadone which is in a research status or which is readily susceptible of misuse or illicit diversion.

Because of the difficulty and complexity of the task, the rulemaking authority is intentionally cast in terms broad enough to permit the limitation of the scope, content, or circumstances of any disclosure under subsection (b), whether (b) (1) or (b) (2), in the light of the necessary purposes for which it is made or required. (Congressional Record, daily edition, May 6, 1974, page H3583.)

(b) It has been the consistent interpretation of the Special Action Office for Drug Abuse Prevention that the only provision of the authorizing legislation which permits disclosure to compliance officers, whether of DEA, FDA, or state agencies, is subsection (b) (2) (B). That subsection strictly prohibits any further
ize disclosures which would otherwise be prohibited by subsection (a) of those sections. Subsection (b) (2) (C) operates only to authorize the relief of the duty imposed by subsection (a) and not as an affirmative grant of jurisdiction to authorize or compel disclosures prohibited or privileged by other provisions of law, or to issue a subpoena, or other appropriate legal process, is required to compel disclosure. To illustrate, if a person who maintains records subject to this part is merely requested, or is even served with a subpoena, to disclose information contained therein in a previous regulation. But the subsection, if a court order, he must refuse such a request unless, and until, an order is issued under subsection (b) (2) (C). Such an order would remove the prohibition, but could not, of its own force, require disclosure. If there were no subpoena or other compulsory process, or a subpoena had been issued but had expired or been quashed, the custodian of the records would have discretion as to whether to disclose the information sought unless and until disclosure were ordered by means of appropriate legal or administrative process, the authority for which would have been issued in some source other than subsection (b) (2) (C) of the sections authorizing this part.

§ 2.61-1 Legal effect of order—basis and purpose.

(a) Subsection (a) of this section is a restatement of the interpretative rules embodied in §§ 1401.61 and 1401.62 of the original regulations. It was part of the original regulations as initially passed by the Senate. It was part of the original regulations under section 408 of Pub. L. 92–255 published November 17, 1972 (37 FR 24638), and was carried forward unchanged in the amended regulations published December 6, 1973 (38 FR 33748), the special status of which has already been noted in § 2.3. See, also, § 2.61-1.

(b) Where the secondary records are generated under the circumstances described in § 2.64, of course, this argument does not apply. In that situation, if preliminary examination suggests that the records may be needed for compliance or other administrative or judicial proceedings, the person conducting the audit or other examination should promptly seek the authority of a court order to copy the original records. The use of secondary records thus generated would professional boundaries would then be limited by the terms and purposes of the order, rather than subsection (b) (2) (B) of the authorizing legislation, and thus the rule set forth in § 2.62 would not apply.

(2) Although this rule is well supported by the history and technical structure of the legislation, the policy considerations in its favor are even more compelling. In § 2.52-1, we have discussed the urgent necessity for access, even without patient consent, to patient records on the part of qualified personnel engaged in scientific research and the critical consideration of patient identifying information, as it sometimes must if vital work is to be done, there must not be any question whatsoever about the legal inviolability of its confidential status in the hands of the researcher. Granted, there may occur rare occasions when the original records are for some reason not available, where a (b) (2) (C) order would lie to disclose, or to whom there would seem to be some advantage in the administration of justice for such an order to permit disclosure of identifying information by the researcher. But compared to the damage which the mere potentiality for access does to the whole research enterprise, the advantage in terms of ability to deal with rare and anomalous cases seems almost trivial. Even in those cases, denial of access to the party seeking the information leaves him in no worse position than if the researcher, or evaluation, which was certainly not undertaken for his benefit, had never been done at all.

§ 2.63-1 Inapplicability to secondary records—basis and purpose.

(a) The interpretative rule set forth in § 2.62 is an essential and basic limitation on the authority to issue this order under this subpart. It was part of the original regulations under section 408 of Pub. L. 92–255 published November 17, 1972 (37 FR 24638), and was carried forward unchanged in the amended regulations published December 6, 1973 (38 FR 33748), the special status of which has already been noted in § 2.3. See, also, § 2.61-1.

(b) Exception. When a patient in litigation offers testimony or other evidence pertaining to the content of his communications with a program, an order under this subpart may authorize the submission of testimony or other evidence by the program or its personnel.

§ 2.63-1 Limitation to objective data— Basis and purpose.

In the three-year period subsequent to the original enactment of 21 U.S.C. 1175, not a single objection was reported to the Special Action Office for Drug Abuse Prevention on which an attempt was made to secure a (b) (2) (C) order authorizing the disclosure of a confidential communication by a patient to a counselor or other member of the staff of a treatment program. In all of the comments and testimony received on the proposed rule, in fact, there was nothing to suggest any circumstances under which a court order authorizing such a disclosure would be either desirable or appropriate. Yet the possibility that such a limitation might be issued is to some a source of anxiety which impairs the effectiveness of treatment. Such an ongoing negative effect clearly outweighs the remote theoretical possibility that such a limitation might arise in which judicial authorization for such a disclosure might be sought. Accordingly, the limitation imposed by § 2.63 on the scope of (b) (2) (C) orders to preclude that possibility, and hence to eliminate its adverse influence on treatment services, appears to be a proper exercise of rulemaking power.

§ 2.64 Procedures and criteria in general—Rules.

(a) Identity of patient. Applications for court orders to authorize disclosure of records pertaining to a known patient shall not use the real name of the patient unless the patient consents thereto voluntarily and intelligently.

(b) Notice. In any proceeding not otherwise provided for in this subpart, in which the patient or the program has not been a party, each shall be given appropriate notice and an opportunity to appear in person or to file a responsive statement, deposition or other form of response consistent with local rules of procedure. The court shall give
due consideration to any such statement, deposition or other response in exercising its discretion as to the existence of good cause and, if deemed necessary or desirable, another hearing with local rules of procedure, it may order the program director to appear and give direct testimony.

(c) Hearings. All hearings and all evidence in connection therewith shall be held or taken in the judge's chambers, unless the patient requests an open hearing or the court determines that such hearing is consistent with the public interest and the proper administration of justice.

(d) Good cause. No order shall be issued unless the record shows that good cause exists, and in assessing good cause, the court shall weigh the public interest and the need for disclosure against the injury to the patient, to the physician-patient relationship, and to the treatment services.

(e) Need for disclosure. If other competent evidence or sources of information are available, the court should ordinarily deny the application.

1. Adverse effects. If there is evidence that an order could have an adverse effect upon successful treatment or rehabilitation of the patient or would impair the effectiveness of the program, or other programs similarly situated, in the treatment or rehabilitation of other patients, the application should be denied unless the court finds that the adverse effects are outweighed by other factors.

(f) Content of order. Any order authorizing disclosure shall—

(1) Limit disclosure to those parts of the patient's record deemed essential to the service of the program or against personnel of the program.

(2) Limit disclosure to those persons who need the information for the basis of the order and include any other appropriate measures to keep disclosure to a minimum for the protection of the patient, the physician-patient relationship and the treatment services.

(h) Applications not otherwise provided for. In any case not otherwise provided for in this subpart, application for an order authorizing disclosure of records to which this part applies may be made by any person who has a legally cognizable interest in obtaining such disclosure.

§ 2.64—1 Procedures and criteria in general—Basis and purpose.

Section 2.64, in accordance with subsection (g) of the authorizing legislation, sets out procedures and criteria for the issuance of (b) (2) (C) orders in general, subject to the more specific provisions with respect to particular types of proceedings covered in the succeeding sections of this subpart.

§ 2.65 Investigation and prosecution of patients—Rules.

(a) Applicability. This section applies to any application by an investigative, law enforcement, or prosecutorial agency for an order to permit disclosure of patient records for the purpose of conducting an investigation or prosecution of an individual who is, or who is believed to be, a present or former patient in a program.

(b) Notice. Except where an order under § 2.65 is sought in conjunction with an order under this section, any program with respect to whose records an order is sought under this section shall be notified of the application and afforded an opportunity to appear and be heard thereon.

(c) Criteria. A court may authorize disclosure to a patient, or in the case of an order for conduct an investigation of or a prosecution for a crime of which the patient is suspected only if the court finds that all of the following criteria are met:

(1) The crime involved kidnapping, homicide, assault with a deadly weapon, armed robbery, rape, or other acts causing or directly threatening loss of life or serious bodily injury for which there have been committed on the premises of the program or against personnel of the program.

(2) There is a reasonable likelihood that the records in question will disclose material information or evidence of substantial value in connection with the investigation or prosecution.

(3) There is no other practicable way of obtaining the information or evidence.

(4) The actual or potential injury to the physician-patient relationship in the program affected and in other programs similarly situated, and the actual or potential harm to the ability of such programs to attract and retain patients, is outweighed by the public interest in authorizing the disclosure sought.

(d) Counsel. Any application to which this section applies shall be denied unless the court makes an explicit finding to the effect that the program has been afforded the opportunity to be represented by counsel independent of counsel for the applicant or the program. In the case of an investigation or program operated by any department or agency of Federal, State, or local Government, it is in fact so represented.

§ 2.65—1 Investigation and prosecution of patients—Basis and purpose.

(a) Applicability. This section applies to any application by an administrative, regulatory, supervisory, investigative, law enforcement, or prosecutorial agency for an order to permit disclosure of patient records or the making of copies thereof (including patient identifying information) for the purpose of conducting an investigation or an administrative or judicial proceeding with respect to any program or any principal, agent, or employee thereof in his capacity as such.

(b) It has not been found possible to frame entirely satisfactory rules for the scope of orders under § 2.65, but an illustration may be helpful. Where a witness is needed for purposes of an investigation or proceeding involving a suspected violation of federal law, the court may permit the government to obtain a record for a limited purpose, such as identifying a suspect by appearance, and the criteria set forth in § 2.65(c) are met, and the program has what photographs of its patients, the witness alone may be permitted to view the photograph and the names attached. If the witness failed to identify any photograph as being a picture of the suspect, that would end the matter. If there was such an identification, the program is authorized to give any information in its possession as to the suspect's identity and whereabouts to appropriate authorities.

(c) It is not the purpose of this section to substitute a mechanical formula for judicial discretion, but rather to provide criteria which define the area within which discretion is to be exercised. The reason for including all crimes committed on program premises or against program personnel is not any special solicitude for programs as opposed to other victims of crime, but is rather the result of the special difficulties which the broad definition of "records" in § 2.11 (n) creates for program personnel as complaining witnesses.

(d) In regard to § 2.65(e), experience has demonstrated that independent counsel can be particularly valuable. The leading case construing 21 U.S.C. 1715, People v. Newman, 32 N.Y.2d 379, 345 N.Y.S.2d 502, 298 N.E.2d 661 (1973), have been decided, 44 U.S. 1163, 94 S.Ct. 927, 39 L.Ed.2d 116 (1974), would never have been presented to the courts but because the fact that legal counsel for Dr. Newman was furnished on a pro bono publico basis by a private law firm. In an entirely different case, a United States District Court appears to have issued a wholly inappropriate order under 21 U.S.C. 1175 in a case in which the treatment program involved was operated by an agency of the Federal Government and either was unrepresented, or was represented by the same attorney who represented the agency seeking the order. It is possible, of course, that the order would have been issued in any event, but it seems clear that there was no adequate presentation to the court of arguments or testimony in opposition. It is difficult to see how the purposes of subsection (b) (2) (C) of the authorizing legislation can be carried out if there is inadequate presentation of the issues to the courts which must decide them.

§ 2.66 Investigation and prosecution of programs—Rules.

(a) Applicability. This section applies to any application by an administrative, regulatory, supervisory, investigative, law enforcement, or prosecutorial agency for an order to permit disclosure of patient records or the making of copies thereof (including patient identifying information) for the purpose of conducting an investigation or an administrative or judicial proceeding with respect to any program.
(b) Notice. An application under this section may, in the discretion of the court, be granted without notice, but upon the implementation of any order so granted, the program shall be afforded an opportunity to seek the revocation or amendment of such order.

(3) Same. Both disclosure and dissemination of any information from the records in question shall be limited under the terms of the order to assure that patient identities will be protected to the maximum practicable extent, and that names and other identifying characteristics of patients are expunged from any documents placed in any public record. No information obtained pursuant to an order under this section may be used to conduct any investigation or prosecution of a patient, or be used as the basis for an application for an order under § 2.66.

§ 2.66-1 Investigation and prosecution of programs—Basis and purpose.
The principal purpose of § 2.66 is to enable a regulatory agency whose inspection or other source of information reveals a need for follow-up, or which has been refused access to patient records, to obtain the necessary authorization for access and copying. There may also be rare instances, such as those involving financial fraud, tax evasion, or other offenses where access by other investigative agencies is necessary, subject to the requirements and protections of this part.

§ 2.67 Undercover agents and informants—Rules.
(a) Applicability. This section applies to any application by an administrative, regulatory, supervisory, investigative, or law enforcement agency for an order to permit such agency to have an undercover agent or informant in a program under circumstances which would otherwise be prohibited under § 2.19.

(b) Notice. An order under this section may be granted without notice where the criminal conduct for the investigation of which it is granted is believed to be carried on by the program director or by any employee or agent of the program with the knowledge of the program director or under such circumstances that in the exercise of reasonable care the program director should know of such conduct. Under any other circumstances, an order under this section may be granted only after the program director has been afforded notice and opportunity for hearing.

(c) Criteria. An order under this section may be granted only where there is reason to believe that a program or any principal, agent, or employee thereof is engaged in serious criminal misconduct, and that other means of securing evidence of such criminal misconduct are not available or would not be effective.

(d) Scope. An order granted pursuant to this section may authorize the use by the applicant of an undercover agent or informant, either as a patient or as an employee, of the program in question.

§ 2.66-1 An order under this section may not authorize the use of an undercover agent for an initial period exceeding 60 days. At any time prior to the expiration of such 60-day period, the program director may extend such period for an additional period not to exceed 60 days, but in no event may the use of an undercover agent in any program be authorized for more than 180 days in any period of 12 consecutive months.

(1) Duty of agent. Except to the extent expressly authorized in an order under this section, which shall be limited to disclosure of information directly related to the purpose for which the order is granted, an undercover agent or informant which for the purposes of this part be deemed an agent of the program within which he is acting as such, and as such shall be subject to all of the prohibitions of this part applicable to disclosures of any information which he may acquire.

§ 2.67-1 Undercover agents and informants—Basis and purpose.
The legal rationale underlying this section has been set forth in § 2.19-1. It is expected that this section will find its principal and perhaps its exclusive application in the area of drug law enforcement. Experience has demonstrated that medical personnel, no matter how credentialized, can engage in the illicit sale of drugs on a large scale, and that the use of undercover agents and informants is normally the only effective means of securing evidence sufficient to support a successful prosecution.

[PROPOSED RULES]

[21 CFR Part 1401]

CONFIDENTIALITY OF DRUG ABUSE PATIENT RECORD

Proposed revocation of Part

Notice is hereby given that the Special Action Office for Drug Abuse Prevention proposes to revoke Part 1401 of Title 21 of the Code of Federal Regulations by reason of the proposed incorporation of its subject matter in a new Part 2 of Title 42 of the Code of Federal Regulations.

Interested persons are invited to submit written comments, views, or arguments with respect to the proposed revocation, within 30 days of the date of publication of this notice, to the Office of the General Counsel, Special Action Office for Drug Abuse Prevention, Room 302/6, 726 Jackson Place, N.W., Washington, D.C. 20506, telephone (202) 456-6660. Any such comments, views, or arguments may be made a part of, and will in any event be considered with, comments, views, and arguments submitted with respect to the proposed new Part 2 of Title 42 of the Code of Federal Regulations.

Accordingly, pursuant to the authority of section 408 of the Drug Abuse Office and Treatment Act of 1972, as amended by Pub. L. 93-282 (21 U.S.C. 1175), and under the authority delegated to the General Counsel (20 FR 17091, May 21, 1974), Part 1401 of Title 21 of the Code of Federal Regulations is proposed to be revoked, effective June 39, 1975.

Dated: May 7, 1975.

Grantly Crews, II
General Counsel, Special Action Office for Drug Abuse Prevention.
NOTICES

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 benefits 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; 29 U.S.C. 202, 203) 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 determinations 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 the Code of Federal Regulations, Procedure for Determination of Wage Rates, (37 FR 21133) and of Secretary of Labor's Orders 12-71 and 18-71 (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 in 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 publica tion shall be made a part of every contract by contractors and subcontractors on the work.

Modifications and Superse dedes Decisions to General Wage Determination Decisions

Modifications and Superse dedes 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 determined in the Modifications and Superse dedes 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 the Code of Federal Regulations, Procedure for Determination of Wage Rates (37 FR 21133) and of Secretary of Labor's Orders 12-71 and 18-71 (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 in 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 modifications 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 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.

NEW 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.

California:

CA75-5050; CA75-5055 -- Apr. 18, 1975

Indiana:

IN75-2013; IN75-2020; IN75-3028; IN75-3029 -- Jan. 31, 1975

IN75-2037; IN75-2039; IN75-2042; IN75-2045 -- Feb. 7, 1975

Pennsylvania:

PA-2542 -- Feb. 21, 1975

Superseeded Decisions to General Wage Determination Decisions

The numbers of the decisions being superseeded and their dates of publication in the Federal Register are listed with each State. Superseeded Decision numbers are in parentheses following the numbers of the decisions being superseeded.

Indiana:

IN74-2022 (IN75-2085) -- Feb. 7, 1975

Idaho:

ID75-5024 (ID75-5056) -- Feb. 21, 1975

Massachusetts:

MA75-2002 (MA75-2009); MA75-3009 (MA75-3070); MA75-2010 (MA75-2074); MA75-2011 (MA75-2075); MA75-2012 (MA75-2076) -- Jan. 17, 1975

Nebraska:

AR-74 (NE75-4065) -- Nov. 18, 1974

Nevada:

NV75-5005 (NV75-5057) -- Jan. 24, 1975

Signed at Washington, D.C., this 2nd day of May 1975.

RAY J. DOLAK,
Assistant Administrator,
Wage and Hour Division.
# NEW DECISION

**STATE:** MARYLAND  
**DECISION NO.:** 75MD-3052  
**DESCRIPTION OF WORK:** HIGHWAY CONSTRUCTION  
**COUNTIES:** Caroline, Cecil, Dorchester, Kent, Queen Annes, Somerset, Talbot, Wicomico and Worcester  
**DATE:** Date of Publication

### HIGHWAY CONSTRUCTION

<table>
<thead>
<tr>
<th>Position</th>
<th>Description</th>
<th>Rate</th>
<th>H &amp; W Bonus</th>
<th>Fringe Benefits</th>
<th>Pay Rate</th>
</tr>
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<tbody>
<tr>
<td>Carpenters</td>
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### Fringe Benefits Payments

- **H & W Bonus:**  
  - Basic: 3.00  
  - Fringe: 3.50

### Basic Hourly Rates

- **Year:**
  - 20555

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**NOTICES**  

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**FEDERAL REGISTER, VOL. 40, NO. 91 — FRIDAY, MAY 9, 1975**
### Decision ACA75-5052 - Mod. tfl

**Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, Eldorado, Fresno, Glenn, Humboldt, Kings, Lake, Lassen, Mendocino, Merced, Modoc, Monoerery, Napa, Nevada, Plumas, Placer, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Yolo and Yuba Counties, California**

#### Change:
- Asbestos Workers
- Boilermakers
- Piledrivermen, bridge, wharf and dock builders

#### Basic Hourly Rates and Fringe Benefits Payments

<table>
<thead>
<tr>
<th>Position</th>
<th>Basic Hourly Rate</th>
<th>Fringe Benefits Payments</th>
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<tbody>
<tr>
<td>Asbestos Workers</td>
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<td>Jackhammer operator</td>
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### DECISION #IN75-2017 - Mod. #2
(40 FR 6024 - February 7, 1975)
Allen County, Indiana

**Change:**
- Elevator constructors: $9.00
- Elevator constructors helpers: 6.32
- Helpers: 6.25
- Helpers (Prob.) 4.515
- Laborers:
  - Group A: 6.25
  - Group B: 6.45
  - Group C: 6.55
  - Group D: 7.25
- Marble setters: 8.39
- Roofers: 8.40

**Omit:**
- Marble setters' helpers: 6.05
- Terrazzo workers' helpers: 6.05
- Tile setters' helpers: 5.05

### DECISION #IN75-2018 - Mod. #2
(40 FR 4809 - January 31, 1975)
Bartholomew County, Indiana

**Change:**
- Carpenters:
  - Camp Atterbury: 9.45
  - Millwrights & Piledrivermen: 9.45
  - Soft floor layers: 7.55
- Laborers:
  - Group A: 6.40
  - Group B: 6.60
  - Group C: 6.70
  - Group D: 7.40
- Lathers: 9.50
- Plumbers & Steamfitters:
  - 9.14
- Sheet metal workers: 8.85
- Truck drivers:
  - Group 1: 6.85
  - Group 2: 6.90
  - Group 3: 6.95
  - Group 4: 7.00
  - Group 5: 7.05
  - Group 6: 7.10
  - Group 7: 7.20
  - Group 8: 7.25
  - Group 9: 7.30
  - Group 10: 7.35
  - Group 11: 7.50

**Omit:**
- Painters:
  - Brush: 7.25
  - Erected steel: 7.50
  - Spray: 10.32

### DECISION #IN75-2019 - Mod. #2
(40 FR 6027 - February 7, 1975)
Benton & Tippecanoe Counties, Indiana

**Change:**
- Laborers:
  - Group A: 6.25
  - Group B: 6.45
  - Group C: 6.55
  - Group D: 7.25
- Lathers: 7.24
- Plumbers & Steamfitters: 9.14
- Sheet metal workers: 8.85
- Truck drivers:
  - 6.80
  - Warehousemen: 6.30
  - Helpers, Greasers & Tiremen: 6.25
  - Tandem axles, straight trucks & doglegs: 6.30
  - Bituminous distributors: 6.60
  - Semi-trucks & mechanics: 6.60

**Omit:**
- Painters:
  - Brush: 7.25
  - Erected steel: 7.50
  - Spray: 10.32
## Modifications

### Decision IN75-2019 Cont'd

<table>
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<th>Fringe Benefits Payments</th>
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### Decision IN75-2020 - Mod. #2

(40 FR 4812 - January 31, 1975)

- **Dearborn County, Indiana**
- **Change:**
  - Bricklayers & Stonemasons: $8.25
  - Glaziers: $10.10
  - Ironworkers: $9.45
  - Laborers: $7.50
  - Pipefitters: $9.90
  - Truck drivers:
    - Group 1: $6.85
    - Group 2: $6.90
    - Group 3: $6.95
    - Group 4: $7.00
    - Group 5: $7.05
    - Group 6: $7.10
    - Group 7: $7.15
    - Group 8: $7.20
    - Group 9: $7.25
    - Group 10: $7.30
    - Group 11: $7.35

### Decision IN75-2020 - Cont'd

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### Decision IN75-2023 - Mod. #2

(40 FR 6035 - February 7, 1975)

- **Lake County, Indiana**
- **Change:**
  - Cement Masons:
    - Building:
      - Hammond Area: $9.57
      - Remainder of County: $9.47
  - Elevator Constructors:
    - Rem. Elev. Contr. 10.15
    - Helpers: 7.35
  - Laborers (Building, Sover, & Tunnel Construction):
    - Group A: 7.15
    - Group B: 7.35
    - Group C: 7.45
    - Group D: 8.15
  - Plasterers:
    - Rem. Elev. Contr. 6.30
    - Helpers: 6.10
  - Sheet Metal Workers: 9.87
  - Sprinkler Fitters: 10.10

### Decision IN75-2024 - Mod. #2

(40 FR 6039 - February 7, 1975)

- **LaPorte County, Indiana**
- **Change:**
  - Elevator Constructors:
    - Elevator Constructors: 9.02
    - Helpers: 6.32
  - Helpers (Prob.): 4.51

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**NOTICES**

**FEDERAL REGISTER, VOL. 40, NO. 91—FRIDAY, MAY 9, 1975**
### Modifications P. 7

#### Decision #IN75-2024 - Cont'd

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<tbody>
<tr>
<td></td>
<td>H &amp; W Pensions</td>
</tr>
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</table>

**Ironworkers:**
- Remainder of County: $9.00, 0.55, 0.65, 0.01

**Labors (Building, Sewer, & Tunnel Construction):**
- Group A: 6.25, 0.35, 0.40, 0.09
- Group B: 6.25, 0.35, 0.40, 0.09
- Group C: 7.25, 0.35, 0.40, 0.09
- Group D: 7.95, 0.35, 0.40, 0.09
- Lathers: 8.97, 0.33, 0.35, 0.01

**Plumbers & Steamfitters:**
- Remainder of County: $9.00, 0.50, 1.00, 0.02
- Sheet metal workers: 9.87, 0.48, 0.67, 0.01

**Power Equipment Operators:**
- Heavy and highway const., class I: 9.40, 0.40, 0.50, 0.05
- Heavy and highway const., class II: 9.05, 0.40, 0.50, 0.05
- Heavy and highway const., class III: 8.60, 0.40, 0.50, 0.06
- Heavy and highway const., class IV: 7.90, 0.40, 0.50, 0.05
- Heavy and highway const., class V: 6.20, 0.40, 0.50, 0.06

#### Decision #IN75-2025 - Mod. #2

(Federal Register, Vol. 40, No. 91—Friday, May 9, 1975)

**Marion County, Indiana**

**Change:**
- **Bricklayers:**
  - Bricklayers & Stonemasons: 9.45, 0.30, 0.20, 0.06
- **Terra Cotta Workers:** 8.90, 0.30, 0.20, 0.06
- **Elevator Constructors:** 9.45, 0.445, 0.29, 0.06
- ** Helpers (Prob.):** 6.62, 0.445, 0.29, 0.06
- **Electricians:** 8.65, 0.35, 1.50, 0.03
- **Elevator Constructors:** 9.45, 0.445, 0.29, 0.06
- **Helper:** 6.62, 0.445, 0.29, 0.06

**Other:**
- **Ironworkers:** 9.87, 0.55, 0.80, 0.06
- ** Laborers:**
  - Group A: 6.60, 0.35, 0.35, 0.09
  - Group B: 6.69, 0.35, 0.35, 0.09
  - Group C: 6.70, 0.35, 0.35, 0.09
  - Group D: 7.60, 0.35, 0.35, 0.09
  - Lathers: 9.50, 0.45, 0.60, 0.04
  - Plumbers: 9.40, 0.40, 0.70, 0.01
- **Truck Drivers:**
  - Group 1: 6.80, 11.50a, 12.00a, 0.08
  - Group 2: 6.80, 11.50a, 12.00a, 0.08
  - Group 3: 6.80, 11.50a, 12.00a, 0.08
  - Group 4: 7.00, 11.50a, 12.00a, 0.08
  - Group 5: 7.00, 11.50a, 12.00a, 0.08
  - Group 6: 7.00, 11.50a, 12.00a, 0.08
  - Group 7: 7.10, 11.50a, 12.00a, 0.08
  - Group 8: 7.10, 11.50a, 12.00a, 0.08
  - Group 9: 7.30, 11.50a, 12.00a, 0.08
  - Group 10: 7.30, 11.50a, 12.00a, 0.08
  - Group 11: 7.30, 11.50a, 12.00a, 0.08

**FOOTNOTES:**
- $16.00 per man per week when worked 30 days or more
- $17.00 per week for each employee who works 2 days or parts of 2 days
- Each employee who has been in the employ of the same employer for 1 year and has accumulated 1000 hours of service shall receive 1 week's vacation with pay of 40 hours at straight time; each employee who has been in the employ of the same employer for 10 years or more and has accumulated 1000 hours of service shall receive 3 weeks' vacation with pay of 320 hours at the straight time hourly rate.

### Modifications P. 8

#### Decision #IN75-2025 - Mod. #2

(Federal Register, Vol. 40, No. 91—Friday, May 9, 1975)

**Monroe County, Indiana**

**Change:**
- **Electricians:** 8.65, 0.30, 1.50, 0.01
- **Elevator Constructors:** 9.45, 0.445, 0.29, 0.06
- **Helpers:** 6.62, 0.445, 0.29, 0.06
- **Lathers:** 9.50, 0.45, 0.60, 0.04

**Other:**
- **Ironworkers:** 9.87, 0.55, 0.80, 0.06
- **Laborers:**
  - Group A: 6.60, 0.35, 0.35, 0.09
  - Group B: 6.69, 0.35, 0.35, 0.09
  - Group C: 6.70, 0.35, 0.35, 0.09
  - Group D: 7.60, 0.35, 0.35, 0.09
  - Lathers: 9.50, 0.45, 0.60, 0.04
- **Truck Drivers:**
  - Group 1: 6.80, 11.50a, 12.00a, b
  - Group 2: 6.80, 11.50a, 12.00a, b
  - Group 3: 6.80, 11.50a, 12.00a, b
  - Group 4: 7.00, 11.50a, 12.00a, b
  - Group 5: 7.00, 11.50a, 12.00a, b
  - Group 6: 7.10, 11.50a, 12.00a, b
  - Group 7: 7.10, 11.50a, 12.00a, b
  - Group 8: 7.20, 11.50a, 12.00a, b
  - Group 9: 7.30, 11.50a, 12.00a, b
  - Group 10: 7.30, 11.50a, 12.00a, b
  - Group 11: 7.50, 11.50a, 12.00a, b

**NOTICES**

FEDERAL REGISTER, VOL. 40, NO. 91—FRIDAY, MAY 9, 1975
### Porter County, Indiana

**Basic Hourly Rates**

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<th>App. To</th>
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### St. Joseph County, Indiana

**Basic Hourly Rates**

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<th>App. To</th>
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### Vanderburgh County, Indiana

**Basic Hourly Rates**

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**NOTICES**
## DECISION #IN75-2030 - Mod. #2

(40 FR 6053 - February 7, 1975)

**Vigo County, Indiana**

### Changes

- **Elevator constructors:**
  - Group A: $9.455, 4.45, .35, 33, .02
  - Group B: 6.62, .45, .35, 33, .02
  - Group C: 6.70, .45, .35, 33, .02
  - Group D: 7.40, .45, .35, 33, .02
- **Helpers (Prob.):**
  - Group A: 6.40, .35, .35
  - Group B: 6.60, .35, .35
  - Group C: 6.70, .35, .35
  - Group D: 7.40, .35, .35
- **Sheet metal workers:**
  - Group A: 8.90, .31, .45
  - Group B: 7.85, .30, 13.00
  - Group C: 7.95, .30, 13.00
  - Group D: 7.95, .30, 13.00

### Fringe Benefits Payments

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<th>H &amp; W</th>
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<th>App. Tr.</th>
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## DECISION #IN75-2045 - Mod. #1

(40 FR 7828 - February 21, 1975)

**Delaware County, Indiana**

### Changes

- **Boilermakers:**
  - $10.05, .50, 1.00, .01
- **Bricklayers:**
  - Bricklayers & Stonemasons: 8.75, .40, .25, .01
  - Marble masons: 8.75, .40, .25, .01
  - Tile setters: 8.90, .40, .25, .01
- **Cement masons:** 8.40, .40, .25, .01
- **Elevator constructors:**
  - $9.455, .445, .29, 33, .02
  - Helpers: 6.62, .445, .29, 33, .02
  - Helpers (Prob.): 6.70, .445, .29, 33, .02
- **Ironworkers:**
  - Northeastern 1/3 of County: 9.70, .55, .55, .01
  - Southern 2/3 of County: 9.65, .55, .80, .05
- **Laborers:**
  - Group A: 6.25, .35, .35
  - Group B: 6.45, .35, .35
  - Group C: 6.55, .35, .35
  - Group D: 7.25, .35, .35
  - Elevator constructors: 9.455, 6.62, .445, .29, 33, .02
  - Helpers: 6.62, .445, .29, 33, .02
  - Helpers (Prob.): 6.70, .445, .29, 33, .02
- **Ironworkers:**
  - Northeastern 1/3 of County: 9.70, .55, .55, .01
  - Southern 2/3 of County: 9.65, .55, .80, .05

### Fringe Benefits Payments

<table>
<thead>
<tr>
<th>Basic Monthly Rates</th>
<th>H &amp; W</th>
<th>Vacation</th>
<th>App. Tr.</th>
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<td>$7.55</td>
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<td>9.28</td>
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</table>

### Add:

**Footnote:**
- 2 paid holidays: G & D

*Decision #AR-2092 - Mod. #1*

(39 FR 1701 - November 29, 1974)

**Lackawanna, Wayne & Wyoming Counties, Pennsylvania**

### Changes

- **Modification #3**, in 40 FR 18283, dated April 18, 1975, to include Susquehanna County.
<table>
<thead>
<tr>
<th>Trade</th>
<th>Basic Rate</th>
<th>H &amp; W</th>
<th>Pensions</th>
<th>Vacations</th>
<th>App. Tr.</th>
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<td>Asbestos Workers</td>
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<tr>
<td>Spray and Sandblasting</td>
<td>7.18</td>
<td>.30</td>
<td>.50</td>
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<tr>
<td>Roofers</td>
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<td>Sprinkler fitters</td>
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<tr>
<td><strong>FOOTNOTES</strong></td>
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<tr>
<td>a. Employee contributes $2.30</td>
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<tr>
<td>per month</td>
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<tr>
<td>d. $17.00 per week</td>
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**DECISION AR-3157 - Mod. #1**
(30 FR 30835 - October 71, 1971)
Green Lake, Marquette, Waukesha,
Washtenaw and Winnebago Counties,
Wisconsin.

Change:
Painters
Brush & Structural Steel
Paperhanging
Spray and Sandblasting
Roofers
Sheetmetal workers
Sprinkler fitters
Truck Drivers
Angular
Sheet and Tandem

FEDERAL REGISTER, VOL. 40, NO. 91—FRIDAY, MAY 9, 1975
SUPERSEDES DECISION

STATE: INDIANA  COUNTY: Grant
DECISION NUMBER: EN75-2025  DATE: Date of Publication
Supersedes Decision No. EN75-2022, dated February 7, 1975 in AO FR 6032

DESCRIPTION OF WORK: Building Construction (excluding single family homes and
     garden type apartments up to and including 4 stories).

<table>
<thead>
<tr>
<th>CLASSIFICATIONS</th>
<th>Hourly Rates</th>
<th>Fringe Benefits Payments</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>H &amp; W</td>
<td>Family</td>
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<tr>
<td>ASBESTOS WORKERS</td>
<td>$9.95</td>
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<tr>
<td>BOILERMAKERS</td>
<td>8.05</td>
<td>.50</td>
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<tr>
<td>BRICKLAYER:  Marble masons; Stonemasons; Terrazzo workers; &amp; Tile setters</td>
<td>8.40</td>
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<tr>
<td>CARPENTERS:  Soft floor layers</td>
<td>7.78</td>
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<tr>
<td>Piledrivermen</td>
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<td>Millwrights</td>
<td>8.93</td>
<td>.35</td>
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<tr>
<td>ELECTRICIANS</td>
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<td>.30</td>
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<tr>
<td>ELEVATOR CONSTRUCTORS: Elevator constructors</td>
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<td>Helpers</td>
<td>6.32</td>
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<td>Helpers (Prob.)</td>
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<td>GLAZIERS</td>
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<tr>
<td>IRONWORKERS</td>
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<td>.55</td>
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<tr>
<td>LAUDERSIEN</td>
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<td>.25</td>
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<tr>
<td>LEADWORKERS</td>
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<td>.35</td>
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<tr>
<td>PAINTERS: Brush; Roller</td>
<td>7.49</td>
<td>.32</td>
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<tr>
<td>Sandblasting; Spray</td>
<td>8.49</td>
<td>.32</td>
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<tr>
<td>PLASTERERS</td>
<td>7.75</td>
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<tr>
<td>PLUMBERS: Steamfitters</td>
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<tr>
<td>PIPEFITTERS</td>
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<td>.25</td>
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<tr>
<td>SHEET METAL WORKERS</td>
<td>9.19</td>
<td>.35</td>
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<tr>
<td>SPRINKLER FITTERS</td>
<td>9.40</td>
<td>.50</td>
</tr>
</tbody>
</table>

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

NOTICES:

GROUP A: Building and Construction Laborers, scaffold builders other than for mason or plasterers, ironworkers' helpers, mechanic helpers, mechanic tenders, window washers and cleaners, asbestos workers, cement finishers helpers, carpenter helpers, all movable water pumps with discharge up to 3", mason tenders

GROUP B: Asphalt rakers and lubricators, air tool operators, vibrators, diamond hand, operators, jackmen and sheeting men working in ditches deeper than 6', laborers working in ditches 6' in depth or deeper, assembly of underdome pump, chain saw operators, tile layers (sewer or field), sewer pipe layers (metallic and non-metallic) motor-driven wheelbarrows and concrete buggies, hester open-pump cart, assemblers, conveyor assemblers, core drill operators, cement, lime or silica clay handlers (bulk or bag), pneumatic drills, deck engines, and winch operators, water and cable drags (metallic and non-metallic).

GROUP C: Plaster tenders, heavy construction laborers, cement gun operators, scaffold builders when working for plasterer or mason, mason tenders

GROUP D: Dynamite Men
### Line Construction

<table>
<thead>
<tr>
<th>Classification</th>
<th>Hourly Wage</th>
<th>Fringe Benefits</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Linemen and Technician</td>
<td>$8.18</td>
<td>.35</td>
<td>12</td>
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<tr>
<td>Heavy Equipment Operator &quot;A&quot;</td>
<td>7.77</td>
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<tr>
<td>Heavy Equipment Operator &quot;B&quot;</td>
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<tr>
<td>Powderman and Equipment Mechanic</td>
<td>6.23</td>
<td>.35</td>
<td>12</td>
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<tr>
<td>Senior Groundman Truck Driver with Winch</td>
<td>5.35</td>
<td>.35</td>
<td>12</td>
</tr>
<tr>
<td>Groundman Truck Driver without Winch</td>
<td>5.14</td>
<td>.35</td>
<td>12</td>
</tr>
<tr>
<td>Groundman Truck Driver after 12 Months</td>
<td>4.50</td>
<td>.35</td>
<td>12</td>
</tr>
<tr>
<td>Senior Groundman after 5 Years</td>
<td>3.13</td>
<td>.35</td>
<td>12</td>
</tr>
<tr>
<td>Senior Groundman after 12 Months</td>
<td>4.99</td>
<td>.35</td>
<td>12</td>
</tr>
<tr>
<td>Groundman after 12 Months</td>
<td>4.72</td>
<td>.35</td>
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</tr>
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</table>

### Power Equipment Operators

<table>
<thead>
<tr>
<th>Classification</th>
<th>Hourly Wage</th>
<th>Fringe Benefits</th>
<th>Notes</th>
</tr>
</thead>
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<tr>
<td>GROUP 1</td>
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<tr>
<td>GROUP 2</td>
<td>7.45</td>
<td>.40</td>
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<tr>
<td>GROUP 3</td>
<td>6.72</td>
<td>.40</td>
<td>12</td>
</tr>
<tr>
<td>GROUP 4</td>
<td>6.05</td>
<td>.40</td>
<td>12</td>
</tr>
</tbody>
</table>

### Classification

- **GROUP 1**: Air Compressor (pressurizing shafts, tunnels and divers), Air Tugger, Auto Patrol, Backfiller, Backhoe, Boring Machine, Bulldozer, Caisson Drilling Machine, Cherry Picker, Compactor (w/power blade), Concrete Plant, Concrete Pump, Crane with attachments, Crane-Electric Overhead, Derrick, Ditching Machine (18" and over), Dredge, Elevator (when handling material or tools), Forklift (machinery), Pile Driver, Generator (for welders or compressors), Gradall, Helicopter, Helicopter-Winch Operator, Highlift-Front End Loader, Hoist, Locomotive, Mechanic on job site, Mucking Machine, Panel Board, Concrete Plant, Pile Driver, Push Cat, Scoop and Traces, Scraper rubber-tired, Spreader-trailer mounted, Straddle Carrier-Ross type, Sub-base Finish, Machine (C.M.I. or similar tower crane), Tractor w/backhoe (over 1/2 yd.) Welder
- **GROUP 2**: A-Frame Truck, Batcher Plant (automatic dry batch), Bending Machine-power driven, Bituminous Distributer, Bituminous Paver, Bituminous Plant Engineer, Botton, Bullfloat, Compactor or Tamper-self-propelled, Concrete Mixer (18 cu. ft. or over), Concrete spreader-power driven, Dinkey Engine, Ditching Machine (less than 18"), Drilling Machine, Finish Machine and Bullfloat, Finishing Machine, Pile Driver, File Driving and Bollers, Forklift-Manpower and Material, Concrete Machine, Head Greaser, Mechanic In Shop, Mesh Depresser-mesh placer, P.C.C.-Concrete Belt Placer, Roller-Asphalt Paving and Sub-base, Shovelpave Roller self-propelled, Shop Mule, Spreader or Base Paver-self-propelled, Subgrade, Throttle Valve, Air compresser or boiler, Tractor w/backhoe (1/2 yard and under), Tractor-High Lift-Farm-type, Tractor-Industrial type, Tractor w/winches, Weld Points, Winch Truck
- **GROUP 3**: Air Compressor (110 cu. ft. and over), Bituminous Distributer, Chair Cart, Concrete curing Machine, Concrete Saw, Dope pot-power agitated, Flexplane, Form Crader, Hydrohammer, Jacks-hydraulic-power driven, Minor Equipment Operator, Paving Joint Machine, Post Hole Bigger, Roller-earth, Throttle Valve, Track Jack-power driven, Tractor-farm type, Truck Crane Driver
- **GROUP 4**: Air Compressor (less than 210 cu. ft.), Conveyor, Generator, Mechanical Heater, Oiler, Power Broom, Pump, Welding Machine, Melters
<table>
<thead>
<tr>
<th>GROUP 1: Drivers on single axle, lowboy helper or flagman, drivers on air compressors and welding machines including those pulled by cars, pick-up trucks, tractors, forklifts, dumpers</th>
</tr>
</thead>
<tbody>
<tr>
<td>GROUP 2: Drivers on Mixer Trucks 2 yards</td>
</tr>
<tr>
<td>GROUP 3: Mechanic Helpers and Greasers</td>
</tr>
<tr>
<td>GROUP 4: Drivers on Batch Trucks wet or dry 3 batches or under</td>
</tr>
<tr>
<td>GROUP 5: Drivers on Tandem Axle Trucks (including Dog-Legs), Drivers on Oil Distributors, Drivers on Mixer Trucks 3 yards, Mixer Trucks</td>
</tr>
<tr>
<td>GROUP 6: Drivers on Single axle, semi-trucks, Drivers on Batch Trucks wet or dry over 3 batches, Drivers on Pavement breakers</td>
</tr>
<tr>
<td>GROUP 7: Drivers on Tandem-axle semi-trucks, Drivers on Tournapulls when pulling other than self-loading equipment up to and including 10 yards, Drivers on Mixer Trucks 4 yards, Mechanics</td>
</tr>
<tr>
<td>GROUP 8: Drivers on Tri-axle Trucks</td>
</tr>
<tr>
<td>GROUP 9: Drivers on Low-Boy, Drivers on Tandem, Tandem Axle Semi-trucks</td>
</tr>
<tr>
<td>GROUP 10: Drivers on Trac-O-Trucks, Euclid, Tournapulls when pulling other than self-loading equipment 11 yards to and including 16 yards, Drivers on Mixer Trucks above 4 yards</td>
</tr>
<tr>
<td>GROUP 11: Drivers on Trac-O-Trucks, Euclid, Tournapull when pulling other than self-loading equipment over 16 yards, Helicopter pilot</td>
</tr>
</tbody>
</table>

**NOTES:**

- Per week per employee.
- 1 week paid vacation after 1 year service, 2 weeks after 3 years, and 3 weeks after 10 years.
**SUPERSEDES DECISION**

**STATE:** Idaho  
**COUNTIES:** Statewide

**DECISION NUMBER:** ID75-5056  
**DATE:** Date of Publication

Supercedes Decision No. ID75-502A dated February 21, 1975, in FR 7803

**DESCRIPTION OF WORK:** Building Construction (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction.

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<td>Idaho County</td>
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<td>Blaine, Camas, Cassia, Gooding,</td>
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<td>Twin Falls Counties</td>
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<td>Omala, Power Counties</td>
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<td>.55</td>
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<td>Clearwater, Idaho (North of the</td>
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<tr>
<td>Northern boundary of Township 29 North), Kootenai, Latah, Lewis, Nye, Pero, Shoshone Counties</td>
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<tr>
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<tr>
<td>Floor Finisher; Floor Sander</td>
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<tr>
<td>Shingler (wood and composition)</td>
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<tr>
<td>Carpenters (burned, charred,</td>
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<tr>
<td>creosoted or similarly treated</td>
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<tr>
<td>material); Boom Man</td>
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<tr>
<td>Millwrights and Machine Erect</td>
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<tr>
<td>Piledriver (creosoted material)</td>
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**Cement Masons:**

**Electricians:**

**NOTICES**

FEDERAL REGISTER, VOL. 40, NO. 91—FRIDAY, MAY 9, 1975
<table>
<thead>
<tr>
<th>DECISION NO. ID75-5056</th>
</tr>
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<tbody>
<tr>
<td><strong>ELEVATOR CONSTRUCTORS:</strong></td>
</tr>
<tr>
<td>Benewah, Bonner, Boundary, Clearwater, Idaho (North of 46th Parallel), Kootenai, Latah, Lewis, Nez Perce, Shoshone Cos.</td>
</tr>
<tr>
<td>Elevator Constructors</td>
</tr>
<tr>
<td>Elevator Constructors' Helpers (Prob.)</td>
</tr>
<tr>
<td>Elevator Constructors' Helpers (Prob.)</td>
</tr>
<tr>
<td>Remainder of Counties and Idaho County (South of 46th Parallel)</td>
</tr>
<tr>
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</tr>
<tr>
<td>Elevator Constructors' Helpers (Prob.)</td>
</tr>
<tr>
<td>Elevator Constructors' Helpers (Prob.)</td>
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<tr>
<td><strong>GLASSERS:</strong></td>
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<tr>
<td>Bonner, Boundary, Kootenai, Shoshone Counties</td>
</tr>
<tr>
<td>Benewah, Clearwater, Idaho (North of 46th Parallel), Latah, Lewis, Nez Perce Counties</td>
</tr>
<tr>
<td>Ada, Adams, Boise, Canyon, Elmore, (except Mt. Home AFB), Gem, Gooding, (Western part of County from a line running north and south through the eastern limits of Bliss), Idaho (Southern part of County from a line running east and west through the North limits of Elko County), Owyhee, Payette, Valley, Washington Counties</td>
</tr>
<tr>
<td>6.26</td>
</tr>
<tr>
<td><strong>IRONWORKERS (Ornamental-Structural-Reinforcing):</strong></td>
</tr>
<tr>
<td>IRONWORKERS (Ornamental-Structural-Reinforcing) (Cont'd):</td>
</tr>
<tr>
<td>Remaining Counties and Adams, Ada, Boise, Canyon, Elmore, Gem, Gooding, Payette, Valley, Washington and Idaho County (South of the 46th Parallel)</td>
</tr>
<tr>
<td>Ada, Adams, Boise, Canyon, Elmore, Gem, Owyhee, Payette, Valley, Washington and Idaho County (South of the 46th Parallel)</td>
</tr>
<tr>
<td>8.88</td>
</tr>
<tr>
<td><strong>LATHERS:</strong></td>
</tr>
<tr>
<td>Ada, Adams, Boise, Canyon, Elmore, Gem, Owyhee, Payette, Valley, Washington and Idaho County (South of the 46th Parallel), Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties</td>
</tr>
<tr>
<td>Ada, Adams, Boise, Canyon, Elmore, Gem, Owyhee, Payette, Valley, Washington and Idaho County (South of the 46th Parallel)</td>
</tr>
<tr>
<td>8.88</td>
</tr>
<tr>
<td><strong>MARBLE SETTERS:</strong></td>
</tr>
<tr>
<td>Clearwater, Idaho, Latah, Lewis, Nez Perce Counties</td>
</tr>
<tr>
<td>Ada, Adams, Boise, Canyon, Elmore, Gem, Owyhee, Payette, Valley, Washington Counties</td>
</tr>
<tr>
<td>Clearwater, Idaho, Latah, Lewis, Nez Perce Counties</td>
</tr>
<tr>
<td>Ada, Adams, Boise, Canyon, Elmore, Gem, Owyhee, Payette, Valley, Washington Counties</td>
</tr>
<tr>
<td>7.40</td>
</tr>
<tr>
<td><strong>PAINTERS:</strong></td>
</tr>
<tr>
<td>Bannock, Bear Lake, Bingham, Blaine, Bonneville, Butte, Camas, Caribou, Cassia, Clark, Custer, Franklin, Fremont, Gooding (except Bliss and Western 1/3 of County), Jefferson, Jerome, Lewis, Lincoln, Madison, Minidoka, Oneida, Power, Teton, Twin Falls Counties</td>
</tr>
<tr>
<td>Bannock, Bear Lake, Bingham, Blaine, Bonneville, Butte, Camas, Caribou, Cassia, Clark, Custer, Franklin, Fremont, Gooding (except Bliss and Western 1/3 of County), Jefferson, Jerome, Lewis, Lincoln, Madison, Minidoka, Oneida, Power, Teton, Twin Falls Counties</td>
</tr>
<tr>
<td>Brush, Perforators, Structural Steel; Swing Stage; Spray</td>
</tr>
<tr>
<td>6.31</td>
</tr>
<tr>
<td><strong>BARRIERS:</strong></td>
</tr>
<tr>
<td>Ada, Adams, Boise, Canyon, Elmore, (except Mt. Home AFB), Gem, Gooding, (Western 1/3 of County including Bliss), Owyhee, Payette, Idaho (North of the 46th Parallel), Valley, Washington Counties</td>
</tr>
<tr>
<td>Ada, Adams, Boise, Canyon, Elmore, (except Mt. Home AFB), Gem, Gooding, (Western 1/3 of County including Bliss), Owyhee, Payette, Idaho (North of the 46th Parallel)</td>
</tr>
<tr>
<td>7.36</td>
</tr>
<tr>
<td><strong>STEEL STRUCTURAL STEEL; SIGN PAINTERS; BAZOOKA OPERATOR:</strong></td>
</tr>
<tr>
<td>7.36</td>
</tr>
<tr>
<td>DECISION NO. ID75-5056</td>
</tr>
<tr>
<td>------------------------</td>
</tr>
<tr>
<td>PAINTERS: (Cont'd)</td>
</tr>
<tr>
<td>Spray; Sandblasting;</td>
</tr>
<tr>
<td>Toxic and Chemical</td>
</tr>
<tr>
<td>Material</td>
</tr>
<tr>
<td>Elmore (Mt. Home AFB)</td>
</tr>
<tr>
<td>Brush; Paperhangers;</td>
</tr>
<tr>
<td>Drywall</td>
</tr>
<tr>
<td>Tapers</td>
</tr>
<tr>
<td>Structural Steel;</td>
</tr>
<tr>
<td>Sign Painters</td>
</tr>
<tr>
<td>Spray Guns; Sandblasting; Put</td>
</tr>
<tr>
<td>Tenders; Application</td>
</tr>
<tr>
<td>of toxic material</td>
</tr>
<tr>
<td>Bazooka Operators</td>
</tr>
<tr>
<td>Benewah, Bonner,</td>
</tr>
<tr>
<td>Boundary, Clearwater,</td>
</tr>
<tr>
<td>Idaho (North of the</td>
</tr>
<tr>
<td>46th Parallel),</td>
</tr>
<tr>
<td>Kootenai, Latah,</td>
</tr>
<tr>
<td>Lewis, Nez Perce,</td>
</tr>
<tr>
<td>Shoshone Co. Brush</td>
</tr>
<tr>
<td>Spray; Steel; Steam</td>
</tr>
<tr>
<td>Cleaning; Rollers</td>
</tr>
<tr>
<td>(over 9&quot; or 10&quot;)</td>
</tr>
<tr>
<td>Handle; Finish</td>
</tr>
<tr>
<td>Drywall Taper</td>
</tr>
<tr>
<td>Spraying Stage and</td>
</tr>
<tr>
<td>over 30 ft. high</td>
</tr>
<tr>
<td>Bitumen; Sand Blast</td>
</tr>
<tr>
<td>Bridges; Towers;</td>
</tr>
<tr>
<td>Stacks; Stepless</td>
</tr>
<tr>
<td>Tanks on legs</td>
</tr>
<tr>
<td>Electric; TV and</td>
</tr>
<tr>
<td>Radio Transmission</td>
</tr>
<tr>
<td>Towers</td>
</tr>
<tr>
<td>FEDERAL REGISTER, VOL 40, NO. 91—FRIDAY, MAY 9, 1975</td>
</tr>
<tr>
<td>PLASTERERS:</td>
</tr>
<tr>
<td>Benewah, Bonner,</td>
</tr>
<tr>
<td>Boundary, Clearwater,</td>
</tr>
<tr>
<td>Idaho, Kootenai,</td>
</tr>
<tr>
<td>Latah, Lewis, Nez</td>
</tr>
<tr>
<td>Perce and Shoshone</td>
</tr>
<tr>
<td>Counties (remaining)</td>
</tr>
<tr>
<td>FLOODES:</td>
</tr>
<tr>
<td>Benewah, Bonner,</td>
</tr>
<tr>
<td>Boundary, Clearwater,</td>
</tr>
<tr>
<td>Idaho (North of the</td>
</tr>
<tr>
<td>46th Parallel),</td>
</tr>
<tr>
<td>Kootenai, Latah,</td>
</tr>
<tr>
<td>Lewis, Nez Perce,</td>
</tr>
<tr>
<td>and Shoshone Counties</td>
</tr>
<tr>
<td>Remaining Counties</td>
</tr>
<tr>
<td>SOFT FLOOR LAYERS:</td>
</tr>
<tr>
<td>Benewah, Bear Lake,</td>
</tr>
<tr>
<td>Bingham, Bonneville,</td>
</tr>
<tr>
<td>Butte, Caribou,</td>
</tr>
<tr>
<td>Clark, Franklin,</td>
</tr>
<tr>
<td>Fremont, Jefferson,</td>
</tr>
<tr>
<td>Madison, Oneida,</td>
</tr>
<tr>
<td>Power and Teton</td>
</tr>
<tr>
<td>Counties</td>
</tr>
<tr>
<td>8.25 .37 .35 .10</td>
</tr>
<tr>
<td>remaining</td>
</tr>
<tr>
<td>ROOFERS:</td>
</tr>
<tr>
<td>Benewah, Bonner,</td>
</tr>
<tr>
<td>Boundary, Clearwater,</td>
</tr>
<tr>
<td>Idaho, Kootenai,</td>
</tr>
<tr>
<td>Lewis, Nez Perce,</td>
</tr>
<tr>
<td>Shoshone Co. Roofers;</td>
</tr>
<tr>
<td>Kettlemens; Waterproofers</td>
</tr>
<tr>
<td>Clearwater, Idaho</td>
</tr>
<tr>
<td>(North of the 46th</td>
</tr>
<tr>
<td>Parallel), Lewis,</td>
</tr>
<tr>
<td>Nez Perce, Counties,</td>
</tr>
<tr>
<td>Roofers; Kettlemens;</td>
</tr>
<tr>
<td>Water-proofers</td>
</tr>
<tr>
<td>SHEET METAL WORKERS:</td>
</tr>
<tr>
<td>Benewah, Bonner,</td>
</tr>
<tr>
<td>Boundary, Clearwater,</td>
</tr>
<tr>
<td>Idaho, Kootenai,</td>
</tr>
<tr>
<td>Lewis, Nez Perce,</td>
</tr>
<tr>
<td>Shoshone Co.</td>
</tr>
<tr>
<td>Bannock, Bear Lake,</td>
</tr>
<tr>
<td>Bingham, Blaine,</td>
</tr>
<tr>
<td>Butte, Caribou,</td>
</tr>
<tr>
<td>Clark, Franklin,</td>
</tr>
<tr>
<td>Fremont, Jefferson,</td>
</tr>
<tr>
<td>Madison, Oneida,</td>
</tr>
<tr>
<td>Power, Teton Counties</td>
</tr>
<tr>
<td>Remaining Counties</td>
</tr>
<tr>
<td>SOFT FLOOR LAYERS:</td>
</tr>
<tr>
<td>Benewah, Bear Lake,</td>
</tr>
<tr>
<td>Bingham, Blaine,</td>
</tr>
<tr>
<td>Butte (South from a</td>
</tr>
<tr>
<td>line running east</td>
</tr>
<tr>
<td>and west thru</td>
</tr>
<tr>
<td>northern limits of</td>
</tr>
<tr>
<td>Blackfoot including</td>
</tr>
<tr>
<td>AEC Test Site),</td>
</tr>
<tr>
<td>Blaine, Butte (South</td>
</tr>
<tr>
<td>from a line running</td>
</tr>
<tr>
<td>east and west thru</td>
</tr>
<tr>
<td>northern limits of</td>
</tr>
<tr>
<td>AEC Test Site),</td>
</tr>
<tr>
<td>Bonneville (South</td>
</tr>
<tr>
<td>from a line running</td>
</tr>
<tr>
<td>east and west thru</td>
</tr>
</tbody>
</table>
DECISION NO. ID75-5056

SOFT FLOOR LAYERS: (Cont'd)
northern limits of Blackfoot),
Camas, Caribou, Cassia, Clark,
Franklin, Fremont, Gooding,
Jefferson, (that portion con-
taining AEC Test Site), Jerome,
Lemhi, Lincoln, Madison,
Minidoka, Oneida, Power, Teton,
Twin Falls Counties
Benewah, Bonner, Boundary,
Clearwater, Idaho, Kootenai,
Latah, Lewis, Nez Perce and
Shoshone Counties
Ada, Adams, Boise, Canyon,
Elmore (except Mt. Home AFB),
Gem, Gooding (Western 1/3 of
County including Bliss),
Owyhee, Payette, Idaho (South
of the 46th Parallel), Valley
and Washington Counties
6.70
7.89
Terrazzo and Tile Setters'
Helpers
Bannock, Bear Lake, Bingham,
(Southern half), Caribou,
Franklin, Owyhee, Power Counties
9.40
7.00
7.95
7.40
8.60
9.40
7.95
8.75
7.40
6.10
6.55

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. Employer credits 4% basic hourly rate of employee with over 5 years'
service, 2% basic hourly rate for 6 months to 5 years' service to
Vacation Plan. Six Paid Holidays: A through F.
b. All employees who have been employed for a period of one year shall
have two weeks vacation with pay. Also 7 paid holidays: A through F
plus Washington's Birthday.
**LINE CONSTRUCTION (AREA 1)**

- **Cable Splicers; Leadman Pole Sprayer**
  - Basic Hourly Rate: 511.12
- **Lineman; Pole Sprayer; Heavy Line Equipment Man; Certified Lineman Welder**
  - Basic Hourly Rate: 10.04
- **Tree Trimmer**
  - Basic Hourly Rate: 8.65
- **Line Equipment Man**
  - Basic Hourly Rate: 7.56
- **Head Groundman (chipper); Head Groundman; Powderman; Jackhammer Man**
  - Basic Hourly Rate: 7.12

**LINE CONSTRUCTION (AREA 2)**

- **Cable Splicers; Leadman Pole Sprayer; Heavy Line Equipment Man; Certified Lineman Welder**
  - Basic Hourly Rate: 10.04
- **Tree Trimmer**
  - Basic Hourly Rate: 8.65
- **Line Equipment Man**
  - Basic Hourly Rate: 7.56
- **Head Groundman (chipper); Head Groundman; Powderman; Jackhammer Man**
  - Basic Hourly Rate: 7.12

**LABORERS (AREA 1)**

- **GROUP 1**
  - Basic Hourly Rate: 6.85
- **GROUP 2**
  - Basic Hourly Rate: 7.00
- **GROUP 3**
  - Basic Hourly Rate: 7.10
- **GROUP 4**
  - Basic Hourly Rate: 7.15
- **GROUP 5**
  - Basic Hourly Rate: 7.20
- **GROUP 6**
  - Basic Hourly Rate: 7.25
- **GROUP 7**
  - Basic Hourly Rate: 7.30
- **GROUP 8**
  - Basic Hourly Rate: 7.35
- **GROUP 9**
  - Basic Hourly Rate: 7.40

**LABORERS (AREA 2)**

- **GROUP 1**
  - Basic Hourly Rate: 5.97
- **GROUP 2**
  - Basic Hourly Rate: 6.07
- **GROUP 3**
  - Basic Hourly Rate: 6.17
- **GROUP 4**
  - Basic Hourly Rate: 6.27
- **GROUP 5**
  - Basic Hourly Rate: 6.32
- **GROUP 6**
  - Basic Hourly Rate: 6.57
- **GROUP 7**
  - Basic Hourly Rate: 6.82

**NOTICES**

FEDERAL REGISTER, VOL. 40, NO. 91—FRIDAY, MAY 9, 1975
### Power Equipment Operators - (Area 1)

<table>
<thead>
<tr>
<th>Zone</th>
<th>Group 1</th>
<th>Group 2</th>
<th>Group 3</th>
<th>Group 4</th>
<th>Group 5</th>
<th>Group 6</th>
<th>Group 7</th>
</tr>
</thead>
<tbody>
<tr>
<td>Zone 1</td>
<td>$7.50</td>
<td>$7.80</td>
<td>$8.35</td>
<td>$8.50</td>
<td>$8.65</td>
<td>$8.90</td>
<td>$9.15</td>
</tr>
<tr>
<td>Zone 2</td>
<td>$8.00</td>
<td>$8.30</td>
<td>$8.85</td>
<td>$9.05</td>
<td>$9.15</td>
<td>$9.40</td>
<td>$9.65</td>
</tr>
<tr>
<td>Zone 3</td>
<td>$8.45</td>
<td>$8.75</td>
<td>$9.30</td>
<td>$9.45</td>
<td>$9.60</td>
<td>$9.80</td>
<td>$10.10</td>
</tr>
</tbody>
</table>

#### Fringe Benefits Payments
- H & W: 0.65
- Pension: 0.75
- Vacation: 0.03
- App. To: 0.03

**Group Information**
- **Zone 1**: Within a 15 mile radius from the City center of the following Cities: Coeur d' Alene and Lewiston, Idaho; and Spokane, Washington.
- **Zone 2**: From a 15 to 45 mile radius from the center of the above named Cities.
- **Zone 3**: Over a 45 mile radius from the center of the above named Cities.

### Power Equipment Operators - (Area 2)

<table>
<thead>
<tr>
<th>Group</th>
<th>Basic Hourly Rates</th>
<th>Fringe Benefits Payments</th>
</tr>
</thead>
</table>
| Group 1 | $7.05 | H & W: 0.50  
- Pension: 0.55  
- Vacation: 0.10 |
| Group 2 | $7.21 | H & W: 0.50  
- Pension: 0.55  
- Vacation: 0.10 |
| Group 3 | $7.53 | H & W: 0.50  
- Pension: 0.55  
- Vacation: 0.10 |
| Group 4 | $7.84 | H & W: 0.50  
- Pension: 0.55  
- Vacation: 0.10 |
| Group 5 | $8.01 | H & W: 0.50  
- Pension: 0.55  
- Vacation: 0.10 |
| Group 6 | $8.19 | H & W: 0.50  
- Pension: 0.55  
- Vacation: 0.10 |
| Group 7 | $8.33 | H & W: 0.50  
- Pension: 0.55  
- Vacation: 0.10 |
| Group 8 | $9.06 | H & W: 0.50  
- Pension: 0.55  
- Vacation: 0.10 |
| Group 9 | $9.30 | H & W: 0.50  
- Pension: 0.55  
- Vacation: 0.10 |

**Zone Information**
- **Zone 1**: Remaining Counties and that portion of Idaho County South of the 46th Parallel.

### Truck Drivers - (Area 1)

<table>
<thead>
<tr>
<th>Group</th>
<th>Basic Hourly Rates</th>
<th>Fringe Benefits Payments</th>
</tr>
</thead>
</table>
| Group 1 | $7.60 | H & W: 0.82  
- Pension: 0.65  
- Vacation: 0.15 |
| Group 2 | $7.65 | H & W: 0.82  
- Pension: 0.65  
- Vacation: 0.15 |
| Group 3 | $7.70 | H & W: 0.82  
- Pension: 0.65  
- Vacation: 0.15 |
| Group 4 | $7.80 | H & W: 0.82  
- Pension: 0.65  
- Vacation: 0.15 |
| Group 5 | $8.00 | H & W: 0.82  
- Pension: 0.65  
- Vacation: 0.15 |
| Group 6 | $8.05 | H & W: 0.82  
- Pension: 0.65  
- Vacation: 0.15 |
| Group 7 | $8.10 | H & W: 0.82  
- Pension: 0.65  
- Vacation: 0.15 |
| Group 8 | $8.15 | H & W: 0.82  
- Pension: 0.65  
- Vacation: 0.15 |
| Group 9 | $8.20 | H & W: 0.82  
- Pension: 0.65  
- Vacation: 0.15 |
| Group 10 | $8.30 | H & W: 0.82  
- Pension: 0.65  
- Vacation: 0.15 |
| Group 11 | $8.60 | H & W: 0.82  
- Pension: 0.65  
- Vacation: 0.15 |
| Group 12 | $8.75 | H & W: 0.82  
- Pension: 0.65  
- Vacation: 0.15 |
| Group 13 | $8.90 | H & W: 0.82  
- Pension: 0.65  
- Vacation: 0.15 |
| Group 14 | $9.05 | H & W: 0.82  
- Pension: 0.65  
- Vacation: 0.15 |

**Zone Information**
- **Zone 1**: Remaining Counties and that portion of Idaho County South of the 46th Parallel.

### Truck Drivers - (Area 2)

<table>
<thead>
<tr>
<th>Group</th>
<th>Basic Hourly Rates</th>
<th>Fringe Benefits Payments</th>
</tr>
</thead>
</table>
| Group 1 | $6.80 | H & W: 0.55  
- Pension: 0.55  
- Vacation: 0.15 |
| Group 2 | $6.86 | H & W: 0.55  
- Pension: 0.55  
- Vacation: 0.15 |
| Group 3 | $6.92 | H & W: 0.55  
- Pension: 0.55  
- Vacation: 0.15 |
| Group 4 | $6.98 | H & W: 0.55  
- Pension: 0.55  
- Vacation: 0.15 |
| Group 5 | $7.03 | H & W: 0.55  
- Pension: 0.55  
- Vacation: 0.15 |
| Group 6 | $7.24 | H & W: 0.55  
- Pension: 0.55  
- Vacation: 0.15 |
| Group 7 | $7.30 | H & W: 0.55  
- Pension: 0.55  
- Vacation: 0.15 |
| Group 8 | $7.36 | H & W: 0.55  
- Pension: 0.55  
- Vacation: 0.15 |
| Group 9 | $7.47 | H & W: 0.55  
- Pension: 0.55  
- Vacation: 0.15 |
| Group 10 | $7.53 | H & W: 0.55  
- Pension: 0.55  
- Vacation: 0.15 |
| Group 11 | $7.59 | H & W: 0.55  
- Pension: 0.55  
- Vacation: 0.15 |
| Group 12 | $7.65 | H & W: 0.55  
- Pension: 0.55  
- Vacation: 0.15 |
| Group 13 | $7.13 | H & W: 0.55  
- Pension: 0.55  
- Vacation: 0.15 |
| Class A | $7.24 | H & W: 0.55  
- Pension: 0.55  
- Vacation: 0.15 |
| Class B | $7.47 | H & W: 0.55  
- Pension: 0.55  
- Vacation: 0.15 |
| Class C | $7.65 | H & W: 0.55  
- Pension: 0.55  
- Vacation: 0.15 |
| Class D | $7.76 | H & W: 0.55  
- Pension: 0.55  
- Vacation: 0.15 |
| Class E | $7.88 | H & W: 0.55  
- Pension: 0.55  
- Vacation: 0.15 |
| Class F | $8.21 | H & W: 0.55  
- Pension: 0.55  
- Vacation: 0.15 |
| Class G | $8.44 | H & W: 0.55  
- Pension: 0.55  
- Vacation: 0.15 |
| Class H | $8.67 | H & W: 0.55  
- Pension: 0.55  
- Vacation: 0.15 |
| Group 14 | $8.09 | H & W: 0.55  
- Pension: 0.55  
- Vacation: 0.15 |
LABORERS: (AREA 1)

Benewah, Bonner, Boundary, Clearwater, Kootenai, Latah, Lewis, Nev. Perce, Shoshone and that portion of Idaho County North of the 46th Parallel.

Group 1: Brush Hog Feeder; Carpenter Tender; Concrete Crewman (to include stripping of forms, hand operating jacks on slip form construction, application of concrete curing compound; pumacrete machine, handling the nozzle of pumacrete on similar machine - 4" and smaller); Concrete Signalman; Crusher Feeder; Demolition (to include clean-up, burning, loading, wrecking and salvage of all material); Driller Helper; Dumpman; Fence Erector (to include guard rails, guide and reference posts, sign posts, and right of way markers); General Laborer; Grout Machine Tender; Nippers; Ripper; Man; Scaleman; Stake Jumper; Structural Mover (to include separating foundation preparation, cribbing, shoring, jacking and unloading of structures); Tailhooseman (water nozzle); Track Laborer (RR); Truck Loader; Timber; Bucker and Faller (by hand); Window Cleaner (prior to completion of construction).

Group 2: Cement Finisher Tender; Cement Handler; Demolition Torch; Dope Tenders; Form Cleaning Machine - Tender, Stacker; Form Setter, Sawing; Driller Helper (when required to move and position machine); Nozleeman, water or steam; Pipe Layer, corrugated metal culverts; Pipelayer; Pot Tender; Powderman Helper; Power Tool Operator, gas, electric, pneumatic; Sandblasting; Scaffold Erector, wood or steel; Railroad Equipment, power driven, except dual mobile power; Splicer; Puller; Rodder and Spreader; Wheelbarrow; power driven; Well-point Man; Vibrator, up to 4".

Group 3: Asphalt Raker; Asphalt Roller, walking; Chain Saw Operator with attachments; Concrete Saw Walking; Grade Checker, using level; Jackhammer Operators; Multi-section Pipe Layer; Machine (to include squeeze and flexible nozzle); Pavement Breaker; Power Buggy Operator; Railroad Power Spiker or Puller, dual mobile; Tamper (to include operation of Baron, Elras and similar tamper and pavement breakers); Trencher, Shoveling Water Pipe; Linear Wagon Drills.

Group 4: Chain Saw (fallers); Laser Beam Operator; Pipe Layer (Cable, Cablesman, Jointer, Mortarman, Rigger, Jacker, Shoter and Lagger but not including laying corrugated metal culvert pipe).

Group 5: Concrete Stack; Mortar Mixer

Group 6: Caulkman, Worker, free air; High Scaler

LABORERS: (AREA 1) (Cont'd)

Benewah, Bonner, Boundary, Clearwater, Kootenai, Latah, Lewis, Nev. Perce, Shoshone and that portion of Idaho County North of the 46th Parallel.

Group 7: Brush Machine (to include Horizontal Construction Joint Clean-up Brush Machine, power propelled); Drills (to include Down-the-hole Drills with 3½ inch piston or larger and Out-of-the-hole Drills with 4½ inch piston or larger); Demolition (to include operation of machines and personnel); Rod Carrier; Monitor Operator, Air Track or similar mounting; Nozleeman (to include Jet Blasting; Nozleeman over 1,000 pounds, Jet Blast Nipple; Vibrator, 4 inches and over.

Group 8: Air Track, Drills with Dual Masts and Drills; Powderman

TUNNEL AND SHAFT, FREE AIR

Group 9:

Class A: Bull Gang, Pump Crete Crewman including distributing pipe, assembling and dismantle and Nipper

Class B: Brakeman, Dumpman

Class C: Miner and Nozleeman for concrete and Laser Beam Operator on tunnels

Class D:Raise and Shaft Miner and Laser Beam Operator on raise and shafts

LABORERS: (AREA 2)

Remaining Counties and that portion of Idaho County South of the 46th Parallel.

Group 1: General Laborers, Sloper, Clearing and Grading; Form Striper; Concrete Crew; Concrete Curing Crew; Carpenter Tender; Asphalt Laborer; Nippers Tender; Flagman, (including Pilot Car), Watchman, Heater Tender; Stake Jumper, Choker Seter; Spreader and Weighman; Power Wheelbarrow; Scouring Concrete; Rip Rap Man (hand placed); Fence Erector and Installer - manual or mechanical (includes the installation and erection of fences, guard rails, median rails, reference posts, guide posts and right-of-way markers); Crusher Helper; Cribbing and Shoring (in open ditches); Machinery and Parts Cleaner; Leverman - manual or mechanical; Demolition - salvage; Landscape, Tool Room Man; Janitor

FEDERAL REGISTER, VOL. 40, NO. 91—FRIDAY, MAY 9, 1975
LABORERS (AREA 2) (Cont'd)

Group 1: Bit Grinders; Bolt Threading Machines; Conpressors, under 2,000 cu. ft. per minute gas; Diesel or electric power; Crusher Feeder (mechanical); Deckhand; Drillers' Helper; Firemen and Water Tender; Grade Checkers; Helper (mechanic or welder, H.D.); Oiler; Oilier and Cable Tender, Mucking Machines; Pumpmen; Rollers, all type on subgrade (farm type, Case, John Deere and similar - or computing or vibrators) except when pulled by dozer with operable blade; Steam Cleaners; Welding Machines

POWER EQUIPMENT OPERATORS (AREA 1) (Cont'd)

Group 2: A-Frame Truck (single-drum); Assistant Refrigeration Plants; Assistant Water Tender, Firemen or Pumpmen (asphalt); Bagley or Stationary Scraper; Batch Plant and Wet Mix Operator, single unit (concrete); Belt Finishing Machine; Bending Machine (pipeline); Blower Operator (cement); Cement-Hog Compressor (2,000 cu. ft. or over, or more - gas, diesel, or electric power); Concrete Saw (multiple cut); Distributor Leverman; Elevator Hoisting Materials; Epoxy Mix (power agitated); Fork Lift or Timber Stacker; Hydraulic Monitor; Hose, single drum; Loader (Bucket Elevators and Conveyors); Longitudinal Float; Mixer (portable-concrete); Pavement Breaker (Hydra-hammer and similar); Pont Hole Auger or Punch; Power Broom; Railroad Ballast Regulation Operator, (self-propelled); Railroad Power Tamper Operator, (self-propelled); Railroad Power Tamper Jack Operator, (self-propelled); Spray Curing Machine (concrete); Spreader Box (self-propelled); Straddle Buggy (Ross and similar on construction job site); Tractor (farm type 8 ft. with attachments except Backhoe); Tugger Operator; Ditch Witch or similar

Group 3: A-Frame Truck (2 or more drums); Assistant Refrigeration Plants and Lithic operator (over 2,000 tons); air compressors (Cleveland and similar); Belt-conveyor Conpressors with Power pack or similar; Belt Loaders (Kovol or similar); Bla Cid Operator; Boom Cats (side); Boring Machine (earth); Boring Machine (rock under 8" bit) (Quarry Master, Joy or similar); Bump Cutter (Wayne, Saginaw or similar); Canal Lining Machine (concrete); Chipper (without crane); Cleaning and Dopping Machine (pipeline); Concrete Pumps (squeeze-crete, flow-crete, pumpcrete, Whitman and similar); Drills (Chappo, Corvus, Calby, or Diamond); Elevating Belt-type Loader (Lucid, Barber Groves, or similar); Elevating Grab-type Loader (Crum, Adams, or similar); Equipment Serviceman, Greaser and Oilers; Generator Plant Engineers (diesel, electric); Gunite Combination Mixer and Compressor; Loader, (over 2 or more drums or tower hoist); Loaders (overhead and front-end under 4 yards, R/T); Locomotive Engineer; Mixer-mobile; Mucking Machines; Power or Carb Extruder (asphalt and concrete); Pump (Grout or Jet); Rollerman (finishing pavement); Rubber-Tired Scraper (case); Scrapers (1 or more scrapers, under 40 yards); Storm Operator; Soil Stabilizer (P & H or similar); Sprayer Machine; Tractor (Crawler, including Dozer, Scraper, Drill, Boom, Rollers, etc.); Traversing Finishing Machines; Trenching Machines (under 7 feet depth capacity); Trench Head Operator; Vacuum Drill (reverse circulation drill, under 8")
POWER EQUIPMENT OPERATORS (AREA 1) (Cont'd)

Benewah, Bonner, Boundary, Clearwater, Kootenai, Latah, Lewis, Ben
Force, Shoshone and that portion of Idaho County North of the 46th
Parallel

Group 4: Asphalt Plant Operator; Crusher, Grizzle and Screening Plant
Operator; B. D. Mechanic; H. D. Welder; Refrigeration Plant Engineer
(Under 1,000 tons); Rubber-tired Scraper, Multi-engine power, with one
scraper (Euclid, 75-24 and similar); Rubber-tired Scrapers, one motor
with one scraper (40 yards and over); Surface Heater and Planer Machine;
Turnhead (with re-screening);

Group 5: Automatic Subgrader (Ditches and trimmers) (Autograde, ABC, R.A.
Hansen and similar on grade work); Backhoes (under 3 yards); Earth and
Wet Mix Operator - multiple units (2 and including 4); Chipper (with
crane); Clamshell Operator (under 3 yards); Concrete Slip Form Paver;
Crane, all - 45 tons (under 45 tons); Derrick and Stifflegs (under 45 tons);
Draglines (under 3 yards); Drilling Equipment (60' bit and over) (Robbins'
Reverse Circulation and similar); Loader Operator (Front end and Over-
head 4 yards to 6 yards); Pile driving Engineers; Paver (Dual drum);
Quad-track or similar equipment; Railroad Track Liner Operator (self-
propelled); Rubber-tired Scrapers, multi-engine, power with one scraper
(Euclid, 75-24 and similar); Push Pull or Help Mate in use; Rubber-
tired Scrapers, multiple engines with two scrapers; Shovels (under 3
yards); Refrigeration Plant engineer (4,000 tons and over); Signalmen
(Whirleys, Highline Hammerheads or similar); Trenching Machines (7 feet
depth and over); Multiple Doser units with single blade;

Group 6: Backhoes (3 yards and over); Batch Plant (over 4 units); Cable-
way Controllers - Dispatcher; Cableway Operator; Clamshell Operator (3
yards and over); Cranes, all - 65 tons and over; Derrick and Stifflegs
(65 tons and over); Draglines (3 yards and over); Elevating Belt (Holland
type); Loader (180 degrees revolving Koehring Scoop or similar); Loaders
(overhead and front-end over 8 to 12 yards); Rubber-tired Scrapers (mul-
tiple engines with three or more scrapers); Shovels (3 yards and over);
Tower Cranes; Whirleys and Hammerheads (All)

Group 7: Helicopter Pilot; Loaders (overhead and front-end - Over 12 yards)

POWER EQUIPMENT OPERATORS (AREA 2)

Remaining Counties and that portion of Idaho County, South of the 46th
Parallel

Group 1: Brakemen; Crusher; Plant Feeder (mechanical); Deckhand; Drill
Helpers; Grade Checkers; Heater Tender; Land Plane; Oilers; Pumpman;
Rear Chainman

Group 2: Air Compressor, Assistant Refrigeration Plant Operator, Bell
Boy, Bit Grinder Operator, Blower Operator (cement), Bolt Threader Ma-
chine Operator, Bronn, Cement Bag, Concrete Mixer, Concrete Saw - Mul-
tiple Cut, Dicing - Sawing or Machine cutting (regardless of motive power);
Dishruber Levermore, Drill Steel Threading Machine Operator, Fireman - All,
Heavy Duty Mechanic Helper or Welder Helper, Head Chainman, Hoist
- single drum, Hydraulic Monitor Operator - skid mounted, Oilers (single
piece of equipment), Pugmiller - Box or Screw Operator, Spray Curing
Machine, Tractor - Rubber Tired Farm type using attachments

Group 3: A-Frame Truck (Hydra Lift, Swedish Cranes, Boss Carrier,
Hyster on construction jobs), Battery Tunnel Locomotive, Belt Finishing
Machine, Cable Tenders (Underground), Chip Spreader Machine (self-
propelled), Roist - 2 or more drums or Tower Hoist, Hydralift - Pick
Lift and similar (when hoisting), Oilers (Underground), Power Loader
(Bucket Elevator, Conveyors), Rodman, Road Roller (regardless of motive
power);

Group 4: Boring Machine (Earth or Rock) Quarrymaster - Joy - Tractor
mounted, Drills; Churn - Core - Calyx or Diamond, Front End and Over-
head Loaders and similar Machines - (up to and including 4 yards) -
(Rubber-tired), Coop Pump, Hydraulic Engine, Longitudinal Float (single
Machines, Mixermobile, Spreader Machine, Tractor - Rubber-tired - using Backhoe, Transverse Finishing Machine, Trenching Machines, Waggoer Compactors and similar, Asphalt Spreaders

Group 5: Concrete Plant Operator, Concrete Road Paver (Dual), Elevating
Grader Operator, Rubber Elevating Loader, Generator Plant Operator-
Mechanical (Diesel Electric), Post Hole Auger or Punch Operator, Power
Shovels and Draglines - under 1 yard, Pumpcrete, Refrigeration Plant
Operator, Road Roller (Finishing High Type Pavement), Skidder - Rubber-
tired, Sub Grader, Multiple Station Beltline Operator (Teton Dam Project
only); Service Oilers

Group 6: Asphalt Pavers - self-propelled, Asphalt Plant Operator, Blade
Operator (Motor Patrol), Concrete Slip Form Paver, Cranes - up to and
Including 30 tons, Crusher Plant Operator, Derrick Operator, Drilling
Equipment (Bit under 8 inches) (Robbins Reverse Circulation and similar),
Front End and Overhead Loaders and similar Machines - (over 4 yards to
and including 7 yards), Koehring Stoopler, Heavy Duty Mechanic or Welder,
Muckin Machine (Underground), Mobile Concrete Plant Operator, Power
Shovels and Draglines, Elevating Loader, Generator Plant Operator - (Over
1,000 tons), Trimmer Machine Operator, Tournapull - Euclid and similar - to
and including 40 yards
### POWER EQUIPMENT OPERATORS (AREA 2) (Cont’d)

Remaining Counties and that portion of Idaho County South of the 46th Parallel

**Group 7:** Cableway Operator, Continuous Excavator (Barber Greene Wl-50), Cranes - over 50 ton, Dredging Equipment (6ft 4 inches and over), Pile Drader - O.E. or Equivalent, Front End and Overhead Loaders and similar Machines - (over 7 yards), Power Shovels and Draglines over 3-1/2 yards, Quad type Tractors with all attachments, Tournapulls - Euclid and similar - over 60 yards to and including 90 yards, Multiple Scraper Units.

**Group 8:** Tournapulls - Euclid and similar - over 50 yards to and including 75 yards

**Group 9:** Tournapulls - Euclid and similar - over 75 yards to and including 100 yards

**Group 10:** Tournapulls - Euclid and similar - over 100 yards

### TRUCK DRIVERS (AREA 1)

Benewah, Bonner, Boundary, Clearwater, Kootenai, Latah, Lewis, Nez Perce, Shoshone and that portion of Idaho County North of the 46th Parallel

**Group 1:** Flat Bed Truck, single rear axle; Escort Driver; Fish Truck; Fork Lift, 3,000 pounds and under; Fuel Truck Driver (Steam Cleaner and Washer); Chopper and Sweeper; Leverperson loading trucks at bunks; Pickup hauling materials; Seeders and Mulchers; Stationary Fuel Operator; Team Driver; Tractor (small rubber tired pulling trailer or similar equipment); Water Tank Truck 1,000 gallons.

**Group 2:** Bus Driver or Employee haul Driver; Flat bed truck, dual rear axle; Power Boat hauling employees or material; Tieperson No. 1; Warehouseperson

**Group 3:** Buggy Mobile and similar; Bulk Cement Tanker; Oil Tank Driver; Power Operated Sweeper; Sand-trailer; Low bed, truck and trailer; Straddle Carrier (Ross Hyster and similar); Transit Mixers and trucks hauling concrete (3 yards and under); Trucks, side, end, and bottom dump (under 6 yards); Water tank truck (1,001 - 4,000 gallons)

**Group 4:** Auto-Crane - 2,000 pounds capacity; Bulk Cement Spreader; Dumptor (6 yards and under); Flaherty Spreader, Bow Driver; Flat bed truck (using power take off); Fork Lift (over 3,000 pounds); Oil Distributor Driver (road, boyperson, tieperson helper); Rebuilt tunnel jumbo; Scissors; Slurry Truck Driver; Transit mixers and trucks hauling concrete (over 3 yards to 6 yards); Water tank truck (4,001 - 6,000 gallons); Wrecker and tow trucks

**Group 5:** Low Boy (under 50 tons); Service Greaser; Tieperson No. 2; Truck, side, end, and bottom dump (over 6 yards to 12 yards)

**Group 6:** A-Frame (Swedish Crane, Iowa 3,000, Hydrolift); Water tank truck (over 6,001 - 8,000 gallons)

**Group 7:** Dumptor (over 6 yards); Transit mixers and trucks hauling concrete (6 yards to 10 yards); Trucks, side, end, and bottom dump (over 12 yards including 20 yards)

**Group 8:** Low Boy (over 50 tons); Water tank truck (8,001 - 10,000 gallons)

**Group 9:** Transit mixers and trucks hauling concrete, (10 yards to 15 yards); Trucks, side, end and bottom dump (over 20 yards including 30 yards); Water tank truck (10,001 - 12,000 gallons)

**Group 10:** Mechanic, field

**Group 11:** Tournapullers, B.W.'s and similar, with 2 or 4 wheel power tractor with trailer, gallonage or yardage scale, which is greater; Transit Mixers and Trucks hauling concrete (20 yards to 30 yards); Trucks, side, end and bottom dump (over 20 yards to 40 yards); Water tank truck (12,001 - 14,000 gallons)

**Group 12:** Transit mixers and trucks hauling concrete (over 20 yards); Trucks, side, end and bottom dump (over 40 yards to 60 yards)

**Group 13:** Truck, side, end and bottom dumps (over 50 yards to 100 yards)
### TRUCK DRIVERS (AREA 1) (Cont'd)

- Benewah, Bonner, Boundary, Clearwater, Kootenai, Latah, Lewis, Nez Perce, Shoshone and that portion of Idaho County North of the 46th Parallel

#### Group 14: Helicopter Pilot hauling employees or material; Trucks, side, end and bottom dump (over 100 yards)

#### TRUCK DRIVERS (AREA 2)

- Remaining Counties and that portion of Idaho County South of the 46th Parallel

#### Group 1: Leverman loading at bunkers; Pilot Car or Escort Driver

#### Group 2: Flat bed - 2 axle and pickup hauling material; Water tank truck (1,800 gallons and under)

#### Group 3: Flat bed - 3 axle, fuel truck (1,000 gallons and under); Greaser; Tireman; Serviceman; Buggymobile; Man haul (Shuttle truck or bus)

#### Group 4: Transit mix truck - 3 yds. and under; Warehouseman; Truck helpers; Slurry or concrete pumping truck

#### Group 5: Flat bed using power takeoff; Water tank truck (over 1,800 - 4,000 gallons); Semi-trailer - Low boy - up to 96,000 lbs. GVW; Bulk cement tanker - up to 96,000 lbs. GVW; Fork lift - over 3,000 lbs.; Hydro lift; Ross, Hyster and similar straddle equipment; A-Frame truck (Swedish Crane, Iowa 3,000, Hydro-lift)

#### Group 6: Transit mix truck, over 3 yds. - 6 yds.

#### Group 7: Water tank truck - over 4,000 gallons; Fuel truck - over 1,000 gallons; Distributor or spreader truck

#### TRUCK DRIVERS (AREA 2) (Cont'd)

- Remaining Counties and that portion of Idaho County South of the 46th Parallel

#### Group 13:

- Truck - side, end and bottom dump
  - Class A: 6 yds. and under
  - Class B: Over 6 yds. - including 12 yds.
  - Class C: Over 12 yds. - including 20 yds.
  - Class D: Over 20 yds. - including 30 yds.
  - Class E: Over 30 yds. - including 40 yds.
  - Class F: Over 40 yds. - including 50 yds.
  - Class G: Over 50 yds. - including 75 yds.
  - Class H: Over 75 yds. - including 100 yds.

#### Group 14: Truck mechanic
**SUPERSEDA DECISION**

**STATE:** Massachusetts  
**COUNTY:** Barnstable  
**DECISION NO.:** MA75-2069  
**DATE:** Date of Publication

Supersedes Decision No. MA75-2002, dated January 17, 1975 in 40 FR 3095

Description of Work:  
- Building Construction (excluding single family homes and garden type apartments up to and including 4 stories), heavy construction and marine construction

### BUILDING, HEAVY AND HIGHWAY CONSTRUCTION

<table>
<thead>
<tr>
<th>DESCRIPTION OF WORK</th>
<th>Hourly Rates</th>
<th>Fringe Benefits Payments</th>
</tr>
</thead>
<tbody>
<tr>
<td>ASBESTOS WORKERS:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Nassau, Bourne, Palms, Mashpee, &amp; Barnstable</td>
<td>$9.32</td>
<td>$.71</td>
</tr>
<tr>
<td>Remainder of County</td>
<td>$9.66</td>
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<tr>
<td>BRICKLAYERS; Cement masons; Cement finishers; Plasterers; Stone-masons</td>
<td>$10.00</td>
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<tr>
<td>CARRIERS: Soft floor layers</td>
<td>$8.75</td>
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<tr>
<td>ELECTRICIANS:</td>
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<tr>
<td>Electrical contracts over $10,000.00</td>
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<td>$.30</td>
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<tr>
<td>Electrical contracts under $10,000.00</td>
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<tr>
<td>ELEVATOR CONSTRUCTORS' HELPFERS</td>
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<tr>
<td>ELEVATOR CONSTRUCTORS' HELPFERS (PR0B.)</td>
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<td>$.15</td>
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<td>GLAZIERS</td>
<td>$8.68</td>
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<tr>
<td>HOUSEMEN</td>
<td>$8.73</td>
<td>$.55</td>
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<tr>
<td>LABORERS (BUILDING):</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Laborers; Carpenter tenders; Cement finisher tenders; Wrecking laborers</td>
<td>$7.00</td>
<td>$.50</td>
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<tr>
<td>Backhoe operator; Pavement breakers; Wagon driller; Asphault makers; Car bile, core drilling machine, Chain saw op.; Pilelayer; Barrow type spading tampers; Laser beam; Concrete pump; Mason tenders; Mortar mixers; Rile-ens motorised buoy</td>
<td>$7.25</td>
<td>$.50</td>
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<tr>
<td>Air tracks; Block pavers; Plumbers; Curb setters</td>
<td>$7.50</td>
<td>$.50</td>
</tr>
<tr>
<td>Electricians; Preservers</td>
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<td>$.50</td>
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<tr>
<td>Open air caisson Cylindrical work &amp; boring crew</td>
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<tr>
<td>Laborers Top man</td>
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<td>$.50</td>
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<td>Helpers Top man</td>
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<td>Bottles man</td>
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<tr>
<td>Driller</td>
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<td>MATTRESS</td>
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<tr>
<td>LEATHERS</td>
<td>$9.05</td>
<td>$.15</td>
</tr>
</tbody>
</table>

**PAID HOLIDAYS:**  
A, New Year's Day; B, Memorial Day; C, Independence Day; D, Labor Day; E, Thanksgiving Day; F, Christmas Day

**FOOTNOTES:**

- Employer contributes $1.00 per journeymen Electrician per week
- Employer contributes 50¢ of basic hourly rate for 5 years or more of service of 25¢ basic hourly rate for 6 months to 5 years' service as vacation pay credit.
- 6 paid holidays: A through F.
- 9 paid holidays: A through F, Washington's Birthday, Good Friday and Christmas Eve, provided the employee has worked 15 days during 120 calendar days prior to the holiday & the regular scheduled days immediately preceding and following the holiday.
- 7 paid holidays: A through F, & Bunker Hill Day, provided the employee has been employed 10 working days prior to the holiday.
MASS-1 - 2-3 L

HEAVY & HIGHWAY CONSTRUCTION

LABORERS:

<table>
<thead>
<tr>
<th></th>
<th>Basic Hourly Rates</th>
<th>Fringe Benefits Payments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Class I</td>
<td>$7.00</td>
<td>.50 .45 .10</td>
</tr>
<tr>
<td>Class II</td>
<td>$7.25</td>
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</tr>
<tr>
<td>Class III</td>
<td>$7.50</td>
<td>.50 .45 .10</td>
</tr>
<tr>
<td>Class IV</td>
<td>$7.75</td>
<td>.50 .45 .10</td>
</tr>
</tbody>
</table>

CLASSIFICATIONS:

CLASS I
Carpenter tenders, cement finisher tenders, laborers, wrecking laborers

CLASS II
Asphalt rakers, fence and guard rail erectors, laser beam op., mason tender, pipelayer, pneumatic drill op., pneumatic tool op., wagon drill op.

CLASS III
Air track op., block pavers, rammers, curb setters

CLASS IV
Blasters, powdermen

BUILDING CONSTRUCTION

Power Equipment Operators:

<table>
<thead>
<tr>
<th></th>
<th>Basic Hourly Rates</th>
<th>Fringe Benefits Payments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Class I</td>
<td>$10.36</td>
<td>.75 .65 .02</td>
</tr>
<tr>
<td>Class II</td>
<td>$10.24</td>
<td>.75 .65 .02</td>
</tr>
<tr>
<td>Class III</td>
<td>$8.65</td>
<td>.75 .65 .02</td>
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<tr>
<td>Class IV</td>
<td>$9.44</td>
<td>.75 .65 .02</td>
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<tr>
<td>Class V</td>
<td>$7.66</td>
<td>.75 .65 .02</td>
</tr>
<tr>
<td>Class VI</td>
<td>$8.12</td>
<td>.75 .65 .02</td>
</tr>
</tbody>
</table>

CLASSIFICATIONS

CLASS I
Cranes, shovels, truck cranes, cherry pickers, draglines, trench hoes, graders, three from machines, dozers, pile drivers, elevator towers, hoists, operating, shovel operators, block men, laborers, packers, drivers, pourers, laying machines, rotary drills, post hole hammers, post hole diggers, pumps or machines, asphalt plant (on site), concrete batching and/or mixing plant (on site), crusher plant (on site), paving concrete mixers, timber jacks

CLASS II
Boom over 50' including 35' - additional $1.35 per hour; Boom over 185' including 125' - additional $1.70 per hour; Boom over 210' including 125' - additional $2.00 per hour; Boom over 250' including 185' - additional $2.25 per hour; Boom over 295' including 210' - additional $2.50 per hour; Boom over 395' including 295' - additional $3.00 per hour; Boom over 495' including 395' - additional $3.50 per hour; Cabs or vibratory hammers, graders, scrapers, tandem scrapers, concrete pumps, bulldozers, graders, corn pickers, portable steam boilers, portable steam generators, rollers, graders, tampers (self propelled or tractor drawn), asphalt pumps, mechanics maintenance, paving screw machines, stationary steam boilers, paving concrete finishing machines, oil trucks, ballast regulators, switch tampers, rail anchor machinery, tire trucks (when operated by the employer on the job site)

CLASS III
Pumps (1-5) grouped, compressors, welding machines (1-5) grouped, generators, concrete vibrators, lighting plants, heaters (power driven 1-5), well-point systems (operating and installing), air pumps, electric pumps, concrete mixers, valves controlling permanent plant air or steam, conveyors, Jackson type tampers, single disphragm pump, lighting plants

CLASS IV
Assistant engineers (fitters)

CLASS V
Oilers and apprentices (other than truck cranes and gradalls)

CLASS VI
Oilers and apprentices on truck cranes and gradalls

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
### HEAVY & HIGHWAY CONSTRUCTION

#### POWER EQUIPMENT OPERATORS

<table>
<thead>
<tr>
<th>Group</th>
<th>Description</th>
<th>Premiums</th>
<th>Fringe Benefits Payments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Group 1</td>
<td>Hourly premium for boom lengths including Jib:</td>
<td>$10.36</td>
<td>.75 .65 a .02</td>
</tr>
<tr>
<td>Group 2</td>
<td>Over 130 feet + .85</td>
<td>8.65</td>
<td>.75 .65 a .02</td>
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<tr>
<td>Group 3</td>
<td>Over 185 feet + .80</td>
<td>9.44</td>
<td>.75 .65 a .02</td>
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<tr>
<td>Group 4</td>
<td>Over 210 feet + 1.15</td>
<td>7.66</td>
<td>.75 .65 a .02</td>
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<tr>
<td>Group 5</td>
<td>Over 250 feet + 1.75</td>
<td>9.41</td>
<td>.75 .65 a .02</td>
</tr>
<tr>
<td>Group 6</td>
<td>Over 295 feet + 2.50</td>
<td>8.55</td>
<td>.75 .65 a .02</td>
</tr>
</tbody>
</table>

#### FOOTNOTES:

#### CLASSIFICATIONS:

**GROUP 1**

**GROUP 2**
- Boom or Vibratory Hammers, Graders, Scrapers, Tanden Scrapers, Bulldozers, Tractors, Mechanical Maintenance, Fork Daters, Telephonic Machines, Paving Steam Boilers, Paving Concrete Finishing Machines, Grout Pumps, Portable Steam Boilers, Portable Steam Generators, Rollers, Sprayers, Asphalt Finishers, Locators or Machines used in Place Thoading, Sprayers, Self Propelled or Tractor Driven, Car Tracks, Bell Tracks, Ballast Regulators, Rail Anchor Machines, Switch Tamper.

**GROUP 3**
- Pump (1-3 grouped), Compressors, Welding Machine (1-3 grouped), Generators, Lighting Fixtures, Heaters (Poker Driven) (1-3), Syphon-Plastic Machines, Concrete Mixers, Valves Controlling Permanent Plant Air Steam, Telemeters, Telemeter, Telemeter Systems (Operating and Installing).

**GROUP 4**
- Assistant Engineers (Priceman).

**GROUP 5**
- Others (other than truck cranes & gradalls).

**GROUP 6**
- Others (on truck cranes & gradalls).

#### HEAVY AND HIGHWAY CONSTRUCTION

- Station wagons, panel trucks and pickup trucks.
- Two axle equipment: helpers on low bed when assigned at the discretion of the employer, warehousemen, forklift operators.
- Three axle equipment and tiremen.
- Four and five axle equipment.
- Specialized earth moving equipment over 35 tons other than conventional type trucks, low bed, vachtum, mechanics, paving restoration equipment, Mechanics.
- Specialized earth moving equipment over 35 tons.
- Trailers for earth moving equipment, (double hookup) a. One half day's pay each month in which an employee has worked 15 days provided he has been employed for 4 months.
- Holidays: A through F, Washington's Birthday, Columbus Day, Veteran's Day, and Patriot's Day, provided an employee works two days of the calendar week in which the holiday falls.
<table>
<thead>
<tr>
<th>Classifications</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>GROUP I</strong> Shovels, cranes, truck cranes, cherry pickers, derricks, pile drivers, two or more drum machines, lighters, derricks boats, trenching machines, mechanical hoist pavement breakers, cement concrete pavers, draglines, hoisting engines, pumpcrete machines, elevating graders, shovel dozers, front end loaders, backhoes, gradalls, cable ways, boring machines, rotary drills, post hole hammers, post hole diggers, fork lifts, timber jacks, asphalt plant (on site), concrete batching &amp;/or mixing plant (on site), crusher plant, (on site), paving concrete mixers; Booms over 150' including jib - additional $.35 per hour; Booms over 185' including jib - additional $.70 per hour; Booms over 210' including jib - additional $1.00 per hour; Booms over 250' including jib - additional $1.50 per hour; Booms over 255' including jib - additional $2.00 per hour</td>
</tr>
<tr>
<td><strong>GROUP II</strong> Master Mechanic</td>
</tr>
<tr>
<td><strong>GROUP III</strong> Swinger Engines</td>
</tr>
<tr>
<td><strong>GROUP IV</strong> Portable steam boilers, portable steam generators, sonic or vibratory hammers, graders, scrapers, tandem scrapers, concrete pumps, bulldozers, tractors, york rakes, mulching machines, rollers, spreaders, tampers self-propelled or tractor drawn, asphalt pavers, concrete pumps, bulldozers, gradalls, cable ways, elevating graders, shovel dozers, front end loaders, backhoes, gradalls, trenching machines, mechanical hoist pavement breakers, cement concrete pavers, draglines, hoisting engines, pumpcrete machines, elevating graders, shovel dozers, front end loaders, backhoes, gradalls, cable ways, boring machines, rotary drills, post hole hammers, post hole diggers, fork lifts, timber jacks, asphalt plant (on site), concrete batching &amp;/or mixing plant (on site), crusher plant, (on site), paving concrete mixers; Booms over 150' including jib - additional $.35 per hour; Booms over 185' including jib - additional $.70 per hour; Booms over 210' including jib - additional $1.00 per hour; Booms over 250' including jib - additional $1.50 per hour; Booms over 255' including jib - additional $2.00 per hour</td>
</tr>
<tr>
<td><strong>GROUP V</strong> Assistant engineers (firemen)</td>
</tr>
<tr>
<td><strong>GROUP VI</strong> Oilers and apprentices (other than truck cranes and gradalls)</td>
</tr>
<tr>
<td><strong>GROUP VII</strong> Oilers and apprentices on truck cranes and gradalls</td>
</tr>
<tr>
<td><strong>GROUP VIII</strong> Oilers on scows</td>
</tr>
<tr>
<td><strong>GROUP IX</strong> Ice crates</td>
</tr>
</tbody>
</table>

**Paid Holidays:**
- New Year's Day
- Memorial Day
- Independence Day
- Labor Day
- Thanksgiving Day
- Christmas Day

**Footnote:**
- No paid holidays: A through F: Washington's Birthday; Fatcaps' Day; Columbus Day; A Veteran's Day.
<table>
<thead>
<tr>
<th>Occupation</th>
<th>Basic Rate</th>
<th>Hourly</th>
<th>Monthly</th>
<th>Pension</th>
<th>Vacation</th>
<th>Appr. Tr.</th>
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<tbody>
<tr>
<td>Asbestos workers</td>
<td>9.50</td>
<td>.45</td>
<td>.69</td>
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</tr>
<tr>
<td>Boilermakers</td>
<td>10.00</td>
<td>.46</td>
<td>.70</td>
<td>.10%</td>
<td>.01</td>
<td></td>
</tr>
<tr>
<td>Bricklayers, cement masons, marble masons, pavers, stone masons, terraces workers and tile setters:</td>
<td>8.00</td>
<td>.50</td>
<td>.65</td>
<td>.10%</td>
<td>.01</td>
<td></td>
</tr>
<tr>
<td>Tyre. Adams, H. Adams, Cheshire, Florida, Savoy, Clarksburg and Williamstown</td>
<td>9.60</td>
<td>.55</td>
<td>.75</td>
<td>.10%</td>
<td>.01</td>
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<tr>
<td>Typcs. of Becket, Otis and Sandisfield</td>
<td>9.55</td>
<td>.55</td>
<td>.75</td>
<td>.10%</td>
<td>.01</td>
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<tr>
<td>Carpenters &amp; Soft floor layers: M. Adams, Clarksburg, Savoy, Florida, Adams and Williamstown:</td>
<td>8.00</td>
<td>.50</td>
<td>.65</td>
<td>.10%</td>
<td>.01</td>
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<tr>
<td>Remainder of County</td>
<td>8.50</td>
<td>.56</td>
<td>.70</td>
<td>.10%</td>
<td>.01</td>
<td>.02</td>
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<tr>
<td>Electrical</td>
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<td>.45</td>
<td>.65</td>
<td>.10%</td>
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<tr>
<td>Elevator Constructors</td>
<td>9.50</td>
<td>.45</td>
<td>.65</td>
<td>.10%</td>
<td>.01</td>
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<tr>
<td>Elevator Constructors' helpers</td>
<td>7.00</td>
<td>.25</td>
<td>.45</td>
<td>.10%</td>
<td>.01</td>
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<tr>
<td>Elevator Constructors' chapers (Prob.)</td>
<td>7.00</td>
<td>.25</td>
<td>.45</td>
<td>.10%</td>
<td>.01</td>
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<tr>
<td>Ironworkers, structural, ornamental and reinforcing</td>
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<td>.65</td>
<td>.10%</td>
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<td>Laborers (Building):</td>
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<td>.65</td>
<td>.10%</td>
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<td>.02</td>
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<tr>
<td>Laborers, carpenter tenders, cement finisher tender, &amp; wrecking laborers</td>
<td>7.00</td>
<td>.50</td>
<td>.65</td>
<td>.10%</td>
<td>.01</td>
<td></td>
</tr>
<tr>
<td>Jackhammer ops, pavement breakers, wagon drills, asphalt rakers, carbide core drilling machines, chain saw ops, piddles, barrow type jumping tampers, laser beam ops, concrete pump ops, masons, tenders, motor miners, ride-on motorized buggy</td>
<td>7.25</td>
<td>.50</td>
<td>.65</td>
<td>.10%</td>
<td>.01</td>
<td></td>
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<tr>
<td>Air track; block paving; rammers, curb setters</td>
<td>7.40</td>
<td>.50</td>
<td>.65</td>
<td>.10%</td>
<td>.01</td>
<td></td>
</tr>
<tr>
<td>Blasters, powdersmores</td>
<td>7.50</td>
<td>.50</td>
<td>.65</td>
<td>.10%</td>
<td>.01</td>
<td></td>
</tr>
<tr>
<td>Laborers</td>
<td>8.45</td>
<td>.45</td>
<td>.65</td>
<td>.10%</td>
<td>.01</td>
<td></td>
</tr>
<tr>
<td>Lead burners</td>
<td>9.45</td>
<td>.45</td>
<td>.65</td>
<td>.10%</td>
<td>.01</td>
<td></td>
</tr>
</tbody>
</table>

Note: The rates are for the period ending May 9, 1975.
PAID HOLIDAYS

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:

a. Employer contributes 1/4% of basic hourly rate for 5 years or more of service or 2/4% of basic hourly rate for 6 months to 5 years of service as vacation pay credit.

b. Holidays: A through F

c. Holidays: A through F, Washington's Birthday, Good Friday and Christmas Eve providing employee has worked 1/2 full days during the 120 calendar days prior to the holiday and the regular scheduled work days immediately preceding and following the holiday.

d. Holidays: A through F, plus Good Friday, Veterans' Day, Washington's Birthday, and Columbus Day

e. Employer contribution of $1.00 per hour to a savings fund.

f. Paid Holidays: A through F, Washington's Birthday, and Patriots Day providing employee has worked for a period of five (5) working days prior to the holiday and the regular scheduled work days immediately preceding and following the holiday. There is also one floating holiday per year.

g. July 4th provided worker is employed 7 days prior to holiday.

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**Building Construction**

**Power Equipment Operators**

| Shovels, Cranes, Hydraulic Cranes, 10 ton capacity or over, Draglines, Derrick, Elevators with Chicago Boom | $8.60 |
| Shovels, Graders, Elevators, Pile Driving Rigs, Concrete Road Pavers, three drum Hoisting and Trenching Machines, Lift-type Loaders, Front End Loaders-21 yards or over, Dual Drum Pavers, Automatic Grader (i.e., C.M.I.) Combination Back Hoe-Loader-3/4 yard hoe or over. | $8.10 |
| Combination Backhoe-Loader-up to 3/4 yard hoe, Bulldozers, Push Cats, Scrapers-up to 21 yards (struck load) | $7.00 |
| self propelled or tractor drawn, Firemen, Front End Loaders-up to 4 yards, two Drum Hoists, High Fork Lifts with capacity of 15 feet and over, Scrapers-21 yards and over (struck load), Sonic Hammer Console. | .70 |
| Combination Backhoe-Loader-up to 3/4 yard hoe, Bulldozers, Push Cats, Scrapers-up to 21 yards (struck load) | $7.00 |
| self propelled or tractor driven, Fireman, Front End Loaders-up to 4 yards, two Drum Hoists, Mechanics, Welders, Pumcrete Maschines, Concrete Pumps, and similar type pumps, Engineer or Fireman on High Pressure Boiler (on job), Self-Loading Batch Plant, Well Point System, Electric Pumps used in Well Point System, Pumps-12 inches and over (total discharge), Compressor (one or two) 900 cu. ft. and over, Powered Gravel Truck, Automatic Elevators, (manually or remote controls), Crout Pumps, Boom Truck, Hydraulic Crane-under 10 ton. | .70 |
| Asphalt Rollers-under 10 ton. | .70 |
### BUILDING CONSTRUCTION
**POWER EQUIPMENT OPERATORS (cont'd.)**

<table>
<thead>
<tr>
<th>Basic</th>
<th>Hourly Rates</th>
<th>Fridge Benefits Payments</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

- Single Drum Hoist, Self-Propelled Poller, Self-Propelled Compactors, Power Pavement Breakers, Concrete Pavement Finishing Machines, Two Bag Mixers with Skip, McCarthy and similar drills, Batch Plants (not self-loading), Bulk Cement Plants, Self-Propelled Material Spreaders, A Frame Trucks, Fork Lifts up to 15 feet.

- Compressors (one or two) 315 cu. ft. to 900 cu. ft., Pumps 4 inches to 12 inches (total discharge), Tractor (without blade or bucket) Drawing Rollers, Rubber Tire Roller, Compactors or other machines used for pulverizing, Grading or Seeding.

- Compressors (up to 315 cu. ft.), Small Mixers, Pumps (up to 4 inches), Power Heaters, Welding Machines, Conveyors, Oilers, Helpers on Grease Truck and Grease Trucks with hand greasing equipment.

- **PAID HOLIDAYS:**

- **Footnotes:**

### POWER EQUIPMENT OPERATORS:

<table>
<thead>
<tr>
<th>Basic</th>
<th>Hourly Rates</th>
<th>Fridge Benefits Payments</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

- Shovels, Crawler and Truck Cranes, Derrick, Backhoes, Trenching Machines, Elevating Graders, Self-Propelled Graders, Pipe Jacks, Concrete Pavers, on site Processing Plant, (Engineer in charge), Fracline, Clem Shell, Cables, Shaft Hoists, Nocking Machines, Front End Loaders, Tread Lifters in Tandem, Hydraulic Cranes, Self-propelled Hydraulic Cranes, 10 tons and over, Dual Pavers, Automatic Grader-Excavator (C.M.I. or equal), Scraper towing pan or wagon, Tandem Dozers or Push Cats (2 units in tandem), Sledger using semi-automative Welding Machine.

- Shotcrete Machine, Tunnel Boring Machines.

- Rotary Drill (with mounted Compressor), Compressor House (3 to 6 Compressors), Tanks and Pumps, Welding Machines (excluding McCarthy and similar drills), Grader, Front End Loaders up to 5 yards, Scraper-21 yards and over (struck load), Forklift-7 ft. lift and over or 3 ton capacity and over, Scoop Loader Console.

- Bulldozers, Push Cats, Scraper up to 21 yards (struck load) self-propelled or Tractor Drawn, Self-Propelled Asphalt Paver, Front End Loaders up to 4 yards, Mechanics, Welders, Wall Driller, Pumpscrete Machine, Engineers on Fireman on High Pressure Boiler, Elevator, Self-Loading Batch Plant (on job), Pump 16 inches or over total discharge, Compressors (1 or 2) 900 cu. ft. and over, Rooster Cranes, Asphalt Roller-10 ton and over, Tunnel Locomotives, Ladder, Cram Pumps, Hydraulic Jacks (jacking pipe, slip forms, etc.), Hoist Trucks, Self-Propelled Concrete Pump, 10 tons and over, Hydraulic Crane up to 10 tons.

- Asphalt Roller-up to 10 ton.

---

**NOTICES**

FEDERAL REGISTER, VOL. 60, NO. 91—FRIDAY, MAY 9, 1975
### POWER EQUIPMENT OPERATORS:

<table>
<thead>
<tr>
<th>Hourly Rates</th>
<th>M.W.</th>
<th>Penalties</th>
<th>Vacation</th>
<th>Abs.</th>
<th>Tu.</th>
<th>Others</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

- Hoists, Conveyors, Self-powered Rollers and Compactors, Power Pavement Breaker, Self-propelled Material Spreader, Self-powered Concrete Finishing Machine, Two Bag Mixer with skip, McCarthy and similar Drills, Batch Plant (not self-loading), Bulk Cement Plant.

- Compressor (315 cu. ft. to 900 cu. ft., 1 or 2), Pumps 4" to 16" total discharge, Tractor without blade drawing sheep's-foot roller, Rubber tired roller or other type of compactors including machines for pulverizing and aeration soil.

- Compressor (up to 315 cu. ft.), Small Mixers with skip, Oilers, Pumps up to 4", Grease Truck, Power Heaters, Welding Machines

- A-frame Trucks, Forklifts up to 7 ft. lift and up to 3 ton capacity, Hydro Broom, Parts Men (in repair shop), Power Safety Boat.

### FOOTNOTES:

- Paid Holidays: New Year's Day; Washington's Birthday; Memorial Day; Independence Day; Labor Day; Columbus Day; Veterans' Day; Thanksgiving and Christmas Day.

### TRUCK EQUIPMENT:

<table>
<thead>
<tr>
<th>Hourly Rates</th>
<th>M.W.</th>
<th>Penalties</th>
<th>Vacation</th>
<th>Abs.</th>
<th>Tu.</th>
<th>Others</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

- Trench wagons, panel trucks and pickup trucks

- Two axle equipment; helpers on low bed when assigned at the discretion of the employer, warehousemen, forklift operators

- Three axle equipment and cisterns

- Four and five axle equipment

- Specialized earth moving equipment under 35 tons other than conventional type trucks, low bed, vacuum, mechanics, paving restoration equipment, Mechanics

- Specialized earth moving equipment over 35 tons

- Trailers for earth moving equipment, (double hookup)

### PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

### FOOTNOTES:

- a. One half day's pay each month in which an employee has worked 15 days provided he has been employed for 4 months.

### Classification Table

<table>
<thead>
<tr>
<th>Class</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>I</td>
<td>Carpenter tenders, cement finisher tenders, laborers, wrecking laborers</td>
</tr>
<tr>
<td>II</td>
<td>Asphalt rakers, fence and guard rail erectors, laser beam op., mason tender, pipe layer, pneumatic drill op., pneumatic tool op., wagon drill op.</td>
</tr>
<tr>
<td>III</td>
<td>Air track op., block pavers, sawmers, curb setters</td>
</tr>
<tr>
<td>IV</td>
<td>Blasters, powderers</td>
</tr>
</tbody>
</table>

### Wage and Fringe Benefit Payments

<table>
<thead>
<tr>
<th>Class</th>
<th>Hourly Rates</th>
<th>Fringe Benefits Payments</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>H.R.</td>
<td>Family</td>
</tr>
<tr>
<td>Class I</td>
<td>$7.00</td>
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<td>Class II</td>
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<td>Class III</td>
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<td>.50</td>
</tr>
<tr>
<td>Class IV</td>
<td>$7.75</td>
<td>.50</td>
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</tbody>
</table>
SUPERSEDAS DECISION

STATE: Massachusetts
COUNTY: Norfolk

DECISION NO.: MA75-2074
DATE: Date of Publication

Supersedeas Decision No. MA75-2074 dated January 17, 1975 in 40 FR 3129.

DESCRIPTION OF WORK: Building Construction, (including Residential), heavy and highway construction.

### Building, Heavy & Highway Construction

<table>
<thead>
<tr>
<th>Labor Grade</th>
<th>Basic Monthly Rates</th>
<th>H &amp; W</th>
<th>Fringe Benefits Payments</th>
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</thead>
<tbody>
<tr>
<td>Asbestos Workers:</td>
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</tr>
<tr>
<td>Bellingham, Franklin, Plainville, &amp; Wrentham</td>
<td>$ 9.32</td>
<td>0.71</td>
<td>0.83</td>
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<tr>
<td>Remainder of County</td>
<td>9.66</td>
<td>0.65</td>
<td>0.80</td>
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<tr>
<td>Bolsters</td>
<td>10.00</td>
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<td>1.06</td>
</tr>
<tr>
<td>Bricklayers; Cement Masons; Painter's; &amp; Steamfitters</td>
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<tr>
<td>Dover, Needham &amp; Wellesley</td>
<td>9.75</td>
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<tr>
<td>Medfield, Medway &amp; Mills</td>
<td>8.95</td>
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<tr>
<td>Avon, Holbrook, Randolph &amp; Stoughton</td>
<td>8.55</td>
<td>0.75</td>
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<tr>
<td>Bellingham, Canton, Dedham, Foxboro, Franklin, Norfolk, Norwood, Plainville</td>
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<tr>
<td>Sharon, Walpole, Westwood &amp; Wrentham</td>
<td>9.20</td>
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<tr>
<td>Sandwich, Cohasset, S. Weymouth, Quincy, S. Weymouth, &amp; Weymouth</td>
<td>9.20</td>
<td>0.80</td>
<td>0.70</td>
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<tr>
<td>Bricklayers; Cement Masons; Painter's; &amp; Steamfitters</td>
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<tr>
<td>Brookline, &amp; Milton</td>
<td>9.05</td>
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<tr>
<td>Carpenters; Soft floor layers:</td>
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<tr>
<td>Quincy</td>
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<tr>
<td>Brookline, Dedham &amp; Milton</td>
<td>9.46</td>
<td>0.70</td>
<td>0.90</td>
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<tr>
<td>Avon, Holbrook, Randolph &amp; Stoughton</td>
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<td>0.50</td>
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<tr>
<td>Cement Masons: Brookline &amp; Milton</td>
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<tr>
<td>Electricians:</td>
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<tr>
<td>Avon, Holbrook, Randolph &amp; Stoughton</td>
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**NOTICES**
<table>
<thead>
<tr>
<th>Painters (Cont'd)</th>
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<tbody>
<tr>
<td>Remainder of County:</td>
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<tr>
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<tr>
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<tr>
<td>Brush</td>
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<td>$0.95</td>
</tr>
<tr>
<td>Steel</td>
<td>10.08</td>
<td>$0.62</td>
<td>$0.95</td>
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<tr>
<td>Spray</td>
<td>9.01</td>
<td>$0.62</td>
<td>$0.95</td>
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</tbody>
</table>

| Piledrivermen: |                     |                     |                     |
| Plasterers: Brookline & Milton |                     |                     |                     |
| Plasterers: Avon, Bellingham, Braintree, Brookline, Canton, Cohasset, Dedham, Dover, Foxboro, Franklin, Holbrook, Medfield, Medway, Miltont, Needham, Norfolk, Norwood, Plainville, Quincy, Randolph, Sharon, Stoughton, Walpole, Wellesley, Westwood, Weymouth, & Wrentham | 7.25 | $0.50 | $0.45 | $0.05 |
| Plasterers: Steamfitters: Avon, Holbrook, Randolph, & Stoughton | 7.36 | $0.50 | $0.45 | $0.05 |
| Plasterers: Gasfitters: Bellingham, Braintree, Brookline, Canton, Cohasset, Dedham, Foxboro, Franklin, Holbrook, Medfield, Medway, Miltont, Needham, Norfolk, N. Weymouth, Norwood, Plainville, Quincy, Sharon, S. Weymouth, Walpole, Westwood, Weymouth, & Wrentham | 7.35 | $0.50 | $0.45 | $0.05 |
| Roofers             | 8.00                | $0.65               | $0.95               | $0.05               |
| Sheet Metal workers | 9.63                | $0.70               | $0.80               | $0.05               |
| Sprinkler fitters   | 9.63                | $0.70               | $0.80               | $0.05               |

**PAID HOLIDAYS:**
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

**FOOTNOTES:**

a. Employer contributes 1/5 of basic hourly rate for 5 years or more of service or 2/5 of basic hourly rate for 6 months to 5 years of service as Vacation Pay credit.
b. 4 Paid Holidays: A through F.
c. 9 Paid Holidays: A through F, Washington's Birthday, Good Friday, & Christmas Eve, provided the employee had worked 80 full days during the 120 calendar days prior to the holiday and the regular scheduled work days immediately preceding the following holiday.
d. 7 Paid Holidays: A through F, & Bunker Hill Day provided the employee has been employed 10 working days prior to the listed holidays.
e. Employer pays $0.50 per day extra above the brush rate.
HEAVY & HIGHWAY CONSTRUCTION

LABORERS:

<table>
<thead>
<tr>
<th>Class</th>
<th>Hourly Rates</th>
<th>Fringe Benefits Payments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Class I</td>
<td>$7.00</td>
<td>.50 .45 .10</td>
</tr>
<tr>
<td>Class II</td>
<td>7.25</td>
<td>.50 .45 .10</td>
</tr>
<tr>
<td>Class III</td>
<td>7.50</td>
<td>.50 .45 .10</td>
</tr>
<tr>
<td>Class IV</td>
<td>7.75</td>
<td>.50 .45 .10</td>
</tr>
</tbody>
</table>

CLASSIFICATIONS:

CLASS I
Carpenter tenders, cement finisher tenders, laborers, wrecking laborers

CLASS II
Asphalt rakers, fence and guard rail erectors, laser beam op., mason tender, pipelayer, pneumatic drill op., pneumatic tool op., wireman drill op.

CLASS III
Air track op., block pavers, rammer, curb setters

CLASS IV
Blasters, powder men

BUILDING CONSTRUCTION

Power Equipment Operators:

<table>
<thead>
<tr>
<th>Class</th>
<th>Hourly Rates</th>
<th>Fringe Benefits Payments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Class I</td>
<td>$10.36</td>
<td>.75 .65 a .02</td>
</tr>
<tr>
<td>Class II</td>
<td>10.24</td>
<td>.75 .65 a .02</td>
</tr>
<tr>
<td>Class III</td>
<td>8.65</td>
<td>.75 .65 a .02</td>
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<tr>
<td>Class IV</td>
<td>9.44</td>
<td>.75 .65 a .02</td>
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<tr>
<td>Class V</td>
<td>7.66</td>
<td>.75 .65 a .02</td>
</tr>
<tr>
<td>Class VI</td>
<td>8.12</td>
<td>.75 .65 a .02</td>
</tr>
</tbody>
</table>

CLASSIFICATIONS:

CLASS I
Cranes, shovels, truck cranes, cherry pickers, dump hoes, backhoes, shot form machines, deisel, job finishers, elevator towers, hoists, gradalls, shovel dozers, front end loaders, fork lifters, augers, boring machines, rotary drills, post hole hammers, post hole diggers, concrete machines, asphalt plant (on site), concrete batching and/or mixing plant (on site), cement plant (on site), paving concrete mixers, timber jack

CLASS II
Booms over 150' including jib - additional $.35 per hour; Booms over 185' including jib - additional $1.50 per hour; Booms over 210' including jib - additional $1.00 per hour; Booms over 250' including jib - additional $1.50 per hour; Booms over 275' including jib - additional $.25 per hour; Sonic or vibratory hammers, graders, scrapers, tandem scrapers, concrete pumps, bulldozers, gradall, gradall drivers, tractordozers, post hole hammers, post hole diggers, pumpcrete machines, asphalt plant (on site), concrete batching and/or mixing plant (on site), paving concrete mixers, timber jack

CLASS III
Pumps (1-3 grouped), compressors, welding machines (1-3 grouped), generators, concrete vibrators, lighting plants, heaters (power driven 1-5), well point systems (operating and installing), hydrometers, concrete mixers, valves controlling permanent plant air or steam, conveyors, Jackson type tampers, single diaphragm pumps, lighting plants

CLASS IV
Assistant engineers (firemen)

CLASS V
Oilers and apprentices (other than truck cranes and gradalls)

CLASS VI
Oilers and apprentices on truck cranes and gradalls

PAID HOLIDAYS:
A- New Year’s Day; B- Memorial Day; C- Independence Day; D-Labor Day; E- Thanksgiving Day; F- Christmas Day.

FOOTNOTES:
### HEAVY & HIGHWAY CONSTRUCTION:

#### POWER EQUIPMENT OPERATORS

<table>
<thead>
<tr>
<th>Group</th>
<th>Hourly Premium for Boom Lengths Including Jib</th>
</tr>
</thead>
<tbody>
<tr>
<td>Over 150 feet</td>
<td>$0.45</td>
</tr>
<tr>
<td>Over 185 feet</td>
<td>$0.50</td>
</tr>
<tr>
<td>Over 210 feet</td>
<td>$0.65</td>
</tr>
<tr>
<td>Over 250 feet</td>
<td>$0.75</td>
</tr>
<tr>
<td>Over 295 feet</td>
<td>$0.90</td>
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</table>

#### TRUCK DRIVERS

<table>
<thead>
<tr>
<th>Group</th>
<th>Footnotes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Drivers</td>
<td>a.</td>
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<tr>
<td>$6.95</td>
<td>$6.85</td>
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<tr>
<td>$7.00</td>
<td>$6.85</td>
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<tr>
<td>$7.20</td>
<td>$6.85</td>
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<tr>
<td>$7.45</td>
<td>$6.85</td>
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</tbody>
</table>

**FOOTNOTES:**
- b. Holiday Pay: 1.75 times the regular rate of pay for one day's work for each full day's absence.
- c. 1.5 times the regular rate of pay for one half day's work for each full day's absence.
- d. Holiday Pay is subject to the Federal Labor Relations Act and the National Labor Relations Board.
- f. Holiday Pay: 1.75 times the regular rate of pay for one day's work for each full day's absence.
- g. Holiday Pay is subject to the Federal Labor Relations Act and the National Labor Relations Board.

**CLASSIFICATIONS:**

#### GROUP 1
- Power Shovels, Cranes, Truck Cranes, Derrick, Pile Drivers, Trenching Machines, Mechanical Loit Pressure Equipment, Cement Concrete Pavers, Paving Machines, Locomotive Engines, Tower Crane Machines, Pressurized Machines, Two Section Hoists, Steam Engines, Blacksmiths, Cauldrons.

#### GROUP 2
- Cable Ways, Deck Lifts, Cherry Pickers, Boring Machines, Rotary Drills, Pump Hoists, Pit Hoists, Port Hole Excavators, Asphalt Plant on Job Site, Concrete Paving Machines, Concrete Mixing and/or Mixing Plant on Job Site, Gravel Plant on Job Site, Paving Concrete Finishers, Trenching Jacks.

#### GROUP 3
- Scenic or Traction Easements, Graders, Scrapers, Paving Machines, Bulldozers, Trackers, Mechanical Maintenance, Tow Board, Switching Machines, Siding Machines, Stationary Steam Boilers, Portable Steam Boilers, Coal Boilers, Fuel Boilers, Asphalt Pavers, Locomotives or Machines Used in These Thereof, Tamper, Self-Propelled or Tractor Driven, Cal Tracks, Ballast Regulators, Rail Anchor Machines, Switch Tamper.

#### GROUP 4
- Pumps (1-3 groups), Compressors, Welding Machines (1-3 groups), Generators, Lighting Plants, Heaters (Over Driven) (1-3 groups), Synchro-Powers, Concrete Mixers, Valves Controlling Permanent Plant Air Steam, Conveyors, Wellpoint Systems (Operating and Installing).

#### GROUP 5
- Assistant Engineers (Firemen).

#### GROUP 6
- Oilers (other than truck crane & gradalls).

#### GROUP 7
- Oilers (on truck crane & gradalls).
### SUPERSEDES DECISION

**STATE:** Massachusetts  
**COUNTY:** Plymouth  
**DECISION NO.:** MA75-2075  
**DATE of Publication:** Date

Supersedeas Decision No. MA75-2011, dated January 17, 1975 in 10 FR 1983

**DESCRIPTION OF WORK:** Building Construction, (including Residential), heavy and highway construction

### BILINGUALLY:

<table>
<thead>
<tr>
<th>Building, Heavy and Highway Construction</th>
<th>Hourly Rates</th>
<th>H &amp; Y</th>
<th>Pensions</th>
<th>Vocational</th>
<th>Abs. Tr.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Building, Heavy and Highway Construction</td>
<td></td>
<td></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Bricklayers; Cement masons; &amp; Stonecutters:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Kingston, Bridgewater, Brockton, Carver, Duxbury, E. Bridgewater, Fall River, Hanover, Hanson, Kingston, Marshfield, Middleboro, Norwell, Pembroke, Plymouth, Plympton, Rockland, W. Bridgewater, &amp; Whitman</td>
<td>8.85</td>
<td>.75</td>
<td>1.05</td>
<td>.05</td>
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<tr>
<td>Bricklayers; Cement masons; &amp; Stonecutters:</td>
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<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lakeville, Mattapoisett, Middleboro, &amp; Wareham</td>
<td>$ 9.32</td>
<td>.71</td>
<td>.83</td>
<td></td>
<td>.01</td>
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<tr>
<td>BOILERMAKERS;</td>
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<td>.04</td>
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### ELECTRICIANS (CONT'D)

<table>
<thead>
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<tr>
<td></td>
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<td>.75</td>
<td>.05</td>
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<tr>
<td>Remainder of County:</td>
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<tr>
<td>Electrical contracts over $20,000 or more</td>
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<td>8.68</td>
<td>.67</td>
<td>.69+ .25</td>
<td>.01</td>
</tr>
</tbody>
</table>

### LABORERS (Building):  

| Laborers; Carpenter tenders; Cement finisher tenders; Bricklaying laborers | 7.00 | .50 | .65 |
| Jethammer op; pavement breakers; wagon drill; air-actuated rammers; carbide core drilling machine; chain molder; pipe layer; barrow-type jumping tampers; laser beam opener; concrete pump op; mason tender; mortar mixer; ride-on motorized buggy ops. |              |       |      |

### CATALOG:

<table>
<thead>
<tr>
<th>Lakeville &amp; Middleboro</th>
<th>Residential</th>
<th></th>
<th></th>
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</thead>
<tbody>
<tr>
<td></td>
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<td>.65</td>
<td>.05</td>
</tr>
<tr>
<td>Lakeville &amp; Middleboro</td>
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<td>.50</td>
<td>.65</td>
<td>.05</td>
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### OTHER:

<table>
<thead>
<tr>
<th>Lakeville &amp; Middleboro</th>
<th>Residential</th>
<th></th>
<th></th>
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</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>9.50</td>
<td>.50</td>
<td>.75</td>
<td>.05</td>
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<tr>
<td>Lakeville, Mattapoisett, Middleboro, &amp; Wareham</td>
<td>7.75</td>
<td>.50</td>
<td>.65</td>
<td>.05</td>
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<tr>
<td>Lakeville, Mattapoisett, Middleboro, &amp; Wareham</td>
<td>7.75</td>
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### FEDERAL REGISTER, VOL. 40, NO. 91—FRIDAY, MAY 9, 1975
<table>
<thead>
<tr>
<th>Laborer; Top man</th>
<th>$7.00</th>
<th>.50</th>
<th>.16</th>
<th>.05</th>
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</thead>
<tbody>
<tr>
<td>Helper</td>
<td>$7.12</td>
<td>.50</td>
<td>.16</td>
<td>.05</td>
</tr>
<tr>
<td>Bottom man</td>
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<td>.50</td>
<td>.16</td>
<td>.05</td>
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<tr>
<td>Driller</td>
<td>$7.87</td>
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### Lathers

<table>
<thead>
<tr>
<th>Laborer; Class 'A'</th>
<th>$9.25</th>
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<tbody>
<tr>
<td></td>
<td>.15</td>
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<tr>
<td></td>
<td>.75</td>
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### LEADBURNERS

<table>
<thead>
<tr>
<th>Laborer; Group (New Construction)</th>
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<tbody>
<tr>
<td></td>
<td>.30</td>
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<tr>
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### Linemen

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<thead>
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<th>Laborer; Group (New Construction)</th>
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<tr>
<td></td>
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<td></td>
<td>.25</td>
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<tr>
<td></td>
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### Equipment operators

<table>
<thead>
<tr>
<th>Laborer; Group (New Construction)</th>
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<tbody>
<tr>
<td></td>
<td>.30</td>
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<tr>
<td></td>
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### Groundmen

<table>
<thead>
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<th>Laborer; Class 'A'</th>
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<tr>
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<td></td>
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### MARBLE SETTERS;

### TERRAZZO WORKERS

<table>
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<tr>
<th>Laborer; Group (New Construction)</th>
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<tr>
<td></td>
<td>.70</td>
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### MARBLE SETTERS' HELPERS

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### MILLWRIGHTS

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<tr>
<th>Laborer; Group (New Construction)</th>
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<tbody>
<tr>
<td></td>
<td>.60</td>
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<tr>
<td></td>
<td>.50</td>
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</table>

### PAINTERS:

#### Abington, Bridgewater, Brockton, Carver, Duxbury, E. Bridgewater, Halifax, Hanover, Hanson, Hingham, Hull, Kingston, Marshfield, Middleboro, Pembroke, Plymouth, Plympton, Rockland, Scituate, W. Bridgewater & Whitman:

<table>
<thead>
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<th>Laborer; Group (New Construction)</th>
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</table>

#### Brush; Taper (New Construction)

<table>
<thead>
<tr>
<th>Laborer; Group (New Construction)</th>
<th>$8.01</th>
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<tbody>
<tr>
<td></td>
<td>.62</td>
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<tr>
<td></td>
<td>.85</td>
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</table>

#### Spray (New Construction)

<table>
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<th>Laborer; Group (New Construction)</th>
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<td></td>
<td>.62</td>
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<td></td>
<td>.85</td>
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</table>

### Marion, Mattapoisett, Rochester & Wareham

<table>
<thead>
<tr>
<th>Laborer; Group (New Construction)</th>
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<tbody>
<tr>
<td></td>
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### PILEDRIVERMEN

<table>
<thead>
<tr>
<th>Laborer; Group (New Construction)</th>
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<tbody>
<tr>
<td></td>
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### REMAINING OF COUNTY

<table>
<thead>
<tr>
<th>Laborer; Group (New Construction)</th>
<th>$8.55</th>
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<tbody>
<tr>
<td></td>
<td>.70</td>
</tr>
<tr>
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</tbody>
</table>

### PLASTERERS

#### Abington, Bridgewater, Brockton, Carver, Duxbury, E. Bridgewater, Halifax, Hanover, Hanson, Hingham, Hull, Kingston, Marshfield, Middleboro, Pembroke, Plymouth, Plympton, Rockland, Scituate, W. Bridgewater & Whitman:

<table>
<thead>
<tr>
<th>Laborer; Group (New Construction)</th>
<th>$8.25</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>.55</td>
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<tr>
<td></td>
<td>.16</td>
</tr>
<tr>
<td></td>
<td>.02</td>
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### PLASTERERS' TENDERS

#### Abington, Bridgewater, Brockton, Carver, Duxbury, E. Bridgewater, Halifax, Hanover, Hanson, Hingham, Hull, Kingston, Marshfield, Middleboro, Pembroke, Plymouth, Plympton, Rockland, Scituate, W. Bridgewater & Whitman:

<table>
<thead>
<tr>
<th>Laborer; Group (New Construction)</th>
<th>$7.25</th>
</tr>
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<tbody>
<tr>
<td></td>
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<tr>
<td></td>
<td>.25</td>
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#### Marion, Mattapoisett, Rochester & Wareham

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<thead>
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<tr>
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### PLUMBERS; Gasfitters

#### Hingham, Hull, & Scituate

<table>
<thead>
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<th>$10.25</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>.70</td>
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<tr>
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### PLUMBERS; Steamfitters

<table>
<thead>
<tr>
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</thead>
<tbody>
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<td>.50</td>
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<tr>
<td></td>
<td>.30</td>
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<tr>
<td></td>
<td>.20</td>
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### Lakeville, Middleboro

<table>
<thead>
<tr>
<th>Laborer; Group (New Construction)</th>
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<tbody>
<tr>
<td></td>
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### ROOFERS

#### Abington, Bridgewater, E. Bridgewater, Halifax, Hanover, Hanson, Marshfield, Norwell, Pembroke, Plymouth, Plympton, Rockland, Scituate, & W. Bridgewater

<table>
<thead>
<tr>
<th>Laborer; Group (New Construction)</th>
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<tbody>
<tr>
<td></td>
<td>.55</td>
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#### Brockton

<table>
<thead>
<tr>
<th>Laborer; Group (New Construction)</th>
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<tbody>
<tr>
<td></td>
<td>.73</td>
</tr>
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</table>

### Kettlemen

<table>
<thead>
<tr>
<th>Laborer; Group (New Construction)</th>
<th>$8.10</th>
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<tbody>
<tr>
<td></td>
<td>.50</td>
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<tr>
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### CLASS "A" HELPERS

<table>
<thead>
<tr>
<th>Laborer; Group (New Construction)</th>
<th>$7.70</th>
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### SHEET METAL WORKERS

#### Marion, Mattapoisett, Rochester & Wareham

<table>
<thead>
<tr>
<th>Laborer; Group (New Construction)</th>
<th>$9.30</th>
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<tr>
<td></td>
<td>.16</td>
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<tr>
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#### Remainder of County

<table>
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<tr>
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<tr>
<td></td>
<td>.71</td>
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### ROOFERS; KETTLEMAN

<table>
<thead>
<tr>
<th>Laborer; Group (New Construction)</th>
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<td></td>
<td>.50</td>
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### REBUILDING & ALTERATIONS

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### SHEET METAL WORKERS

#### Marion, Mattapoisett, Rochester & Wareham

<table>
<thead>
<tr>
<th>Laborer; Group (New Construction)</th>
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### Remainder of County

<table>
<thead>
<tr>
<th>Laborer; Group (New Construction)</th>
<th>$8.55</th>
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### REMAINING OF COUNTY

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<tr>
<th>Laborer; Group (New Construction)</th>
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Decision No. MA75-2075

SPRINKLER FITTERS
STEAMFITTER:
Marshfield

TERRAZZO WORKERS’ HELPERS

TILE SETTERS:

TILE SETTERS’ HELPERS

Paid Holidays:
A- New Year’s Day; B- Memorial Day; C- Independence Day; D- Labor Day;
E- Thanksgiving Day; F- Christmas Day.

Footnotes:
(a) Employer contribution of $1.00 per journeyman electricians per week
(b) Employer contributes 50% of basic hourly rate for 5 years or more of
   service or 25% of basic hourly rate for 6 months to 5 years of service as
   vacation pay credit
(c) 6 paid holidays: A through F
(d) 9 paid holidays: A through F, Washington’s Birthday, Good Friday, &
   Christmas Eve, provided the employee has worked at least 45 full days
   during the 120 calendar days immediately prior to the holiday and the
   regular scheduled work days immediately preceding and following the
   holiday
(e) 7 paid holidays: A through F, and Bunker Hill Day, provided the employee
   has been employed 5 working days prior to any one of the listed holidays.

Footnotes:
(a) Employer contribution of $1.00 per journeyman electricians per week
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   during the 120 calendar days immediately prior to the holiday and the
   regular scheduled work days immediately preceding and following the
   holiday
(e) 7 paid holidays: A through F, and Bunker Hill Day, provided the employee
   has been employed 5 working days prior to any one of the listed holidays.
TRUCK DRIVERS

Station wagons, panel trucks and pickup trucks

Two axle equipment; helpers on low bed when assigned at the discretion of the employer, warehousemen, forklift operators

Three axle equipment and tiremen

Four and five axle equipment

Specialized earth moving equipment under 35 tons other than conventional type trucks, low bed, maintenance, paving restoration equipment, mechanics

Three axle equipment and tiremen

Four and five axle equipment

Specialized earth moving equipment over 35 tons

Trailers for earth moving equipment, (double hookup)

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day;
C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. One half day's pay each month in which an employee has worked 15 days provided he has been employed for 4 months.

CLASSIFICATIONS:

CLASS I

Cranes, shovels, truck cranes, cherry pickers, draglines, trench hoes, backhoes, three run machines, derricks, pint drivers, elevator towers, hoists, gradalls, scarf orders, front end loaders, fork lifts, excavators, boring machines, rotary drills, post hole hammers, post hole diggers, pumice machines, asphalt plant (on site), concrete batching and/or mixing plant (on site), roller plant (on site), paving concrete mixers, timber jacks

CLASS II

Boom over 150' including jib - additional $.35 per hour; Boom over 185' including jib - additional $.70 per hour; Boom over 210' including jib - additional $1.00 per hour; Boom over 250' including jib - additional $1.50 per hour; Sonic or vibratory hammers, graders, scrapers, tandem scrapers, concrete pumps, bulldozers, tractors, York rakes, mulching machines, portable steam boilers, portable steam generators, rollers, spreaders, tampers (self propelled or tractor drawn), asphalt paving, mechanics maintenance, paving screed machines, stationary steam boilers, paving concrete finishing machines, rail trucks, ballast regulators, switch tampers, rail anchor machinery, tire trucks (when operated by the employer on the job site)

CLASS III

Pumps (1-3 grouped), compressors, welding machines (1-3 grouped), generators, concrete vibrators, lighting plants, heaters (power driven 1-3), well-point systems (operating and installing), eyehoses-polycylinders, concrete mixers, valves controlling permanent plant air or steam, conveyors, Jackson type tampers, single diaphragm pump, lighting plants

CLASS IV

Assistant engineers (firemen)

CLASS V

Oilers and apprentices (other than truck cranes and gradalls)

CLASS VI

Oilers and apprentices on truck cranes and gradalls

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:


HOURLY

Basic

Fringe Benefits Payments

Paid

Vacation

Class   Hours

H & W   Pensions

M.T.   H & W   Pensions

CLASS I

$10.76   .75   .65   a

CLASS II

10.24   .75   .65   a

CLASS III

8.65   .75   .65   a

CLASS IV

9.44   .75   .65   a

CLASS V

7.86   .75   .65   a

CLASS VI

8.12   .75   .65   a
HEAVY & HIGHWAY CONSTRUCTION:

POWER EQUIPMENT OPERATORS

<table>
<thead>
<tr>
<th>Group 1</th>
<th>Hourly premium for boom lengths including Jib</th>
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</thead>
<tbody>
<tr>
<td>Over 150 feet + 3.85</td>
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</tr>
<tr>
<td>Over 185 feet + 4.00</td>
<td></td>
</tr>
<tr>
<td>Over 200 feet + 1.25</td>
<td></td>
</tr>
<tr>
<td>Over 250 feet + 1.25</td>
<td></td>
</tr>
<tr>
<td>Over 255 feet + 2.50</td>
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<table>
<thead>
<tr>
<th>Group 2</th>
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</thead>
<tbody>
<tr>
<td>10.14</td>
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<td>8.64</td>
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<tr>
<td>7.44</td>
</tr>
<tr>
<td>6.60</td>
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<td>6.12</td>
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<table>
<thead>
<tr>
<th>Group 3</th>
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</thead>
<tbody>
<tr>
<td>8.25</td>
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<tr>
<td>7.85</td>
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<table>
<thead>
<tr>
<th>Group 4</th>
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<tbody>
<tr>
<td>8.25</td>
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<td>7.85</td>
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<table>
<thead>
<tr>
<th>Group 5</th>
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<tbody>
<tr>
<td>8.25</td>
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<td>7.85</td>
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<table>
<thead>
<tr>
<th>Group 6</th>
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<tbody>
<tr>
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Fringe Benefits Payments:

<table>
<thead>
<tr>
<th>E.R.</th>
<th>Fringe Benefits Payments</th>
</tr>
</thead>
<tbody>
<tr>
<td>S.45</td>
<td>6.35</td>
</tr>
</tbody>
</table>

10 Paid Holidays:
- New Years' Day
- Memorial Day
- Independence Day
- Labor Day
- Thanksgiving Day
- Christmas Day
- Washington's Birthday
- Columbus Day
- Veterans Day
- Patriots Day

CLASSIFICATIONS:

GROUP 1
- Power Shovels, Cranes, Truck Cranes, Derrick, Pile Drivers, Trenching Machines
- Mechanical Excavator Pile Driver, Cement Payer, Drilling, Bulldozing
- Engines, Three Drum Machines, Pumper-Pumpers, Gutter, Sump,Roofers
- Front End Loaders, Hoisting Machines, Guard Boats, Excavators, Gradalls
- Cable Ways, Fork Lifts, Cherry Pickers, Boring Machines, Rotary Drills, Port Rails
- Hammers, Port Hole Buggers, Asphalt Plant on Job Site, Concrete Drying and/or Mixing Plant on Job Site, Crusher Plant on Job Site, Paving Concrete Mixers, Timber Jacks

GROUP 2
- Sonic or Vibratory Hammers, Graders, Scrapers, Tandem Scrapers, Bulldozers, Tractors
- Mechanic Maintenance, Jack Hoes, Shoveling Machines Paving Sacking Machines, Steam Rollers, Paving Concrete Finishing Machines, Paving Screed Machines, Stationary Steam Boilers, Paving Concrete Finishing Machines, Portable Steam Boilers, Portable Steam Generators, Rollers, Spreaders, Asphalt Pavers, Locomotives or Machines Used in Place Thereof, Tampers, Self Propelled or Tractor Drawn, Cal Tracks, Ballast Regulators, Rail Anchor Machines, Switch Tamper

GROUP 3
- Pump (1-3 grouped), Compressors, Welding Machines (1-3 grouped), Generators, Lighting Plants, Motors (Power Driven) (1-5), Syphons-Pulsometers, Concrete Mixers
- Controlling Equipment Plant Air Steam, Conveyors, Wellpoint Systems (Operating and Installing)

GROUP 4
- Assistant Engineers (Firemen)

GROUP 5
- Oilers (other than truck cranes & gradalls)

GROUP 6
- Oilers (on truck cranes & gradalls)
**SUPERSEDED DECISION**

**STATE:** Massachusetts  
**COUNTY:** Suffolk  
**DECISION NO.:** MA75-2076  
**DATE of Publication:**

**DESCRIPTION OF WORK:** Building Construction, (including Residential), heavy  
and highway construction; marine construction and dredging.

### BUILDING, HEAVY & HIGHWAY CONSTRUCTION

| ASBESTOS WORKERS |  
| 9.66 | 60 | .80 | .01 |
| ROOFERS | 10.00 | 60 | 10% | .01 |
| BRICKLAYER; Stonemasons | 9.06 | 70 | 90 | .05 |
| CARPENTERS; Soft floor layers | 9.65 | 60 | 90 | .07 |
| CEMENT MASON | 9.22 | 70 | 10 | .05 |
| ELECTRICIANS | 10.10 | 50 | 10% | .05 |
| ELEVATOR CONSTRUCTORS | 10.10 | .65 | 90 | .02 |
| ELEVATOR CONSTRUCTORS' HELPERS | 7.00 | .65 | 90 | .02 |
| (HOH) CALHURN | 9.20 | .65 | 90 | .02 |
| IRONWORKERS |  
| Ornamental; Reinforcing; Structural | 9.29 | 55 | 1.10 | .06 |
| LABORERS (Building) |  
| Laborers; Carpenter tenders; Cement finisher tenders; Brick layers; Wrecking fixtures | 7.00 | 50 | .25 | .05 |
| Jackhammer op.; Pavement breakers; Wagon drills; Asphalt makers; Concrete core drilling machine; Chain saw op.; Pipe layers; Bar type jumping-tamper; Laser beams; Concrete pump; Mason tenders; Mortar mixers; Ridge-on motorized buggy | 7.25 | 50 | .25 | .05 |
| Air tracks; Black pavers; Hammerers | 7.50 | .25 | .05 |
| Bricksetters; Masons | 7.75 | .50 | .05 |
| Open aircalendar: Cylindrical work & boring cores | 7.00 | .50 | .05 |
| Laborers; Top man | 7.10 | .50 | .05 |
| Helper | 7.12 | .50 | .05 |
| Bottom men | 7.16 | .50 | .05 |
| Sheeters | 7.27 | .50 | .05 |
| LATHERS | 9.85 | .50 | .05 |
| BRICKMEN | 9.85 | .35 | .05 |

### LINE CONSTRUCTION

| LINESMEN | 10.20 | 30 | 15 | 3/30% |
| EQUIPMENT OPERATORS | 9.62 | 30 | 15 | 3/30% |
| GROUND-TRUCK DRIVER | 7.60 | 30 | 15 | 3/30% |

### FOOTNOTES:

- a. Employer contributes 1/2 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.
- b. 6 paid holidays: A through F.
- c. 9 paid holidays: A through F; Washington's Birthday, Good Friday, & Christmas Eve provided the employee has worked at least 1/2 full days during the 2/7 calendar days immediately prior to the holiday and the regular scheduled work days immediately preceding and following the holiday.
- d. 7 paid holidays: A through F; Bunker Hill Day, the employee has been employed 10 working days prior to any one of the listed holidays.

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**NOTES**

FEDERAL REGISTER, VOL. 40, NO. 91—FRIDAY, MAY 9, 1975
TRUCK DRIVERS
BUILDING AND
HIGHWAY AND BRIDGE CONSTRUCTION

Station wagons, panel trucks and pick-up trucks
Two axle equipment; helpers on low bed
when assigned at the discretion of the employer, warehousemen, forklift operators.
Three axle equipment and tiremen
Four and five axle equipment
Specialized earth moving equipment
under 35 tons other than conventional type trucks, low bed, vacuums, mechanics, paving restoration equipment, Mechanics
Specialized earth moving equipment
over 35 tons
Trailers for earth moving equipment, (double hookup)

MASS-1234

LABORERS:
CLASS I
Carpenter tenderers, cement finisher tenderers, laborers, wrecking laborers
CLASS II
Asphalt rakers, fence and guard rail erectors, laser beam op., mason tender, pipelayer, pneumatic drill op., pneumatic tool op., wagon drill op
CLASS III
Air track op., block pavers, rammers, curb setters
CLASS IV
Blasters, powdermen

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day;
C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day.

FEETNOTES:
a. One half day's pay each month in which an employee has worked 15 days provided he has been employed for 6 months.

FEDERAL REGISTER, VOL. 40, NO. 91—FRIDAY, MAY 9, 1975
## Hourly Rates

<table>
<thead>
<tr>
<th>Position</th>
<th>Basic Hourly Rate</th>
<th>Fringe Benefits</th>
<th>Vacation</th>
<th>App. Tr.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Dredging</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dredge operator</td>
<td>5.93</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mates</td>
<td>4.05</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Seamen</td>
<td>3.31</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dockhand</td>
<td>3.36</td>
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<td>+5%</td>
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<tr>
<td><strong>Hydraulic Excavators</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Laborian</td>
<td>5.67</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Engineer and derrick operators</td>
<td>5.40</td>
<td></td>
<td></td>
<td>+5%</td>
</tr>
<tr>
<td>Maintenance engineer</td>
<td>5.29</td>
<td></td>
<td></td>
<td>+5%</td>
</tr>
<tr>
<td>Dredge carpenter, electricians, blacksmith, welder &amp; boilerman</td>
<td>5.17</td>
<td>5.17</td>
<td>5.17</td>
<td></td>
</tr>
<tr>
<td>Mates</td>
<td>4.80</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Oilers, fireman, carpenter's helper, welder's helper &amp; blacksmith helper</td>
<td>4.24</td>
<td>4.24</td>
<td>4.24</td>
<td></td>
</tr>
<tr>
<td>Deckhands and shoremen</td>
<td>4.00</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Tug engineering</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Tug engineer</td>
<td>4.86</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Tug deckhand</td>
<td>4.06</td>
<td></td>
<td></td>
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<tr>
<td><strong>Drill Boats</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Engineer</td>
<td>6.34</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Blaster</td>
<td>6.43</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Driller; Welder Machinist</td>
<td>6.34</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Fireman</td>
<td>6.09</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Oilers Drill helper</td>
<td>5.97</td>
<td></td>
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### Hourly Rates (continued)

<table>
<thead>
<tr>
<th>Classification</th>
<th>Basic Hourly Rate</th>
<th>Fringe Benefits</th>
<th>Vacation</th>
<th>App. Tr.</th>
</tr>
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<tbody>
<tr>
<td><strong>Drill Boats</strong></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Engineer</td>
<td>6.34</td>
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</tr>
<tr>
<td>Blaster</td>
<td>6.43</td>
<td></td>
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<td></td>
</tr>
<tr>
<td>Driller; Welder Machinist</td>
<td>6.34</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Fireman</td>
<td>6.09</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Oilers Drill helper</td>
<td>5.97</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### Footnotes:

- b. Holidays: A through F; Washington's Birthday and Veterans Day (60 days of service one additional day of vacation with pay for each full 24 days of service in one calendar year).
- c. Paid Holidays: New Year's Day; Washington's Birthday; Memorial Day; Independence Day; Labor Day; Veterans Day; Thanksgiving Day.
- d. One week's vacation after one year of employment.

### Building Construction

<table>
<thead>
<tr>
<th>Classification</th>
<th>Basic Hourly Rate</th>
<th>Fringe Benefits</th>
<th>Vacation</th>
<th>App. Tr.</th>
</tr>
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<tbody>
<tr>
<td><strong>Power Equipment Operators</strong></td>
<td></td>
<td></td>
<td></td>
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</tr>
<tr>
<td>Class I</td>
<td>10.36</td>
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<td></td>
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<tr>
<td>Class II</td>
<td>10.24</td>
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<tr>
<td>Class III</td>
<td>8.63</td>
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<tr>
<td>Class IV</td>
<td>6.64</td>
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</tr>
<tr>
<td>Class V</td>
<td>4.96</td>
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<tr>
<td>Class VI</td>
<td>4.36</td>
<td></td>
<td></td>
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</tr>
</tbody>
</table>

### Classifications

**Class I**: Cables, shovels, truck cranes, cherry pickers, drillers, trench borers, backhoes, dies, piling drivers, motors, deckhands, crane operators, front end loaders, fork lifts, augers, boring machines, rotary drills, pile drivers, pile hammers, concrete pumps, asphalt plant (on site), crusher plant (on site), paving concrete mixers, timber jacks.

**Class II**: Boom over 150' including jib - additional $0.35 per hour; Boom over 185' including jib - additional $0.70 per hour; Boom over 210' including jib - additional $1.00 per hour; Boom over 250' including jib - additional $1.50 per hour; Boom over 295' including jib - additional $2.00 per hour; Sonic or vibratory hammers, graders, scrapers, tandem scrapers, concrete pumps, bulldozers, tractors, yoek rollers, milling machines, portable steam boilers, portable steam generators, rollers, spreaders, tampers (self propelled or tractor drawn), asphalt pavers, mechanics maintenance, paving machines, stationary steam boilers, paving concrete finishing machines, culvert trucks, ballast regulators, switch tampers, auxiliary machinery, tire trucks (when operated by the employer on the job site).

**Class III**: Pumps (1-3 grouped), compressors, welding machines (1-3 grouped), generators, concrete vibrators, lighting plants, blowers (power driven 5-10), wall systems (operating and installing), spraying-pulverizers, concrete mixers, valves, controlling permanent plant air or steam, conveyors, Jackson type tampers, single cylinder pumps, lighting plants.

**Class IV**: Assistant engineers (six men).

**Class V**: Oilers and apprentices (other than truck cranes and gradalls).

**Class VI**: Oilers and apprentices on truck cranes and gradalls.

### Paid Holidays:

- A: New Year's Day
- B: Memorial Day
- C: Independence Day
- D: Labor Day
- E: Thanksgiving Day
- F: Christmas Day

### Footnotes:

POWER EQUIPMENT OPERATORS

CLASSIFICATIONS

GROUP I
Shovels, cranes, truck cranes, cherry pickers, derricks, pile drivers, two or more drum machines, lighters, derricks boats, trenching machines, mechanical hoist pavement breakers, cement concrete pavers, draglines, hoisting engines, pumps, concrete machines, elevating graders, shovel dozers, front end loaders, backhoes, gradals, cable ways, boring machines, rotary drills, post hole hammers, post hole diggers, fork lifts, timber jacks, asphalt plant (on site), concrete batching or mixing plant (on site), crusher plant, (on site), paving concrete mixers, asphalts pavers, concrete mixers with side loaders, mechanics - independent engines.

GROUP II
Power shovels, cranes, truck cranes, cherry pickers, derricks, pile drivers, two or more drum machines, lighters, derricks boats, trenching machines, mechanical hoist pavement breakers, cement concrete pavers, draglines, hoisting engines, pumps, concrete machines, elevating graders, shovel dozers, front end loaders, backhoes, gradals, cable ways, boring machines, rotary drills, post hole hammers, post hole diggers, fork lifts, timber jacks, asphalt plant (on site), concrete batching or mixing plant (on site), crusher plant, (on site), paving concrete mixers, asphalts pavers, concrete mixers with side loaders, mechanics - independent engines.

GROUP III
Sonic or Vibratory Hammers, Graders, Scrapers, Tanden Scrapers, Bulldozers, Tractors, Mechanic Maintenance, Fork Rakes, Nailing Machines, Paving Surf Machines, Stationary Steam Boilers, Paving Concrete Finishing Machines, Group Pumps, Portable Steam Boilers, Portable Steam Generators, Rollers, Spreader, Asphalt Pavers, Locomotives or Locomotives Used in Place Thereto, Tampers, Self Propelled or Tractor Mounted, Cal Tracks, Ballast Regulators, Rail Track Machines, Switch Tampers.

GROUP IV
Pump (1-3 grouped), Compressors, Welding Machine (1-3 grouped), Generators, Lighting Plants, Heaters (Power Driven) (1-3), Syphon-Pulsometers, Concrete Mixers, Valves Controlling Permanent Plant Air Steam, Conveyors, Wellpoint Systems (Operating and Installing).

GROUP V
Assistant Engineers (Firemen)

GROUP VI
Oilers, (other than truck cranes & gradals)

GROUP VII
Oilers, (on truck cranes & gradals)
**Building Construction**

<table>
<thead>
<tr>
<th>Basic Rate</th>
<th>Fringe Benefits Payments</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Hourly Rate</td>
</tr>
<tr>
<td><strong>Asbestos workers</strong></td>
<td></td>
</tr>
<tr>
<td>$9.68</td>
<td>$41</td>
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<tr>
<td><strong>Boilermakers</strong></td>
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</tr>
<tr>
<td>8.25</td>
<td>$12</td>
</tr>
<tr>
<td><strong>Bricklayers; Stonemasons</strong></td>
<td></td>
</tr>
<tr>
<td>7.70</td>
<td>$20</td>
</tr>
<tr>
<td><strong>Carpenters</strong></td>
<td></td>
</tr>
<tr>
<td>7.25</td>
<td>$20</td>
</tr>
<tr>
<td><strong>Pile drivers</strong></td>
<td></td>
</tr>
<tr>
<td>7.50</td>
<td>$20</td>
</tr>
<tr>
<td><strong>Cement Masons</strong></td>
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</tr>
<tr>
<td>7.125</td>
<td>$20</td>
</tr>
<tr>
<td><strong>Swing Stage</strong></td>
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<td>7.375</td>
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**Electricians**

<table>
<thead>
<tr>
<th>Zone</th>
<th>Basic Rate</th>
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<tbody>
<tr>
<td>A</td>
<td>9.26</td>
<td>$30</td>
</tr>
<tr>
<td>B</td>
<td>9.26</td>
<td>$30</td>
</tr>
<tr>
<td>C</td>
<td>9.26</td>
<td>$30</td>
</tr>
<tr>
<td>D</td>
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<td>$30</td>
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**Cable Splicers**

<table>
<thead>
<tr>
<th>Zone</th>
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<th>Fringe Benefits Payments</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>9.21</td>
<td>$30</td>
</tr>
<tr>
<td>B</td>
<td>9.21</td>
<td>$30</td>
</tr>
<tr>
<td>C</td>
<td>10.21</td>
<td>$30</td>
</tr>
<tr>
<td>D</td>
<td>10.21</td>
<td>$30</td>
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**Elevator Constructors**

<table>
<thead>
<tr>
<th>Basic Rate</th>
<th>Fringe Benefits Payments</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Hourly Rate</td>
</tr>
<tr>
<td><strong>Electricians</strong></td>
<td></td>
</tr>
</tbody>
</table>

**Electricians-Cable Splicers' Zone Definition**

Electricians-Cable Splicers from the main Post Office in Lincoln, Nebraska:
- Zone A - 0 to 15 miles
- Zone B - 15 to 30 miles
- Zone C - 30 to 75 miles
- Zone D - Over 75 miles

**Elevator Constructors**

<table>
<thead>
<tr>
<th>Basic Rate</th>
<th>Fringe Benefits Payments</th>
</tr>
</thead>
<tbody>
<tr>
<td>$9.16</td>
<td>$485</td>
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<tr>
<td><strong>Elevator Constructors' Helpers</strong></td>
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<tr>
<td>7.70</td>
<td>$485</td>
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<tr>
<td>5.45</td>
<td>$40</td>
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**Glaziers**

<table>
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<tr>
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<tbody>
<tr>
<td>8.65</td>
<td>$40</td>
</tr>
<tr>
<td><strong>Bricklayers</strong></td>
<td></td>
</tr>
<tr>
<td>8.10</td>
<td>$30</td>
</tr>
<tr>
<td><strong>Laborers</strong></td>
<td></td>
</tr>
<tr>
<td>5.675</td>
<td>$20</td>
</tr>
<tr>
<td><strong>Painters</strong></td>
<td></td>
</tr>
<tr>
<td>5.676</td>
<td>$20</td>
</tr>
<tr>
<td><strong>Splicers</strong></td>
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<tr>
<td>5.676</td>
<td>$20</td>
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**Painters**

<table>
<thead>
<tr>
<th>Basic Rate</th>
<th>Fringe Benefits Payments</th>
</tr>
</thead>
<tbody>
<tr>
<td>6.725</td>
<td>$20</td>
</tr>
</tbody>
</table>

| **Plasterers** |            |          |           |        |
| 6.725       | $20                    |

| **Plumbers** |            |          |           |        |
| 8.106       | $30                    |
| **Roofers** |            |          |           |        |
| 6.50        | $20                    |
| **Sprinkler Fitters** |            |          |           |        |
| 6.50        | $20                    |
| **Terrazzo Workers** |            |          |           |        |
| 6.50        | $20                    |

**Welders**

- Receive rate prescribed for craft performing operation to which welding is incidental.

**Notes**

- a. Employer contributes 27% of the basic hourly rate for 6 months to 5 years' service and 41% of the basic hourly rate for over 5 years' service as Vacation Pay Credit.
- b. The following paid holidays: A - New Year's Day; B - Memorial Day; C - Independence Day; D - Labor Day; E - Thanksgiving Day; F - Christmas Day.

---

**FEDERAL REGISTER, VOL. 40, NO. 91—FRIDAY, MAY 9, 1975**
LINE CONSTRUCTION:

<table>
<thead>
<tr>
<th>Description</th>
<th>Hourly Rates</th>
<th>Fringe Benefits Payments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Basic Rate</td>
<td>$8.09</td>
<td>$0.35 $17.1/2%</td>
</tr>
<tr>
<td>Cable Splicers</td>
<td>$8.49</td>
<td>$0.35 $17.1/2%</td>
</tr>
<tr>
<td>Truck Driver</td>
<td>$5.825</td>
<td>$0.20 $0.25</td>
</tr>
<tr>
<td>Equipment Operator</td>
<td>$7.61</td>
<td>$0.35 $1/2%</td>
</tr>
<tr>
<td>Lumber Carrier</td>
<td>$6.25</td>
<td>$0.20 $0.25</td>
</tr>
<tr>
<td>(Inexperienced) 1st</td>
<td>$2.75</td>
<td>$0.35 $1/2%</td>
</tr>
<tr>
<td>(Inexperienced) 2nd</td>
<td>$4.02</td>
<td>$0.35 $1/2%</td>
</tr>
<tr>
<td>Thereafter</td>
<td>$5.31</td>
<td>$0.35 $1/2%</td>
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POWER EQUIPMENT OPERATORS:

<table>
<thead>
<tr>
<th>Group</th>
<th>Hourly Rates</th>
<th>Fringe Benefits Payments</th>
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</thead>
<tbody>
<tr>
<td>Group 1</td>
<td>$5.75</td>
<td>$0.125 $0.10</td>
</tr>
<tr>
<td>Group 2</td>
<td>$5.875</td>
<td>$0.125 $0.10</td>
</tr>
<tr>
<td>Group 3</td>
<td>$5.90</td>
<td>$0.125 $0.10</td>
</tr>
<tr>
<td>Group 4</td>
<td>$6.075</td>
<td>$0.125 $0.10</td>
</tr>
<tr>
<td>Group 5</td>
<td>$6.225</td>
<td>$0.125 $0.10</td>
</tr>
<tr>
<td>Group 6</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Group 7</td>
<td>$6.35</td>
<td>$0.125 $0.10</td>
</tr>
<tr>
<td>Group 8</td>
<td>$6.40</td>
<td>$0.125 $0.10</td>
</tr>
<tr>
<td>Group 9</td>
<td>$6.50</td>
<td>$0.125 $0.10</td>
</tr>
<tr>
<td>Group 10</td>
<td>$6.75</td>
<td>$0.125 $0.10</td>
</tr>
</tbody>
</table>

BUILDING CONSTRUCTION POWER EQUIPMENT OPERATOR'S CLASSIFICATION DEFINITIONS:

- Group 1: Fitter, Slitter; Graders; Sheet Metal Workers; fig. or similar equipment or attachment.
- Group 2: Industrial type tractor or similar equipment, 6 ft. or less, or a series of compressors.
- Group 3: Loaders or similar equipment, 6 ft. or more, or a series of compressors.
- Group 4: Skid Steers, Skid Loaders, Heavy Duty Loaders.
- Group 5: Industrial type tractor or similar equipment, 6 ft. or more, or a series of compressors.
- Group 6: Economobiles, Small Track Loaders, Small Skid Loaders.
- Group 7: Concrete Pumps, Single Drum Trucks, Boom Hoists, Wench Trucks.
- Group 8: Concrete Pumps, Single Drum Trucks, Boom Hoists, Wench Trucks.
- Group 9: Concrete Pumps, Single Drum Trucks, Boom Hoists, Wench Trucks.
- Group 10: Concrete Pumps, Single Drum Trucks, Boom Hoists, Wench Trucks.

FEDERAL REGISTER, VOL. 40, NO. 91—FRIDAY, MAY 9, 1975

NOTICES

20600
## DECISION NO. NE 75-4085

### SITE PREPARATION, EXCAVATING AND INCIDENTAL PAVING

<table>
<thead>
<tr>
<th>Occupation</th>
<th>Basic Hourly Rate</th>
<th>Fringe Benefits Payments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Carpenter</td>
<td>$4.90</td>
<td></td>
</tr>
<tr>
<td>Carpenter helper</td>
<td>3.75</td>
<td></td>
</tr>
<tr>
<td>Cement finisher</td>
<td>4.65</td>
<td></td>
</tr>
<tr>
<td>Concrete saw operator</td>
<td>3.65</td>
<td></td>
</tr>
<tr>
<td>Form setter (road)</td>
<td>4.55</td>
<td></td>
</tr>
<tr>
<td>Form setter (structures)</td>
<td>3.65</td>
<td></td>
</tr>
<tr>
<td>Laborer</td>
<td>3.25</td>
<td></td>
</tr>
<tr>
<td>Manhole builder</td>
<td>3.60</td>
<td></td>
</tr>
<tr>
<td>Painter</td>
<td>3.45</td>
<td></td>
</tr>
<tr>
<td>Pile driver leadsman</td>
<td>3.45</td>
<td></td>
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</tbody>
</table>

### POWER EQUIPMENT OPERATORS:

<table>
<thead>
<tr>
<th>Equipment Type</th>
<th>Basic Hourly Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>All purpose spreader</td>
<td>$1.75</td>
</tr>
<tr>
<td>Asphalt distributor</td>
<td>3.85</td>
</tr>
<tr>
<td>Asphalt distributor helper</td>
<td>3.40</td>
</tr>
<tr>
<td>Asphalt heaterman</td>
<td>3.65</td>
</tr>
<tr>
<td>Asphalt paving machine</td>
<td>4.60</td>
</tr>
<tr>
<td>Asphalt paving machine spreader</td>
<td>3.75</td>
</tr>
<tr>
<td>Stationary P.I. (base of stabilization)</td>
<td>3.95</td>
</tr>
<tr>
<td>Stationary P.I. (asphalt or concrete)</td>
<td>4.75</td>
</tr>
<tr>
<td>Beginner Operator</td>
<td>3.95</td>
</tr>
<tr>
<td>Bulldozer: Less than 115 drawbar H.P.</td>
<td>4.40</td>
</tr>
<tr>
<td>115 drawbar H.P. and over</td>
<td>4.90</td>
</tr>
<tr>
<td>Cement handler</td>
<td>3.50</td>
</tr>
<tr>
<td>Clamshell, dragline, backhoe, crane, pile driver or shovel</td>
<td>5.00</td>
</tr>
<tr>
<td>Concrete mixer</td>
<td>3.45</td>
</tr>
<tr>
<td>Concrete paver</td>
<td>4.30</td>
</tr>
<tr>
<td>Slip form paver</td>
<td>4.75</td>
</tr>
<tr>
<td>Conveyor</td>
<td>3.45</td>
</tr>
<tr>
<td>Crusher (including those with integral screening plant)</td>
<td>4.50</td>
</tr>
<tr>
<td>Dredge pump under 10&quot;</td>
<td>3.80</td>
</tr>
<tr>
<td>Dredge pump 10&quot; and over</td>
<td>4.30</td>
</tr>
</tbody>
</table>

### POWER EQUIPMENT OPERATORS (Cont'd)

<table>
<thead>
<tr>
<th>Occupation</th>
<th>Basic Hourly Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fireman (boiler)</td>
<td>$3.65</td>
</tr>
<tr>
<td>Front End Loader: 35 cu. yds. or less</td>
<td>4.25</td>
</tr>
<tr>
<td>65 cu. yds.</td>
<td>4.45</td>
</tr>
<tr>
<td>Mechanic</td>
<td>5.00</td>
</tr>
<tr>
<td>Mechanic helper</td>
<td>4.20</td>
</tr>
<tr>
<td>Motor grader</td>
<td>4.60</td>
</tr>
<tr>
<td>Oilier or greaser</td>
<td>4.10</td>
</tr>
<tr>
<td>Roller, self-propelled (hot mix)</td>
<td>4.35</td>
</tr>
<tr>
<td>Roller or compactor, self-propelled (other)</td>
<td>4.75</td>
</tr>
<tr>
<td>Scraper under 16 cu. yds.</td>
<td>4.65</td>
</tr>
<tr>
<td>Scraper 16 cu. yds. and over</td>
<td>4.75</td>
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<tr>
<td>Power grade machine (trimmer)</td>
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</tr>
</tbody>
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### TRACTOR:

<table>
<thead>
<tr>
<th>Equipment Type</th>
<th>Basic Hourly Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Farm type (towing)</td>
<td>3.65</td>
</tr>
<tr>
<td>Farm type (with attachments)</td>
<td>3.85</td>
</tr>
<tr>
<td>Less than 115 drawbar H.P.</td>
<td>4.60</td>
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<tr>
<td>115 drawbar H.P. and over</td>
<td>4.90</td>
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<tr>
<td>Traveling plant (stabilization)</td>
<td>4.45</td>
</tr>
<tr>
<td>Traveling plant helper (stabilization)</td>
<td>3.80</td>
</tr>
<tr>
<td>Concrete finishing machine and spreader</td>
<td>4.65</td>
</tr>
</tbody>
</table>
**SUPERSEDING DECISION**

**STATE:** Nevada  
**COUNTIES:** Nevada Test Site Including Tonopah Test Range in Clark and Nye Counties

**DECISION NUMBER:** NV75-5057  
**DATE:** Date of Publication  
Supersedes Decision No. NV75-5005 dated January 24, 1975, in 40 FR 14211.

**DESCRIPTION OF WORK:** Building Construction (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction.

<table>
<thead>
<tr>
<th>Category</th>
<th>Basic Hourly Rates</th>
<th>Fringe Benefits Payments</th>
<th>H &amp; W</th>
<th>Vacations</th>
<th>App. Tr.</th>
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<tbody>
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<td>ASBESTOS WORKERS</td>
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<td>CARPENTERS (Nevada Test Site)</td>
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<td>Carpenters</td>
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<td>.55</td>
<td>.90</td>
<td>.80</td>
<td>.03</td>
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<td>.90</td>
<td>.80</td>
<td>.03</td>
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<td>.90</td>
<td>.80</td>
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<td>CARPENTERS (Tonopah Test Range)</td>
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<td>Floorlayers; Shinglers</td>
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<td>.55</td>
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<td>Power Saw Operator (overhead)</td>
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<td>.35</td>
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<td>CEMENT MASONS</td>
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<td>Cement Masons</td>
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<td>.50</td>
<td>1.60</td>
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<tr>
<td>Floor Finishing Machine</td>
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<td>.50</td>
<td>1.60</td>
<td>.08</td>
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<td>ELECTRICIANS</td>
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<td></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Electricians; Equipment Operators; Linemen</td>
<td>10.22</td>
<td>.63</td>
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<td>.30</td>
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<tr>
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<td>.30</td>
<td>.02</td>
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<tr>
<td>Groundmen</td>
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<td>.30</td>
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<td>.03</td>
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<td>.88</td>
<td>1.375</td>
<td>1.03</td>
<td>.03</td>
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<td>PAINTERS</td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Brush; Roller</td>
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<td>.47</td>
<td>.25</td>
<td>1.00</td>
<td>.02</td>
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<tr>
<td>Paperhangers; Spray; Steel; Sandblasters; Swing Stage, Tapers</td>
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<td>.47</td>
<td>.25</td>
<td>1.00</td>
<td>.02</td>
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<td>.47</td>
<td>.25</td>
<td>1.00</td>
<td>.02</td>
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<tr>
<td>FUELLERS; Steepleciders</td>
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<td>.45</td>
<td>1.50</td>
<td>1.00</td>
<td>.08</td>
</tr>
<tr>
<td>ROOFERS</td>
<td>10.00</td>
<td>.45</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>SHEET METAL WORKERS</td>
<td>8.83</td>
<td>.73</td>
<td>1.30</td>
<td>1.00</td>
<td>.05</td>
</tr>
</tbody>
</table>

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**LAWYERS**

- Group 1: 8.23  .36  .95  1.00  
- Group 2: 8.28  .36  .95  1.00  
- Group 3: 8.31  .36  .95  1.00  
- Group 4: 8.33  .36  .95  1.00  
- Group 5: 8.35  .36  .95  1.00  
- Group 6: 8.36  .36  .95  1.00  
- Group 7: 8.38  .36  .95  1.00  
- Group 8: 8.41  .36  .95  1.00  
- Group 9: 8.42  .36  .95  1.00  
- Group 10: 8.44  .36  .95  1.00  
- Group 11: 8.49  .36  .95  1.00  
- Group 12: 8.52  .36  .95  1.00  
- Group 13: 8.54  .36  .95  1.00  
- Group 14: 8.57  .36  .95  1.00  
- Group 15: 8.59  .36  .95  1.00  
- Group 16: 8.65  .36  .95  1.00  
- Group 17: 8.68  .36  .95  1.00  
- Group 18: 8.75  .36  .95  1.00  

**POWER EQUIPMENT OPERATORS**

(Except Piledriving & Steel Erection)

- Group 1: 7.43  .95  1.50  .30  .02  
- Group 2: 7.42  .95  1.50  .30  .02  
- Group 3: 7.41  .95  1.50  .30  .02  
- Group 4: 7.40  .95  1.50  .30  .02  
- Group 5: 8.21  .95  1.50  .30  .02  
- Group 6: 8.21  .95  1.50  .30  .02  
- Group 7: 7.91  .75  1.50  .30  .02  
- Group 7-A: 7.62  .75  1.50  .30  .02  
- Group 7-B: 7.51  .75  1.50  .30  .02  
- Group 7-C: 7.37  .75  1.50  .30  .02  

**TRUCK DRIVERS**

- Group 1: 8.065  .223  .65  
- Group 2: 8.12  .223  .65  
- Group 3: 8.17  .223  .65  
- Group 4: 8.33  .223  .65  
- Group 5: 8.35  .223  .65  

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*FEDERAL REGISTER, VOL. 40, NO. 91—FRIDAY, MAY 9, 1975*
LABORERS

Group 1: Laborers - General or Construction; Demolition (cleaning of brick, lumber, etc.); Dry packing of concrete and filling of fom-bolt holes; Gas and Oil Pipeline; Laborer - temporary water lines (portable type); Window Cleaner

Group 2: Cutting Torch Operator (demolition); Tarman and Mortar Man, Kettlemie, Potman and man applying asphalt, Ray-kold Creosote, Lime, and similar type materials

Group 3: Gunnel Chaser

Group 4: Fine Grader, highway and street paving, airport, runways and similar type construction; Landscape Gardener and Nursery-man

Group 5: Laborers - packing rod steel and pans

Group 6: Underground Laborer including Caisson Bollowers

Group 7: Chute-tender (except tunnel); Scaler; Tank Scaler and Cleaner

Group 8: Cesspool Digger and Installer

Group 9: Concrete, Tess-impact, Chipping and Other of all materials; Riprap Stonepaver; Sandblaster (pot tender); Making and Caulking of all non-metallic Pipe Joints

Group 10: Operators and Tenders of Pneumatic and Electric Tools, Vibrating Machines, hand-propelled Trenching Machines, Impact Wrench Multi-plates and similar mechanical tools not separately classified herein; Asphalt Baker, Ironer, Sander, Sprayer, Buggymobile Man; Cement Mixer (on one yard or larger mixers and handling bulk cement); Concrete Saw Man excluding Tractor type, cutting, scoring old or new concrete; Concrete Core Cutter; Gas and Oil Pipeline Wrapper - pot tender; Chain Puller and Form Pump; Operator of Cement Grinding Machine; Roto-scraper; Tree Climber, Faller, Chain Saw Operator, Pittsburgh Chipper and similar type brush shredders

Group 11: Rock Slinger; Scaler (using Box’、“Chair or Safety Belt or Power Tools)

Group 12: Driller and/or Pavement Breaker

Group 13: Oversize Concrete Vibrator Operator, 70 lbs. and over; 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: Crete-borer or Shorer, Lagging, Sheetin, Trench Breeding, hand guided Lagging Hammer; Bowserman-blaster - all work of loading holes, placing and blasting of all powder and explosives of whatever type regardless of method used for such loading and placing
POWER EQUIPMENT OPERATORS (Cont'd)  
(Except Piledriving and Steel Erection)  

Group 6: Combination Heavy Duty Repairman and Welder; Concrete Mixer - Paving; Concrete Mobile Mixer; Concrete Pump or Pumpcrete Gun; Crushing Plant Engineers; Elevating Grader; Heavy Duty Repairman; Highline Cableway; Horizontal Boom and Wind; Kolman Belt Loader and similar type; Lift Slab Machine; Loader-Athey, Euclid, Hancock, Sierra or similar type; Motor Patrol (any type or size); Multiple Engine-earth moving machinery; Party Chief; Pneumatic Concrete Placing Machine - Hackley-Presswell; Repairman; Rotary Drill, excluding Caisson type; Skiploader, Wheeltype, over 15 yds.; Surface Heater and Planer; Tractor Loader - crawler type; Tractor, with boom attachments; Traveling Pipe Wrapping, Cleaning and Bending Machine; Trenching Machine (over 6 feet depth); Universal equipment (Shovel, Backhoe, Dragline, Clamshell, Derrick, Derrick Barge, Crane, Piledriver and Mucking Machine) Forklift, over 5 tons  

Group 7: Driller Operator; Fishing Tool Engineer  
Group 7-A: Derrickman  
Group 7-B: Motorman  
Group 7-C: Drillers Helpers  

TRUCK DRIVERS  

Group 1: Light Duty Driver; Warehouseman  
Group 2: Bootman; Truck Greaser; Light Vehicle Dispatcher  
Group 3: Tireman; Warehouse Clerk  
Group 4: Heavy Duty Driver; Forklift Driver; Equipment Parts; Stockroom Clerk  
Group 5: Extra Heavy Duty Driver